

Town and Country Planning (Scotland) Act 1997

AS AMENDED BY THE PLANNING (SCOTLAND) ACT 2019

This document shows the sections of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) that are amended by the Planning (Scotland) Act 2019 (“the 2019 Act”). However, while every effort has been made to ensure that this document is correct, its accuracy is not guaranteed.

Key

The original text of the 1997 Act is shown in black.

Text added (or substituted) by the 2019 Act is shown in red

Where whole provisions (sections, subsections, paragraphs and sub-paragraphs) are repealed by the Bill, that is noted. However, the repeal of individual words, sub-provisional text and substitutions are not. Please check against the original Acts for those details.

Notes in green are not part of the text of the 1997 Act but are provided to clarify anomalies.

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Town and Country Planning (Scotland) Act 1997

AS AMENDED BY THE PLANNING (SCOTLAND) ACT 2019

[Section 1]

1A Planning authorities: chief planning officer *(as inserted by section 50 of the 2019 Act)*

- (1) Each planning authority must have a chief planning officer.
- (2) The role of an authority's chief planning officer is to advise the authority about the carrying out of—
 - (a) the functions conferred on them by virtue of the planning Acts, and
 - (b) any function conferred on them by any other enactment, insofar as the function relates to development.
- (3) The Scottish Ministers must issue guidance to planning authorities concerning the role of an authority's chief planning officer.
- (4) A planning authority may not appoint a person as their chief planning officer unless satisfied that the person has appropriate qualifications and experience for the role.
- (5) In deciding what constitutes appropriate qualifications and experience for the role of chief planning officer, a planning authority must have regard to any guidance on the matter issued by the Scottish Ministers.

[Sections 2 – 3]

PART 1ZA

PURPOSE OF PLANNING

3ZA Purpose of planning *(as inserted by section 1 of the 2019 Act)*

- (1) The purpose of planning is to manage the development and use of land in the long term public interest.
- (2) Without limiting the generality of subsection (1), anything which—
 - (a) contributes to sustainable development, or
 - (b) achieves the national outcomes (within the meaning of Part 1 of the Community Empowerment (Scotland) Act 2015),is to be considered as being in the long term public interest.
- (3) This section applies only to the Scottish Ministers' and planning authorities' exercise of functions under Parts 1A and 2.

PART 1A

NATIONAL PLANNING FRAMEWORK

3A National Planning Framework (*as amended by section 2 of the 2019 Act*)

- (1) There is to be a spatial plan for Scotland to be known as the “National Planning Framework”.
- (2) The National Planning Framework is to set out **the Scottish Ministers’ policies and proposals for the development and use of land.**
- (3) The National Planning Framework must contain—
 - (a) a strategy for Scotland's spatial development,
 - (b) a statement of what the Scottish Ministers consider to be priorities for that development,
 - (c) **a statement about how the Scottish Ministers’ consider that development will contribute to each of the outcomes listed in subsection (3A),**
 - (d) **targets for the use of land in different areas of Scotland for housing, and**
 - (e) **an assessment of the likely impact of each proposed national 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).**
- (3A) The outcomes are—
 - (a) **meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,**
 - (b) **improving the health and wellbeing of people living in Scotland,**
 - (c) **increasing the population of rural areas of Scotland,**
 - (d) **improving equality and eliminating discrimination,**
 - (e) **meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and**
 - (f) **securing positive effects for biodiversity.**
- (4) The framework may—
 - (a) contain an account of such matters as the Scottish Ministers consider affect, or may come to affect, the development and use of land,
 - (aa) **contain such maps, diagrams, illustrations and descriptive matter as may be prescribed of rural areas in relation to which there has been a substantial decline in population,**
 - (b) describe—
 - (i) a development and designate it, or
 - (ii) a class of development and designate each development within that class, a “national development”, and
 - (c) contain any other matter which the Scottish Ministers consider it appropriate to include.

- (4A) The Scottish Ministers must have due regard to any National Scenic Areas report published by them under section 263AB when preparing the framework.
- (5) If the framework contains a designation under subsection (4)(b), the framework—
- (za) must have regard to an infrastructure investment plan published by the Scottish Ministers and include a statement setting out the ways the plan has been taken into account in preparing the framework,
 - (a) must contain a statement by the Scottish Ministers of their reasons for considering that there is a need for the national development in question, and
 - (b) may contain a statement by the Scottish Ministers as regards other matters pertaining to that designation.
- (5A) For the avoidance of doubt, this section does not prevent the Scottish Ministers from setting out policies or proposals that relate to the development or use of land outwith the National Planning Framework.
- (5B) In this section, “biodiversity” has the same meaning as “biological diversity” in the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or in any United Nations Convention replacing that Convention).
- (6) [Repealed.]
- (7) [Repealed.]
- (8) [Repealed.]
- (9) [Repealed.]
- (10) [Repealed.]

3AA Duty to review the National Planning Framework *(as inserted by section 2(11) of the 2019 Act)*

- (1) The Scottish Ministers are to keep the National Planning Framework under review.
- (2) Without limit to subsection (1), the Scottish Ministers are to—
- (a) review the framework no later than 23 June 2024 (being 10 years from the date on which the framework was last published before this section came into force), and
 - (b) thereafter, review the framework at least once in every period of 10 years beginning with the most recent date on which—
 - (i) a revised framework prepared under subsection (3)(a) was adopted and published under section 3CA, or
 - (ii) an explanation was published under subsection (3)(b) of this section.
- (3) Following such a review, the Scottish Ministers are to—
- (a) prepare a revised framework, or
 - (b) publish an explanation of why they have decided not to revise it.

3AB **Revising the framework: participation statement and considerations** *(as inserted by section 2(11) of the 2019 Act)*

- (1) This section applies where a revised National Planning Framework is to be prepared following a review under section 3AA.
- (2) Before preparing the revised framework, the Scottish Ministers must prepare and publish their participation statement.
- (3) In preparing the revised framework, the Scottish Ministers must—
 - (a) have regard to relevant policies and strategies, including, in particular—
 - (i) any national strategy and action plan for housing prepared by the Scottish Ministers,
 - (ii) any infrastructure investment plan prepared by the Scottish Ministers to set out their priorities for the development of public infrastructure,
 - (iii) any national transport strategy prepared by the Scottish Ministers,
 - (iv) any strategic transport projects review prepared by the Scottish Ministers to set out their priorities for transport investment,
 - (v) the land use strategy prepared under section 57 of the Climate Change (Scotland) Act 2009,
 - (vi) the programme for adaptation to climate change prepared under section 53 of the Climate Change (Scotland) Act 2009,
 - (vii) any national strategy in respect of the improvement of air quality prepared by the Scottish Ministers,
 - (viii) any land rights and responsibilities statement prepared under section 1 of the Land Reform (Scotland) Act 2016,
 - (ix) any national strategy or action plan for the ownership or use of land prepared by the Scottish Ministers, and
 - (x) the national marine plan prepared under section 5 of the Marine (Scotland) Act 2010, and
 - (b) have regard to the desirability of—
 - (i) resettling rural areas that have become depopulated,
 - (ii) preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements, and
 - (iii) preserving peatland.
- (4) In this Part, “participation statement” means an account by the Scottish Ministers of—
 - (a) when consultation as regards the proposed revised framework is likely to take place,
 - (b) with whom they intend to consult, which must include—
 - (i) planning authorities,
 - (ii) key agencies (within the meaning of section 23D),
 - (iii) the appropriate body under subsection (5), and
 - (iv) such persons or bodies who the Scottish Ministers consider have a role in the delivery of the outcomes mentioned in section 3A(3A),

- (c) the steps to be taken to involve the public at large in the consultation, and
 - (d) the likely form of the review.
- (5) For the purpose of subsection (4)(b)(iii), the “appropriate body” is—
- (a) the advisory body designated by an order under section 24(1) of the Climate Change (Scotland) Act 2009, or
 - (b) if no such order has been made, the Committee on Climate Change established under section 32 of the Climate Change Act 2008.

3AC Information to assist preparation of National Planning Framework *(as inserted by section 2(11) of the 2019 Act)*

- (1) For the purposes of assisting the Scottish Ministers in preparing or revising the National Planning Framework, the Scottish Ministers may direct a planning authority, or two or more planning authorities, to provide information about the matters set out in subsection (2) in relation to an area specified in the direction.
- (2) The matters are—
- (a) the principal physical, cultural, economic, social, built heritage and environmental characteristics of the area,
 - (b) the principal purposes for which land in the area is used,
 - (c) the size, composition and distribution of the population of the area,
 - (d) the housing needs of the population of the area,
 - (e) the capacity of education services in the area,
 - (f) the capacity of health services in the area,
 - (g) the health needs of the population of the area,
 - (h) the housing needs of older people and disabled people within the area,
 - (i) the desirability of allocating land for the purposes of resettlement,
 - (j) the infrastructure of the area (including communications, transport and drainage systems and systems for the supply of water and energy),
 - (k) how that infrastructure is used,
 - (l) any change which the planning authority or authorities think may occur in relation to any of the matters mentioned in paragraphs (a) to (k), and
 - (m) such other matters as are prescribed.
- (2A) In subsection (2)(j), references to systems for the supply of energy include in particular land available for the development and use of facilities for renewable sources of energy.
- (3) Where a direction under this section requires two or more planning authorities to provide information in relation to the same area and the same matter, they are to co-operate with one another.

3B [Repealed by section 2(12) of the 2019 Act]

3C [Repealed by section 2(12) of the 2019 Act]

3CA National Planning Framework: procedure *(as inserted by section 2(13) of the 2019 Act)*

- (1) The Scottish Ministers may not adopt a revised National Planning Framework until a draft of it has been approved by resolution of the Parliament.
- (2) The Scottish Ministers may not lay a draft of the revised framework before the Scottish Parliament for approval unless—
 - (a) they have complied with section 3AB and subsections (3) to (5) of this section, and
 - (b) they have laid before the Scottish Parliament an explanatory document in accordance with subsection (6).
- (3) The Scottish Ministers must—
 - (a) consult in accordance with their participation statement
 - (b) lay before the Scottish Parliament a copy of the draft of the revised framework, and
 - (c) have regard to any representations about the draft of the revised framework that are made to them within no more than 120 days of the date on which the copy of the draft of the revised framework is laid before the Parliament under paragraph (b).
- (4) In calculating any period of no more than 120 days for the purposes of subsection (3)(c), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.
- (5) If, as a result of any consultation required by subsection (3), it appears to the Scottish Ministers that it is appropriate to change the whole or any part of their proposals, they must undertake such further consultation with respect to the changes as they consider appropriate.
- (6) The explanatory document referred to in subsection (2)(b) must set out—
 - (a) the consultation undertaken in accordance with subsections (3) and (5),
 - (b) a summary of any representations received as a result of the consultation, and
 - (c) the changes (if any) made to the draft of the revised framework as a result of those representations.
- (7) As soon as practicable after the National Planning Framework as revised has been adopted, the Scottish Ministers are to publish it.

*Duties to assist in shaping the National Planning Framework***3CB Key agencies to co-operate** *(as inserted by section 2(13) of the 2019 Act)*

It is the duty of a key agency to co-operate with the Scottish Ministers in—

- (a) the review of the National Planning Framework,
- (b) the preparation of a revised framework, and
- (c) the preparation of any amendment to the framework.

3CC Amendment of National Planning Framework *(as inserted by section 12(2) of the 2019 Act)*

- (1) The Scottish Ministers may at any time amend the National Planning Framework.
- (2) Section 3AC applies to amending the National Planning Framework as it applies to preparing or revising it.
- (3) The Scottish Ministers must by regulations set out the circumstances in which they consider that an amendment would result in a significant change to the policies and proposals for the development and use of land of the most recent National Planning Framework such that would require that the National Planning Framework should be reviewed and revised under sections 3AA to 3CA.
- (4) The Scottish Ministers may by regulations make further provision about amendments under subsection (1).
- (5) Regulations under subsection (4) may in particular make provision—
 - (a) about the procedures to be followed,
 - (b) about the consultation to be undertaken on proposed amendments,
 - (c) about when the amendments take effect,
 - (d) about the publication of the amended framework,
 - (e) about the laying of the amended framework before the Scottish Parliament.

3CD Duty of Scottish Ministers to report on housing needs of older people and disabled people *(as inserted by section 4 of the 2019 Act)*

- (1) The Scottish Ministers must, as soon as practicable after the end of each 2-year period, lay before the Scottish Parliament a report on how the planning system is operating to help ensure that the housing needs of older people and disabled people are met.
- (2) A report under subsection (1) must, in particular, contain information about—
 - (a) the extent to which the planning system is operating to ensure that new housing that meets the needs of older people and disabled people is constructed,
 - (b) the extent to which the planning system is operating to ensure that existing housing is adapted to meet the housing needs of older people and disabled people,
 - (c) the extent to which any other actions taken by the Scottish Ministers in relation to the planning system are ensuring that the housing needs of older people and disabled people are being met, and
 - (d) such other matters relating to the planning system as appear to the Scottish Ministers to be relevant to meeting the housing needs of older people and disabled people.
- (3) In preparing the report, the Scottish Ministers must consult—
 - (a) older people and disabled people, and their families,
 - (b) such persons as appear to the Scottish Ministers to be representative of the interests of older people and disabled people, including organisations working for and on behalf of older people and disabled people,
 - (c) carers,
 - (d) planning authorities,

- (e) a body registered under section 20 (registered social landlords) of the Housing (Scotland) Act 2010,
 - (f) developers,
 - (g) such persons as they consider appropriate having functions in relation to—
 - (i) older people and disabled people, and their families,
 - (ii) carers,
 - (iii) housing,
 - (iv) social work,
 - (v) health and social care, and
 - (h) such other persons as the Scottish Ministers consider appropriate.
- (4) The Scottish Ministers must, as soon as practicable after the report has been laid before the Scottish Parliament, publish the report in such manner as they consider appropriate.
- (5) For the purposes of this section, the “2-year period” means—
- (a) the period of 2 years beginning with the day on which section 4 of the Planning (Scotland) Act 2019 comes into force, and
 - (b) each subsequent period of 2 years.

3D [Repealed by section 1(3) of the 2019 Act]

3E [Repealed by section 1(3) of the 2019 Act]

PART 2

DEVELOPMENT PLANS

Sustainable development

3F **Greenhouse gas emissions policies**

A planning authority, in any local development plan prepared by them, must include policies requiring all developments in the local development plan area to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.

3G **Open space strategy** *(as inserted by section 3 of the 2019 Act)*

- (1) A planning authority is to prepare and publish an open space strategy.
- (2) An open space strategy is to set out a strategic framework of the planning authority’s policies and proposals as to the development, maintenance and use of green infrastructure in their district, including open spaces and green networks.
- (3) An open space strategy must contain—
 - (a) an audit of existing open space provision,

- (b) an assessment of current and future requirements,
 - (c) any other matter which the planning authority consider appropriate.
- (4) In this section—
- “green infrastructure” means features of the natural and built environments that provide a range of ecosystem and social benefits,
 - “green networks” means connected areas of green infrastructure and open space,
 - “open space” means space within and 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.
- (5) The Scottish Ministers may by regulations—
- (a) make provision about how planning authorities are to discharge their functions under this section including, in particular—
 - (i) how they conduct an audit under subsection (3)(a), and
 - (ii) how they assess current and future requirements for the purposes of subsection (3)(b),
 - (b) amend subsection (4) by adding a definition or amending or omitting a definition for the time being specified there.
- (6) For the purposes of this section a national park authority is not a planning authority.

Strategic development planning

4ZA Regional spatial strategies (as inserted by section 5 of the 2019 Act)

- (1) A planning authority, or two or more such authorities acting jointly, are to prepare and adopt a regional spatial strategy.
- (2) A regional spatial strategy is a long-term spatial strategy in respect of the strategic development of an area (or areas) which must, in particular—
 - (a) specify the area (or areas) of the planning authority (or authorities) to which it relates (“the region”), and
 - (b) identify, in relation to the region—
 - (i) the need for strategic development,
 - (ii) the outcomes to which the authority (or authorities) consider that strategic development will contribute,
 - (iii) priorities for the delivery of strategic development, and
 - (iv) proposed locations for strategic development, which must be shown in the strategy in the form of a map or diagram.
- (3) Before adopting a regional spatial strategy, a planning authority (or authorities) must—
 - (a) publish, by such means as they consider appropriate—
 - (i) a draft of the strategy,
 - (ii) a summary of the information taken into account in preparing the draft of the strategy, and

- (iii) a statement inviting representations in relation to the strategy by a date specified in the statement,
 - (b) as soon as practicable after publishing the documents mentioned in paragraph (a), send a copy of them to—
 - (i) the planning authority (other than one involved in producing the report) for any area in which future development is likely to be significantly impacted by the strategic development to which the strategy is to relate,
 - (ii) the key agencies, and
 - (iii) any other person the planning authority (or authorities) producing the strategy consider appropriate, and
 - (c) otherwise, consult such persons as they consider are likely to have an interest in the strategy.
- (4) As soon as practicable after a strategy under subsection (1) is adopted, the planning authority (or authorities) must—
 - (a) publish the strategy by such means as they consider appropriate, and
 - (b) submit it to the Scottish Ministers.
- (5) In this section, “strategic development” means development that is likely to have a significant impact on future development within the area of more than one planning authority.

4ZB Duties to have regard to regional spatial strategies

- (1) In exercising their functions of preparing, revising or amending the National Planning Framework, the Scottish Ministers must have regard to any adopted regional spatial strategy submitted to them under section 4ZA(4)(b).
- (2) In exercising their functions of preparing, revising or amending a local development plan, a planning authority must have regard to their adopted regional spatial strategy (or strategies) submitted to the Scottish Ministers under section 4ZA(4)(b).

4ZC Regional spatial strategies: first strategy, review and revision

- (1) A planning authority must adopt a regional spatial strategy under section 4ZA(1) as soon as reasonably practicable after section 5 of the Planning (Scotland) Act 2019 comes into force.
- (2) A planning authority—
 - (a) are to keep their adopted regional spatial strategy (or strategies) under review, and
 - (b) if they consider it appropriate, may at any time prepare and adopt a replacement strategy.
- (3) Without limit to the generality of subsection (2), a planning authority (or authorities) must review their adopted regional spatial strategy (or, if more than one, each adopted strategy) at least once every in every period of 10 years beginning with the most recent date on which they—
 - (a) adopted the strategy, or
 - (b) published an explanation under subsection (4)(b).

- (4) Following such a review, a planning authority are to—
 - (a) prepare and adopt a replacement regional spatial strategy, or
 - (b) publish an explanation of why they have decided not to do so.
- (5) Section 4ZA(2) to (4) and sections 4ZB and 4ZE apply to a replacement regional spatial strategy as they apply in relation to the strategy being replaced (and references in this Part to a regional spatial strategy include references to such a replacement strategy).

4ZD Directions to prepare or review regional spatial strategies

- (1) The Scottish Ministers may direct a planning authority, or two or more such authorities, to—
 - (a) prepare and adopt a regional spatial strategy under section 4ZA(1) in relation to a region specified in the direction, or
 - (b) review an adopted regional spatial strategy.
- (2) A direction under subsection (1) may require the planning authority (or authorities) to take into account such matters (if any) as are specified in the direction when preparing or reviewing the strategy.
- (3) Where a direction under this section requires two or more planning authorities to prepare and adopt a regional spatial strategy, they are to co-operate with one another.

4ZE Guidance for regional spatial strategies

- (1) The Scottish Ministers may issue guidance in relation to the preparation, adoption, review and content of regional spatial strategies.
- (2) A planning authority must have regard to any guidance issued under subsection (1) when preparing or adopting a regional spatial strategy.
- (3) Before issuing guidance under this section, the Scottish Ministers must consult—
 - (a) each planning authority, and
 - (b) such other persons as they consider appropriate (if any).
- (4) The Scottish Ministers must make guidance issued under subsection (1) publicly available.
- (5) The power under subsection (1) to issue guidance includes the power to—
 - (a) issue guidance that varies guidance issued under that subsection, and
 - (b) revoke guidance issued under that subsection.

Sections 4 – 14 [Repealed by section 6 of the 2019 Act]

Local development plans

15 Form and content of local development plans *(as amended by section 7 of the 2019 Act)*

- (1) A local development plan is a plan in which is set out, for land in the part of the district to which it relates—

- (a) a spatial strategy, being a detailed statement of the planning authority's policies and proposals as to the development and use of the land **taking account of the matters mentioned in subsection (5)**,
 - (b) such other matters as may be prescribed, and
 - (c) any other matter which the planning authority consider it appropriate to include.
- (1A) **The local development plan must also include targets for meeting the housing needs of people living in the part of the district to which it relates.**
- (2) **[Repealed.]**
- (2A) **A local development plan is to include a statement of the planning authority's policies and proposals as to the provision of public conveniences.**
- (2B) **A local development plan is to include a statement of the planning authority's policies and proposals as to the provision of water refill locations.**
- (3) Where a local development plan contains policies or proposals for, or views as to, the occurrence of development on land owned by the planning authority, there is to be appended to the plan a schedule, in such form as may be prescribed, which identifies the land, states that it is so owned and refers to the policies, proposals or views in question.
- (4) A local development plan is, for the purpose of explaining or illustrating the proposals in the plan, to contain or be accompanied by—
- (a) such maps, diagrams, illustrations and descriptive matter as may be prescribed,
 - (b) such other diagrams, illustrations and descriptive matter (if any) as the planning authority think appropriate.
- (5) The matters referred to in subsection (1)(a) are—
- (a) the principal physical, **cultural**, economic, social, **built heritage** and environmental characteristics of the district,
 - (b) the principal purposes for which the land is used,
 - (c) the size, composition, **health** and distribution of the population of the district,
 - (ca) **the housing needs of the population of the area, including, in particular, the needs of persons undertaking further and higher education, older people and disabled people,**
 - (cb) **the availability of land in the district for housing, including for older people and disabled people,**
 - (cc) **the desirability of allocating land for the purposes of resettlement,**
 - (cd) **the health needs of the population of the district and the likely effects of development and use of land on those health needs,**
 - (ce) **the education needs of the population of the district and the likely effects of development and use of land on those education needs,**
 - (cf) **the extent to which there are rural areas within the district in relation to which there has been a substantial decline in population,**
 - (cg) **the capacity of education services in the district,**
 - (ch) **the desirability of maintaining an appropriate number and range of cultural venues and facilities (including in particular, but not limited to, live music venues) in the district,**

- (d) the infrastructure of the district (including communications, transport and drainage systems, systems for the supply of water and energy, and health care and education facilities),
 - (e) how that infrastructure is used,
 - (f) any change which the planning authority think may occur in relation to any of the matters mentioned in paragraphs (a) to (eb).
- (5A) In subsection (5)(d), references to systems for the supply of energy include in particular land available for the development and use of facilities for renewable sources of energy.

15A Preparation of local development plan: invitation to prepare local place plans *(as inserted by section 14(2) of the 2019 Act)*

Before preparing a local development plan, a planning authority are to publish, in such manner as they consider appropriate—

- (a) an invitation to local communities in their district to prepare local place plans in accordance with schedule 19,
- (b) information on—
 - (i) the manner in which and date by which such local place plans are to be prepared in order to be taken into account in the preparation of the local development plan,
 - (ii) the assistance available for local communities to prepare local place plans.

15B Review of local place plans *(inserted by section 14(3) of the 2019 Act)*

- (1) The Scottish Ministers must, as soon as practicable after the end of the 7 year period—
 - (a) carry out a review of local place plans,
 - (b) set out the conclusions of the review in a report,
 - (c) publish the report, and
 - (d) lay it before the Scottish Parliament.
- (2) The report must, in particular, set out—
 - (a) the number of local place plans that have been submitted and the name of the community body that submitted the local place plan,
 - (b) the number of local place plans registered,
 - (c) a summary of the participation of people who engaged in preparing and submitting local place plans, either through a community body or through consultation,
 - (d) the support given to community bodies to prepare and submit a local place plan,
 - (e) an assessment of how the registered local place plans have influenced planning authorities’—
 - (i) preparation of local development plans for their district,
 - (ii) determination of applications for planning permission,
 - (f) an assessment of—
 - (i) the impact and effectiveness of local place plans across Scotland,

- (ii) whether further support to community bodies should be provided to prepare and submit local place plans.
- (3) The Scottish Ministers may, by notice, require a planning authority to provide it with such information as is specified or described in the notice and which they require for the purpose of subsection (1).
- (4) In subsection (1), “the 7 year period” means the period of 7 years beginning with the day on which the Bill for the Planning (Scotland) Act 2019 receives Royal Assent.

16 Preparation and monitoring of local development plans: general *(as amended by sections 7(4) and 14(4) of the 2019 Act and schedule 2, para 1)*

- (1) A planning authority are—
 - (a) as soon as practicable after the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17) and thereafter—
 - (i) whenever required to do so by the Scottish Ministers, or
 - (ii) subject to sub-paragraph (i), at intervals of no more than 10 years, to prepare local development plans for all parts of their district, and
 - (b) to keep under review the plans so prepared.
- (2) In preparing a local development plan the planning authority—
 - (a) are to take into account—
 - (i) the National Planning Framework, and
 - (ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,
 - (iii) any registered local place plan (see schedule 19) that is for the part of their district to which the local development plan relates,
 - (aa) are to have regard to the desirability of preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements,
 - (ab) are to have regard to the list published under section 16E of persons seeking to acquire land in the authority’s area for self-build housing,
 - (b) are to have regard to such information and considerations as may be prescribed, and
 - (c) may have regard to such other information and considerations as appear to them to be relevant.
- (3) Different local development plans may be prepared for different purposes for the same part of any district.
- (4) Parts of districts for which local development plans are prepared for some purpose need not have the same boundaries as parts for which they are prepared for another purpose.
- (5) Two (or more) planning authorities may prepare a joint local development plan extending to parts of each (or all) of their districts.
- (6) [Repealed.]

- (7) Where a planning authority fail to comply with subsection (1)(a), the Scottish Ministers may direct them to prepare a report as to the reasons for such failure and to submit that report to the Scottish Ministers.
- (8) In carrying out their duty under paragraph (b) of subsection (1), a planning authority are in particular to monitor—
 - (a) changes in the characteristics referred to in section 15(5)(a), and
 - (b) the impact of the policies and proposals contained within the local development plans.
- (9) [Repealed.]
- (10) [Repealed.]

16A Participation of children and young people in local development plan *(as inserted by section 7(5) of the 2019 Act)*

- (1) A planning authority must make such arrangements as they consider appropriate to promote and facilitate participation by children and young people (meaning for the purpose of this section a person aged 25 or under) in the preparation of the local development plan.
- (2) Without prejudice to the generality of subsection (1), planning authorities must first consider discharging their duty under subsection (1) by means of contact with schools, youth councils and youth parliament representatives within their district.
- (3) A planning authority must—
 - (a) publish information about its arrangements under subsection (1), and
 - (b) keep the information published up to date.

16B Evidence report for preparation of local development plan *(as inserted by section 7(6) of the 2019 Act)*

- (1) Before preparing a local development plan, a planning authority are to prepare an evidence report.
- (2) In preparing the evidence report the planning authority are to seek the views of, and have regard to any views expressed by—
 - (a) the key agencies,
 - (b) children and young people, in particular school pupils, youth councillors and youth parliament representatives,
 - (c) such other persons as may be prescribed, and
 - (d) the public at large.
- (3) The evidence report is to—
 - (a) set out the planning authority's view on the matters listed in section 15(5) for land in the part of the authority's district to which the local development plan will relate,
 - (b) set out—

- (i) a summary of the action taken by the planning authority to support and promote the construction and adaptation of housing to meet the housing needs of older people and disabled people in the authority's area,
 - (ii) an analysis of the extent to which the action has helped to meet those needs,
 - (c) set out—
 - (i) a summary of the action taken by the planning authority to meet the accommodation needs of Gypsies and Travellers in the authority's area,
 - (ii) an analysis of the extent to which the action has helped to meet those needs,
 - (d) set out—
 - (i) how the planning authority have invited local communities in their district to prepare local place plans in accordance with schedule 19,
 - (ii) the assistance provided to local communities to assist them to prepare local place plans,
 - (e) include such other matters as are prescribed.
- (4) The evidence report is also to include a statement on—
- (a) the steps taken by the planning authority in preparing the report to seek the views of the public at large, including in particular the views of—
 - (i) disabled persons,
 - (ii) Gypsies and Travellers, and
 - (iii) children and young people, and
 - (b) the steps taken by the planning authority in preparing the report to seek the views of community councils, and
 - (c) the extent to which the views expressed under paragraphs (a) and (aa) have been taken into account in the report.
- (5) Before submitting a proposed evidence report under subsection (3), the planning authority must approve the proposed evidence report.
- (6) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed evidence report.
- (7) The planning authority are to submit the evidence report to the Scottish Ministers.
- (8) On receiving an evidence report submitted under subsection (3), the Scottish Ministers are to appoint a person to assess whether the report contains sufficient information to enable the planning authority to prepare a local development plan.
- (9) If, having completed the assessment, the appointed person is satisfied that the evidence report contains sufficient information to enable the planning authority to prepare a local development plan, the person is to notify the Scottish Ministers and the authority accordingly.
- (10) In any other case, the appointed person is to—

- (a) prepare a report (an “assessment report”) setting out the reasons for not being so satisfied and recommendations for improving the evidence report received under subsection (7),
 - (b) send a copy of the assessment report to the planning authority and the Scottish Ministers.
- (11) On receipt of an assessment report the planning authority are to revise the evidence report submitted under subsection (7) and resubmit it to the Scottish Ministers.
- (12) Subsections (8) to (11) apply to an evidence report submitted under subsection (11) as they do to an evidence report submitted under subsection (7).
- (13) The Scottish Ministers may make regulations as to—
 - (a) meeting general administrative costs, staff costs and overheads incurred in relation to an assessment under subsection (8),
 - (b) the procedure to be followed in such an assessment (including by making provision that the procedure is to be at the discretion of the appointed person), and
 - (c) what is to be assessed and matters by reference to which the assessment is to be made.
- (14) In this section—
 - “accommodation needs” includes, but is not limited to, needs with respect to the provision of sites on which mobile homes may be stationed,
 - “children and young people” mean persons aged 25 or under,
 - “community council” means a community council established by a local authority under Part 4 of the Local Government (Scotland) Act 1973,
 - “disabled person” means a person who is a disabled person for the purposes of the Equality Act 2010,
 - “Gypsies and Travellers” has the meaning specified in regulations made by the Scottish Ministers.
- (15) Before making regulations under subsection (14) specifying the meaning of “Gypsies and Travellers”, the Scottish Ministers must consult such persons as they consider appropriate.

16C **Effective community engagement: guidance** *(as inserted by section 7(6) of the 2019 Act)*

- (1) The Scottish Ministers may issue guidance to planning authorities about undertaking effective community engagement in relation to the local development plan.
- (2) Guidance under subsection (1) may include in particular guidance on—
 - (a) how, in preparing a local development plan, planning authorities are to undertake effective community engagement,
 - (b) ways in which planning authorities should consult communities and encourage them to contribute to the preparation of a local development plan,
 - (c) any other matters relevant to the functions of planning authorities in relation to community engagement in local development plans.
- (3) Before issuing guidance under this section, the Scottish Ministers must consult such persons as they consider appropriate.

- (4) The Scottish Ministers must publish in such manner as they consider appropriate any guidance issued under this section.
- (5) A planning authority must have regard to any guidance issued to them under this section.
- (6) The Scottish Ministers may vary or revoke guidance issued under this section.

16D Play sufficiency assessment *(as inserted by section 7(6) of the 2019 Act)*

- (1) A planning authority must assess the sufficiency of play opportunities in its area for children in preparing an evidence report.
- (2) The Scottish Ministers must by regulations make provisions about—
 - (a) the form and content of the assessment,
 - (b) such persons who must be consulted in relation to the assessment,
 - (c) publication of the assessment.

16E Publication of list of persons seeking land for self-build housing *(inserted by section 8 of the 2019 Act)*

- (1) A planning authority are to prepare and maintain a list of persons who have registered interest with the authority with the intention of acquiring land in the authority's area for self-build housing.
- (2) A planning authority are to publish the list in such manner as the authority consider appropriate (as for example by means of the internet).
- (3) For the purpose of subsection (1), self-build housing is where an individual commissions or (whether acting alone or with other individuals) is personally involved in the design and construction of a dwelling that is intended to be the individual's main residence once it is built.

17 **[Repealed by section 7(7) of the 2019 Act]**

18 Preparation and publication of proposed local development plan *(as amended by section 7(8) of the 2019 Act and schedule 2, paras 2 and 3)*

- (1) After being notified under section 16B(9), the planning authority are—
 - (a) having regard to the evidence report in relation to which notification under that section was received, to prepare and publish in such manner as is prescribed a proposed local development plan,
 - (aa) to publish the evidence report at the same time and in the same manner as the proposed local development plan,
 - (b) to send a copy of that proposed plan and the evidence report to each key agency,
 - (c) [repealed]
 - (d) to consult, with regard to the proposed plan, the key agencies and such persons as may be prescribed, and
 - (e) in such circumstances as may be prescribed, to give notice—
 - (i) in such form,

(ii) of such matter, and

(iii) to such persons,

as may be specified in the regulations in question.

(1A) Without prejudice to the generality of subsection (1)(d), a planning authority for a district all or part of which falls within the boundary identified by the Central Scotland Green Network Partnership are (for so long as such a body is included in the National Planning Framework as a national development) to consult the Network on the proposed local development plan.

(1B) Before publishing a proposed local development plan under subsection (1), the planning authority must approve the plan.

(1C) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed local development plan.

(2) Publication under subsection (1)(a) is to include specification of a date (being a date not less than 12 weeks after the date of publication) by which any representations with respect to the proposed local development plan must be made to the authority.

(3) After the date specified by virtue of subsection (2), the planning authority may modify the proposed local development plan so as to take account of—

(a) any representations timeously made to them as respects that proposed plan (or of any matters arising out of representations so made),

(b) any matters arising in consultation under subsection (1)(d), and

(c) any minor drafting or technical matters.

(4) The authority—

(a) are to submit the proposed local development plan to the Scottish Ministers together with—

(i) a report as to the extent to which the authority's actings with regard to consultation and the involvement of the public at large have conformed with (or have gone beyond the requirements of) the authority's current participation statement,

(ii) a copy of their proposed delivery programme for the plan, and

(iii) if modifications have been made to the proposed plan under subsection (3), a report setting out—

(A) the modifications made, and

(B) the reasons for making them.

(b) [repealed]

(c) [repealed]

(5) [Repealed.]

(6) [Repealed.]

(7) [Repealed.]

(8) [Repealed.]

(9) [Repealed.]

- (10) It is the duty of a key agency to co-operate with the planning authority in the preparation of the authority's proposed local development plan.

19 Examination of proposed local development plan *(as amended by section 7(9) of the 2019 Act and schedule 2, para 2)*

- (1) On submitting a proposed local development plan under paragraph (a) of section 18(4), a planning authority are, if the circumstances are as mentioned in subsection (2), to request the Scottish Ministers to make an appointment under subsection (3).
- (2) The circumstances are that representations timeously made were not taken account of (or not fully taken account of) in modifications under subsection (3) of section 18 and have not been withdrawn.
- (3) If, when a proposed development plan is submitted to the Scottish Ministers under paragraph (a) of section 18(4)—
- (a) a request is made under subsection (1), or
 - (b) no such request is made but it appears to them that the circumstances are as mentioned in subsection (2),

they are to appoint a person to examine under this subsection the proposed plan.

- (4) But where an appointment is made under subsection (3), the appointed person is firstly to examine under this subsection the extent to which the planning authority's actings with regard to consultation and the involvement of the public at large as respects the proposed plan have conformed with (or have been beyond the requirements of) the participation statement of the authority which was current when the proposed plan was published under section 18(1)(a).
- (5) The Scottish Ministers may make regulations as to—
- (a) meeting general administrative costs, staff costs and overheads incurred in relation to an examination under subsection (3) or (4),
 - (b) procedures to be followed at such an examination, and
 - (c) what is to be assessed in such an examination and matters by reference to which the assessment is to be made;

but the form the examination is to take (as for example whether it should be in public or as to whether persons who have made representations, and other persons, are to be heard or are to present written submissions) is to be at the discretion of the appointed person.

- (5A) When a request is made under subsection (1), or an appointment is made under subsection (3) without a request having been made, the planning authority must publish in the prescribed manner—**

- (a) the proposed plan, and
 - (b) if modifications were made to the proposed plan under section 18(3) or 19A(5)(b)(i), a report setting out—
 - (i) the modifications made, and
 - (ii) the reasons for making them.
- (6) When a person is appointed under subsection (3), the planning authority are—

- (a) to advertise the forthcoming examination of the proposed plan in a local newspaper and in the public libraries within the part of the authority's district to which the proposed plan relates, and
 - (b) to serve notice of that examination on each of the persons who have made the representations mentioned in subsection (2).
- (7) No such examination as is mentioned in subsection (3) is to be commenced—
 - (a) within 4 weeks after the appointment is made, and
 - (b) where a report is submitted under subsection (1)(b) of section 19A, before a direction is given under subsection (3)(b) of that section.
- (8) On completing his examination under subsection (3), **unless section 19ZA applies**, the appointed person is to—
 - (a) prepare a report—
 - (i) setting out, and giving reasons for, his conclusions and recommendations, and
 - (ii) as to the matters considered by him under subsection (4),
 - (b) submit it to the planning authority,
 - (c) publish it, and
 - (d) serve on the persons mentioned in paragraph (b) of subsection (6), and on any person who made representations by virtue of section 19A, notice of the report's submission and publication (including the means of publication).
- (8A) Recommendations under subsection (8)(a)(i) may include—**
 - (a) recommendations that the planning authority make modifications to the proposed local development plan,**
 - (b) in a case where the appointed person considers that a change required is not suitable to be dealt with by such modification, a recommendation that, if adopted, the planning authority should amend the local development plan under section 20AA in relation to such matters as may be specified in the report.**
- (8B) Where a report prepared under subsection (8)(a) includes a recommendation of the type described in subsection (8A)(b), the appointed person must send a copy of the report to the Scottish Ministers.**
- (9) In **subsections (5A) and (8)(c)**, “publish” includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).
- (10) The planning authority are, on receiving a report submitted under subsection (8)(b)—
 - (a) to make—
 - (i) (except in so far as they decline to do so, on such grounds as may be prescribed for the purposes of this sub-paragraph) such modifications, if any, to the proposed local development plan as the appointed person recommends, and
 - (ii) such other modifications to it, if any, as appear to them to be requisite having regard to the report.
 - (b) [repealed]**
 - (c) [repealed]**

- (d) [repealed]
- (e) [repealed]
- (11) But the authority may, before complying with subsection (10), secure the carrying out of an environmental assessment (within the meaning of the Environmental Assessment (Scotland) Act 2005 (asp 15)) in relation to the proposed plan as so modified; and if they do so then paragraph (a) of that subsection is to be construed as subject to the qualification that any modification made must, in the opinion of the authority, be acceptable having regard to that assessment.

(12) [Repealed.]

19ZA Examination under section 19(3): further provision (*inserted by section 7(10) of the 2019 Act*)

- (1) This section applies where—
 - (a) a person appointed under subsection (3) of section 19 completes an examination of a proposed local development plan under that subsection, and
 - (b) the person is not satisfied that the amount of land allocated for housing in the proposed local development plan is sufficient to meet the targets it includes in relation to the housing needs of people living in the part of the district to which it relates (see section 15(1A)).
- (2) The appointed person may, instead of preparing a report under section 19(8), issue a notice to the planning authority requiring it to prepare another proposed local development plan under section 18(1).
- (3) A notice under subsection (2) must include—
 - (a) a statement that the proposed local development plan is unsatisfactory due to its failure to address the identified housing needs,
 - (b) the appointed person’s reasons for coming to that conclusion.
- (4) The appointed person must—
 - (a) send a copy of a notice issued under subsection (2) to the Scottish Ministers,
 - (b) publish it, and
 - (c) notify the persons mentioned in paragraph (b) of section 19(6), and any person who made representations by virtue of section 19A that a notice has been given under subsection (2) (and its effect).
- (5) A planning authority that receive a notice under subsection (2)—
 - (a) may not take any further action in respect of the unsatisfactory proposed local development plan, and
 - (b) must prepare another proposed local development plan in accordance with section 18.
- (6) The planning authority may use the evidence report prepared and assessed in respect of the unsatisfactory proposed local development plan for the purpose of subsection (5)(b).
- (7) In subsection (4)(b), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

19A Further provision as regards examination under section 19(4) (as amended by section 7(11) of the 2019 Act and schedule 2, para 2)

- (1) If, having conducted an examination under subsection (4) of section 19, the appointed person is not satisfied with the actings mentioned in that subsection he is to—
 - (a) prepare a report setting out his reasons for not being satisfied and recommending that the authority take such further steps with regard to—
 - (i) consultation, or
 - (ii) involving the public at large,as are specified in the report,
 - (b) submit it to the Scottish Ministers, and
 - (c) send a copy of it to the planning authority.
- (2) The authority may, within 4 weeks after receiving that copy, make representations to the Scottish Ministers as regards the report.
- (3) The Scottish Ministers, provided that 4 weeks have elapsed since they received the report, may—
 - (a) direct the authority to take such further steps with regard to—
 - (i) consultation, or
 - (ii) involving the public at large,as are specified in the direction, or
 - (b) direct the appointed person to proceed to an examination under subsection (3) of section 19.
- (4) In giving a direction under paragraph (a) of subsection (3) the Scottish Ministers are to have regard to the appointed person's recommendations under paragraph (a) of subsection (1) and to any representations made under subsection (2).
- (5) Where such a direction is given—
 - (a) the appointed person is not to proceed to an examination under subsection (3) of section 19, and
 - (b) after the further steps specified in the direction have been taken the authority—
 - (i) may modify the proposed local development plan so as to take account of any representations made to them in consequence of their taking those steps (and of any minor drafting or technical matters), and
 - (ii) are to submit it (whether or not modified) to the Scottish Ministers together with a note of any representations so made and of whether those representations are taken account of in the plan (and if so to what extent) and a report as to the extent to which the authority's actings with regard to consultation and involving the public at large have conformed with (or have gone beyond the requirements of) the specification of further steps.
- (6) But if the authority consider that modifications are requisite and are such as would change the underlying aims or strategy of the proposed plan they are not to modify it (or submit it unmodified to the Scottish Ministers) but are to prepare and publish under section 18(1) a new proposed local development plan.
- (7) **[Repealed.]**

- (8) [Repealed.]
- (9) Section 19 and this section apply in relation to a proposed local development plan submitted under subsection (5)(b)(ii) as they apply in relation to such a plan submitted under section 18(4)(a).
- (10) Except that for the purposes of the application provided for in subsection (9), section 19 is to be construed as if—
- (a) in subsection (2), for the words “subsection (3) of section 18” there were substituted “section 19A(5)(b)(i)”, and
 - (b) in subsection (4), for the words “the participation statement of the authority which was current when the proposed plan was published under section 18(1)(a)” there were substituted “the further steps specified in the direction under section 19A(3)(a)”.

20 Constitution of local development plan *(as amended by section 7(12) of the 2019 Act)*

- (1) On being adopted by the planning authority the proposed local development plan is constituted as the local development plan.
- (1A) A proposed local development plan may not be adopted before the end of the period that—
- (a) begins on the day it is submitted to the Scottish Ministers under section 18(4)(a) or (as the case may be) 19A(5)(b)(ii), and
 - (b) ends at the end of the day that falls 28 days later.
- (1B) Where—
- (a) a request is made under section 19(1) when a proposed local development plan is submitted to the Scottish Ministers, or
 - (b) no such request is made but, within the 28 day period described in subsection (1A), the Ministers appoint a person under section 19(3),
- the proposed local development plan may not be adopted until the planning authority have received a report in relation to the plan submitted under section 19(8)(b).

20A Publication of and publicity for local development plan *(as amended by section 7(13) of the 2019 Act)*

- (1) As soon as is reasonably practicable after the local development plan is constituted as mentioned in section 20(1) or (7)¹, the planning authority are to—
- (a) send two copies of it to the Scottish Ministers,
 - (b) publish it,
 - (c) place a copy of it in each public library in the part of the district to which it relates,
 - (d) both—
 - (i) notify each person who made representations under section 18 or by virtue of section 19A, and
 - (ii) advertise, in a local newspaper,

¹ Note section 20(7) is repealed by section 7(12) of the 2019 Act and this reference is therefore empty.

that the local development plan has been published (including the means of publication) and is available for inspection in those libraries.

- (1A) In addition to taking the steps required by subsection (1), as soon as reasonably practicable after the local development plan is constituted the planning authority must—
- (a) in the circumstances described by subsection (1B), publish in the prescribed manner a recommended-modification statement, and
 - (b) in the circumstance described by subsection (1C), publish in the prescribed manner a report on modifications (but this requirement is qualified by subsection (1D)).
- (1B) The circumstances referred to in subsection (1A)(a) are—
- (a) a person appointed under section 19(3) recommended a modification to a proposed version of the plan, and
 - (b) the modification was not made.
- (1C) The circumstance referred to in subsection (1A)(b) is that the constituted plan differs from the proposed plan published under section 18(1)(a) as a result of modifications made under section 18(3), 19(10) or 19A(5)(b)(i).
- (1D) In a case where a report in relation to a proposed version of the plan has been published as required by section 19(5A)—
- (a) if no modifications were subsequently made, a report on modifications need not be published,
 - (b) if modifications were subsequently made, the report on modifications need only set out those modifications.
- (1E) In this section—
- (a) “recommended-modification statement” means a statement that—
 - (i) sets out the modification mentioned in subsection (1B), and
 - (ii) explains, by reference to the grounds prescribed for the purposes of section 19(10)(a)(i), why the modification was not made,
 - (b) “report on modifications” means a report that sets out—
 - (i) the modifications mentioned in subsection (1C), and
 - (ii) the reasons for making them.
- (2) In this section, “publish” includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).
- 20AA Amendment of local development plan** *(as inserted by section 12(3) of the 2019 Act and amended by section 14(6) of the 2019 Act)*
- (1) A planning authority may at any time amend a local development plan constituted for their district.
 - (2) The Scottish Ministers may direct a planning authority to exercise their power under subsection (1) in relation to matters specified in the direction.
 - (3) A direction under subsection (2) must set out the Scottish Ministers' reasons for requiring an amendment to the local development plan.
 - (4) In preparing an amendment to a local development plan, a planning authority—

- (a) are to take into account—
 - (i) the National Planning Framework,
 - (ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,
 - (iii) any registered local place plan (see schedule 19) that is for the part of their district to which the local development plan relates,
 - (b) are to have regard to such information and considerations as are prescribed, and
 - (c) may have regard to such other information and considerations as appear to them to be relevant.
- (5) The Scottish Ministers may by regulations make further provision about amendments under subsection (1).
- (6) Regulations under subsection (5) may in particular make provision—
- (a) about the procedures to be followed,
 - (b) about the consultation to be undertaken on proposed amendments,
 - (c) about when the amendments take effect,
 - (d) about the publication of the amended plan.
- (7) Regulations under subsection (5) may provide that sections 16A to 20A apply to an amendment to a local development plan as they apply to a local development plan subject to such modifications as are specified in the regulations.

*Development plan schemes and **delivery** programmes*

20B **Development plan schemes** (as amended by section 7(14) and section 11 of the 2019 Act and schedule 2, para 1 and 2)

- (1) A development plan scheme is to be prepared by each planning authority.
- (2) **An authority are** to prepare the scheme—
 - (a) whenever required to do so by the Scottish Ministers, and
 - (b) (subject to paragraph (a)) whenever the authority think it appropriate to do so but in any event within 1 year after last preparing such a **scheme**.
- (3) A development plan scheme is a document setting out the authority's programme for preparing and reviewing their local development plans.
- (4) Without prejudice to the generality of subsection (3), “programme” in that subsection includes, having regard to the provisions of this Part—
 - (a) proposed timetabling,
 - (b) details of what is likely to be involved at each stage of preparation or review, and
 - (c) an account (in this Part referred to as an authority's “participation statement”) of when consultation is likely to take place and with whom and of its likely form and of the steps to be taken to involve the public at large in the stages of preparation or review.

- (4A) In preparing the development plan scheme the planning authority are to seek the views of, and have regard to any views expressed by the public at large as to the content of the participation statement.
- (5) As soon as is reasonably practicable after a development plan scheme has been adopted, the authority which prepared it are to—
 - (a) send two copies of it to the Scottish Ministers,
 - (b) publish it, and
 - (c) place a copy of it in each public library in the **area of the authority**.
- (6) In subsection (5)(b), “publish” includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).
- (7) Regulations may make provision as to—
 - (a) the form and content of, and
 - (b) the procedures for preparing and adopting, a development plan scheme.

21 **Delivery programmes** *(as amended by section 11 of the 2019 Act and schedule 2, para 1)*

- (1) **[Repealed.]**
- (2) A planning authority who prepare a local development plan are to prepare a **delivery** programme for the plan.
- (3) In preparing a **delivery** programme an **authority** are to seek the views of, and have regard to any views expressed by—
 - (a) the key agencies, and
 - (b) such persons as may be prescribed.
- (4) When an authority publish a proposed local development plan under section 18(1)(a), they are to publish a proposed **delivery** programme for the plan.
- (4A) It is the duty of the head of the planning authority's paid service (designated under section 4 of the Local Government and Housing Act 1989) to prepare the proposed **delivery** programme.
- (4B) The planning authority must approve the proposed **delivery** programme before it is published.
- (4C) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed **delivery** programme.
- (5) It is the duty of a key agency to co-operate with an **authority** in the preparation of the authority's **delivery** programme or proposed **delivery** programme.
- (6) A **delivery** programme is a document setting out how an **authority** propose to implement the plan to which it relates.
- (7) Regulations may make provision as to—
 - (a) the form and content of, and
 - (b) the procedures for preparing and adopting,

a **delivery** programme.

- (8) The authority are to adopt and publish the **delivery** programme within 3 months after the date on which the plan to which it relates is constituted.
- (9) The authority must keep the **delivery** programme under review and must update and re-publish it—
 - (a) whenever required to do so by the Scottish Ministers, and
 - (b) (subject to paragraph (a)) whenever they think it appropriate to do so but in any event within 2 years after last publishing (or re-publishing) it.
- (10) When they publish, or re-publish, a **delivery** programme, the authority are to—
 - (a) send two copies of it to the Scottish Ministers, and
 - (b) place a copy of it in each public library in the part of the authority's district to which the local development plan in question relates,
 and such publication, or re-publication, is to include by electronic means (as for example by means of the internet).

[Supplementary guidancee]

~~22~~ **Supplementary guidancee** *(Repealed by section 9 of the 2019 Act)*

Supplementary provisions

23 Disregarding of representations with respect to development authorised by or under other enactments *(as amended by schedule 2 of the 2019 Act, para 1 and 2)*

- (1) Where subsection (2) applies neither the Scottish Ministers nor a planning authority need consider representations with respect to a proposed local development plan.
- (2) This subsection applies where it appears to the Scottish Ministers or the authority, as the case may be, that those representations are in substance representations with respect to things done or proposed to be done in pursuance of—
 - (a) an order or scheme under section 5, 7, 9 or 12 of the Roads (Scotland) Act 1984 (c.54) (trunk road orders, special road schemes and orders for other public roads), or
 - (b) an order under section 1 of the New Towns (Scotland) Act 1968 (c.16) (designation of sites of new towns).

23A Regulations under this Part *(as amended by schedule 2 of the 2019 Act, para 1)*

- (1) Regulations under this Part may extend throughout Scotland or to specified areas only and may make different provision for different cases.
- (2) Subject to the previous provisions of this Part and to any such regulations, the Scottish Ministers may give directions to any planning authority, or to planning authorities generally for—
 - (a) formulating the procedure for the carrying out of functions under this Part, or
 - (b) requiring them to give the Scottish Ministers such information as the Scottish Ministers may require for carrying out functions under this Part.

23B Default powers of the Scottish Ministers (as amended by schedule 2 of the 2019 Act, paras 1 and 2)

- (1) This section applies where—
 - (a) under any of the previous sections of this Part, any local development plan requires to be prepared, any proposed local development plan requires to be submitted to the Scottish Ministers, or steps are required to be taken for the adoption of a proposed local development plan, and
 - (b) the Scottish Ministers are satisfied that the authority in question—
 - (i) are not, within a reasonable period, doing what is required, or
 - (ii) have not met a time limit specified in any of those provisions for doing what is required (or some part of what is required).
- (2) Where this section applies, the Scottish Ministers may—
 - (a) direct the authority in question (the “defaulting authority”) to carry out that authority's functions in relation to the matter and may specify in the direction the factors to be taken into account or objectives to be achieved by that authority in so doing, or
 - (b) prepare a local development plan.
- (3) **[Repealed.]**
- (4) The previous sections of this Part apply, so far as applicable and with any necessary modifications, in relation to the doing of anything under subsection (2)(b) by the Scottish Ministers as they apply in relation to the doing of anything by the defaulting authority.
- (5) The defaulting authority must on demand repay to the Scottish Ministers so much of any expenses incurred by the Scottish Ministers in connection with the doing of anything which should have been done by the defaulting authority as the Scottish Ministers certify to have been incurred in the performance of the defaulting authority's functions.

23C Reviews of plans in enterprise zones (as amended by schedule 2 of the 2019 Act, para 1)

As soon as practicable after an order has been made under paragraph 5 of Schedule 32 to the Local Government, Planning and Land Act 1980 (c.65) (designation of enterprise zone scheme) or a notification has been given under paragraph 11 of that Schedule (modification of such a scheme) a planning authority for a district in which the enterprise zone is wholly or partly situated are, in that light, to review any local development plan which relates to land situated both in the district and in the zone.

23D Meaning of “key agency” (as amended by section 10 of the 2019 Act)

Any reference in a provision of **Part 1A** or this Part to a “key agency” is to **a person (other than an individual) or an officeholder** which the Scottish Ministers specify as such for the purposes of that provision by regulations.

24 Meaning of “development plan” *(as amended by section 13 of the 2019 Act)*

- (1) For the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963, the development plan for an area is to be taken as consisting of the provisions of—
 - (a) the National Planning Framework,
 - (b) any strategic development plan for the time being applicable to the area, together with—
 - (i) the Scottish Ministers’ notice of approval of that plan, and
 - (ii) any supplementary guidance issued in connection with that plan, and
 - (c) any local development plan for the time being applicable to the area.
- (2) A reference in subsection (1) to provisions of a framework or plan is to be construed as a reference to so much of the provisions as are applicable to the area.
- (3) In the event of any incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail.
- (4) For the purposes of subsection (3)—
 - (a) the date of the National Planning Framework is the latest date on which it was published under section 3A(6) or (8),²
 - (b) the date of a local development plan is the date on which it was constituted under section 20.
- (5) This section has effect subject to Schedule 1 (old development plans).

*General***25 Status of development plan** *(as amended by section 13 of the 2019 Act)*

- (1) Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, **to be made in accordance with that plan.**
- (2) [Repealed.]
- (3) [Repealed.]

² note these subsections are repealed and therefore this reference is empty

PART III
CONTROL OVER DEVELOPMENT

[Sections 26 – 26A]

26B **Material change of use: short-term lets** (*inserted by section 17 of the 2019 Act*)

- (1) A planning authority may designate all or part of its area as a short-term let control area for the purposes of this section.
- (2) In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use of the dwellinghouse.
- (3) For the purposes of this section, the following tenancies do not constitute a short-term let—
 - (a) a private residential tenancy under section 1 of the Private Housing (Tenancies) (Scotland) Act 2016,
 - (b) a tenancy of a dwellinghouse (or part of it) where all or part of the dwellinghouse is the only or principal home of the landlord or occupier.
- (4) The power under subsection (1) includes the power to vary or cancel a designation.
- (5) The Scottish Ministers may by regulations make further provision for the purposes of this section including, in particular, provision about—
 - (a) the procedure a planning authority must follow in order to make, vary or cancel a designation under subsection (1) (which may include requiring the approval of the Scottish Ministers),
 - (b) the form of a designation under subsection (1),
 - (c) what constitutes providing a short-term let for the purposes of this section, and
 - (d) any circumstances in which, or descriptions of dwellinghouse to which, this section does not apply.
- (6) Before making regulations under subsection (5), the Scottish Ministers must consult planning authorities and such other persons as they consider appropriate.

27 **Time when development begun** (*as amended by schedule 2 of the 2019 Act, para 5*)

- (1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).
- (2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.
- (3) The provisions referred to in subsection (2) are sections 52(2), 53(6), 54(4), **54B(1)(b)**, **54D(2)**, 58, 59 and 61 and **paragraph 20 of schedule 5A**.

- (4) In subsection (2) “material operation” means—
- (a) any work of construction in the course of the erection of a building,
 - (b) any work of demolition of a building,
 - (c) the digging of a trench which is to contain the foundations, or part of the foundations, of a building,
 - (d) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (c),
 - (da) any placing or assembly of equipment as is mentioned in subsection (6) of section 26 in waters described in paragraph (b) or (c) of that subsection,
 - (e) any operation in the course of laying out or constructing a road or part of a road, or
 - (f) any change in the use of any land which constitutes material development.
- (5) In subsection (4)(f) “material development” means any development other than—
- (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted,
 - (b) development of a class specified in paragraph 1 or 2 of Schedule 11, and
 - (c) development of any class prescribed for the purposes of this subsection.
- (6) In subsection (5) “general development order” means a development order (within the meaning of section 30(2)) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in Scotland.

[Sections 27A – 28]

29 Granting of planning permission: general *(as amended by schedule 2 of the 2019 Act, para 5)*

- (1) Planning permission may be granted—
- (a) by a development order,
 - (b) by the planning authority (or, where this Part so provides, by the Secretary of State) on application to the authority in accordance with regulations or a development order,
 - (c) on the adoption or approval of a simplified planning zone scheme or alterations to such a scheme in accordance with section 49 or, as the case may be, section 53,
 - (ca) by a masterplan consent area scheme, or**
 - (d) on the designation of an enterprise zone or the approval of a modified scheme under Schedule 32 to the Local Government Planning and Land Act 1980 in accordance with section 55 of this Act
- (2) Planning permission may also be deemed to be granted under section 57 (development with government authorisation).
- (3) This section is without prejudice to any other provisions of this Act providing for the granting of permission.

[Sections 30 – 33A]*Publicity for applications***34 Notice by planning authority of certain applications made to them** *(as amended by sections 21, 23 and 37 of the 2019 Act)*

- (1) A planning authority are to give notice—
 - (a) to such persons or categories of person,
 - (b) in such manner,
 - (c) for such period, and
 - (d) on such number of occasions,as may be prescribed in regulations or in a development order, of such applications mentioned in subsection (2) as are made to the authority.
- (2) The applications are—
 - (a) for planning permission,
 - (b) for an approval required by a development order,
 - (c) for a consent, agreement or approval required by a condition imposed on a grant of planning permission, and
 - (d) for **modification or discharge of a planning obligation** under section 75A(2).
- (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.**
- (3) The regulations or development order may—
 - (a) make provision in relation to the applications generally or in relation to such of those applications as are of a class or classes prescribed in the regulations or order,
 - (b) make different provision for different classes so prescribed.
- (4) No such application is to be determined until after—
 - (a) the expiry of a period which is to be so prescribed,
 - (b) any requirement imposed by virtue of this section has been satisfied.
 - (c) **[repealed]**
- (5) For the purposes of this section an applicant is to provide—
 - (a) to such person or persons,
 - (b) such information with respect to the application,as may be so prescribed.

- (6) A planning authority are to provide the Scottish Ministers with such information relating to the exercise by the authority of functions under this section (whether in relation to applications generally or in relation to a particular application or class of application) as the Scottish Ministers may request from them.

[Section 35]

35A Pre-application consultation: preliminary *(as amended by section 18 of the 2019 Act)*

- (1) Before submitting an application for planning permission for a development of a class prescribed under this section the prospective applicant is, subject to the following provisions of this section, to comply with section 35B.
 - (1A) Subsection (1) does not apply to an application for planning permission—
 - (a) to which section 42 applies, or
 - (b) in circumstances specified by the Scottish Ministers in regulations under this section.
 - (2) The regulations in question may, in prescribing classes of development, make different provision for different cases or classes of case and for different areas.
 - (3) A prospective applicant for planning permission for a development may, by notice, require the planning authority to state whether or not, in their opinion, **compliance with section 35B is required**.
 - (4) But the regulations may, in prescribing a class of development, provide that subsections (3) and (5) to (9) are not to apply—
 - (a) as respects that class, or
 - (b) as respects that class in circumstances specified in the regulations.
 - (5) Any notice under subsection (3) is to be in such form, **and have such content**, as may be prescribed in the regulations but must in any event contain the information mentioned in paragraphs (a) to (d) of section 35B(4).
 - (6) A planning authority receiving such a notice may, if they do not consider that it contains sufficient information to enable them to provide the statement sought, request the prospective applicant to provide additional information specified by them.
 - (7) Where such a notice is given it is the duty of the planning authority to provide the requisite statement within the period of 21 days after it is given (or within such other period as may be substituted for that period by the regulations).
 - (8) The period of 21 days mentioned in subsection (7) (or any other period substituted for that period) does not include any period between a request for information being made under subsection (6) and that information being provided to the planning authority.
 - (9) If the authority respond by stating that in their opinion **compliance with section 35B is not required**, then provided that the application for planning permission for the development in question is submitted within 12 months after the notice was given and does not differ materially from the information regarding it contained in the notice and mentioned in paragraphs (a) to (c) of section 35B(4) the prospective applicant need not comply with section 35B.
 - (10) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “planning authority” or “the authority” were a reference to the Scottish Ministers.

35B Pre-application consultation: compliance *(as amended by section 18 of the 2019 Act)*

- (1) The following subsections apply where compliance with this section is required by virtue of section 35A(1).
- (2) The prospective applicant is to give notice (to be known as a “proposal of application notice”) to the planning authority that an application for planning permission for the development is to be submitted.
- (3) A period of at least 12 weeks, **but no more than 18 months**, must elapse between giving the notice and submitting any such application.
- (4) A proposal of application notice is to be in such form, and have such content, as may be prescribed but must in any event contain—
 - (a) a description in general terms of the development to be carried out,
 - (b) if the site at which the development is to be carried out has a postal address, that address,
 - (c) a plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site, and
 - (d) details as to how the prospective applicant may be contacted and corresponded with.
- (5) Regulations may—
 - (a) require that the proposal of application notice be given to persons specified in the regulations,
 - (b) specify—
 - (i) persons who are to be consulted as respects a proposed application, and
 - (ii) what form that consultation is to take.
- (6) Different provision may be made under subsection (5) for different cases or classes of case and for different areas.
- (7) The planning authority may, provided that they do so within the period of 21 days after receiving the proposal of application notice, notify the prospective applicant that they require (either or both)—
 - (a) that the proposal of application notice be given to persons additional to those specified under subsection (5) (specifying in the notification who those persons are),
 - (b) that consultation additional to any required by virtue of subsection (5)(b) be undertaken as regards the proposed development (specifying in the notification what form that consultation is to take).
- (8) In considering whether to give notification under subsection (7) the planning authority are to have regard to the nature, extent and location of the proposed development and to the likely effects, at and in the vicinity of that location, of its being carried out.
- (9) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “planning authority” were a reference to the Scottish Ministers.

35C Pre-application consultation report *(as amended by section 18 of the 2019 Act)*

- (1) A person who, before submitting an application for planning permission for a development, is required to comply with section 35B and who proceeds to submit that application is to prepare a report (a “pre-application consultation report”) as to what has been done to effect such compliance.
- (2) A pre-application consultation report is to be in such form **and include such content** as may be prescribed.

36 Registers of applications etc. *(as amended by section 36 of the 2019 Act and schedule 2, para 5)*

- (1) Every planning authority shall keep, in such manner as may be prescribed by regulations or a development order, a register containing such information as may be so prescribed with respect to—
 - (a) applications for planning permission and for approval required by the regulations or order made to that authority,
 - (aa) any variation, by virtue of section 32A(1), to such an application,
 - (ab) documents to which regard was had in dealing with each such application (including documents to which regard was had in considering whether to agree to such a variation),
 - (ac) material considerations to which regard was had by virtue of section 37(2),
 - (ad) any pre-application consultation report prepared under section 35C(1) and submitted with such an application,
 - (b) the manner in which each such application has been dealt with and a copy of any notice given by virtue of paragraph (d) or (e) of section 43(1) in respect of an application (or, in the case of an application in respect of which notice does not fall to be so given, a statement of the reasons on which the authority based their decision on the application),
 - (ba) applications under section 242A(2) for planning permission in respect of development in the district of that authority,
 - (bb) the grant or refusal of planning permission by the Scottish Ministers under section 31A in respect of development in the district of that authority,
 - (c) simplified planning zone schemes relating to zones in the authority's area,
 - (ca) masterplan consent area schemes relating to parts of the authority's area, and**
 - (d) any planning obligation entered into under section 75.
- (2) The regulations or the order may make provision for the register to be kept in two or more parts, each part containing such information relating to applications mentioned in subsection (1)(a) as may be prescribed by the regulations or order.
- (3) The regulations or the order may also make provision—
 - (a) for a specified part of the register to contain copies of applications and variations to applications and of any plans or drawings submitted with such applications and variations and copies of documents to which regard was had in dealing with such applications and in considering whether to agree to such variations, and

- (b) for the entry relating to any application, and everything relating to it, to be removed from that part of the register when the application (including any appeal or review arising out of it) has been finally disposed of (without prejudice to the inclusion of any different entry relating to it in another part of the register).
- (4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- (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.

[Section 36A]

37 Determination of applications: general considerations *(as amended by section 30 and schedule 2 of the 2019 Act, para 6)*

- (1) Where an application is made to a planning authority for planning permission—
 - (a) subject to sections 27B(2), 58 and 59, they may grant planning permission, either unconditionally or subject to such conditions as they think fit, or
 - (b) they may refuse planning permission.
- (2) In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- (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 together with an explanation of why the authority have reached that view.
- (3) Subsection (1) has effect subject to sections 34 and 35 and to the following provisions of this Act, and to sections 59(1), 60 and 65 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- (4) The date of the grant or refusal of—
 - (a) planning permission,
 - (b) an approval required by a development order, or
 - (c) any consent, agreement or approval required by a condition imposed on the grant of planning permission,

shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.

[Sections 38 and 38A]**39 Declining to determine an application** *(as amended by section 22 of the 2019 Act and schedule 2, para 7)*

- (1) A planning authority may decline to determine an application (in this subsection referred to as the “current application”) for planning permission for the development of any land—
- (a) if—
 - (i) in the period of 5 years ending with the date on which the current application is received, the Scottish Ministers have refused a similar application referred to them under section 46 or have dismissed an appeal against the refusal of, or an appeal under section 47(2) in respect of, a similar application, and
 - (ii) in the opinion of the authority there has not, since the Scottish Ministers refused the similar application or dismissed the appeal, been any significant change in the development plan (so far as material to the current application) or in any other material consideration,
 - (b) if—
 - (i) in that period of 5 years the planning authority have refused more than one similar application,
 - (ii) there has been no appeal to the Scottish Ministers against either (or as the case may be any) of those refusals, and
 - (iii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the refusals, been any significant change in the development plan (so far as material to the current application) or in any other material consideration,
 - (c) if—
 - (i) in that period of 5 years the planning authority have refused more than one similar application,
 - (ii) there has been an appeal to the Scottish Ministers against either (or as the case may be any) of those refusals but as at the time the current application is received no such appeal has yet been determined, and
 - (iii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the refusals, been any significant change in the development plan (so far as material to the current application) or in any other material consideration,
 - (d) if—
 - (i) in that period of 5 years there have been appeals under section 47(2) in respect of more than one similar application but as at the time the current application is received no such appeal has yet been determined, and
 - (ii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the appeals was made, been any significant change in the development plan (so far as material to the current application) or in any other material consideration, or

- (e) if—
 - (i) in that period of 5 years two similar applications have been made to the planning authority,
 - (ii) the planning authority have refused one of those applications and there has been an appeal under section 47(2) in respect of the other but as at the time the current application is received the appeal under that section has yet to be determined as has the appeal (if any) against the refusal, and
 - (iii) in the opinion of the authority there has not, since the refusal or since the appeal was made (whichever was the more recent), been any significant change in the development plan (so far as material to the current application) or in any other material consideration.
- (1A) A planning authority or the Scottish Ministers must decline to determine an application for planning permission for the development of any land if, in their opinion—
 - (a) compliance with section 35B was required as respects the development, and
 - (b) there has not been such compliance.
- (1B) But before deciding whether, under subsection (1A), an application must be declined the authority or as the case may be the Scottish Ministers may request the applicant to provide such additional information as they may specify.
- (1C) Where, under subsection (1A), a planning authority or the Scottish Ministers decline to determine an application they are to advise the applicant of the reason for their being of the opinion mentioned in that subsection.
- (1D) Subsection (1A) is subject to section 35A(9).
- (2) For the purposes of this section an application for planning permission for the development of any land shall be taken to be similar to a later application only if the development and the land to which the applications relate are in the opinion of the planning authority the same or substantially the same.
- (2A) For the purposes of the application of this section by virtue of section 43AA(2)—
 - (a) the references in subsection (1) to an appeal to the Scottish Ministers include a reference to a requirement on the planning authority to review a case by virtue of section 43AC;
 - (b) the references in that subsection to the dismissal by the Scottish Ministers of an appeal include a reference to the upholding by the planning authority of a determination on review; and
 - (c) the references to an appeal under section 47(2) include a reference to a requirement to review under section 43AC(1)(e).
- (3) [...]

39A Declining to determine an application: further provision *(as inserted by section 38 of the 2019 Act)*

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

40 Assessment of environmental effects *(as amended by section 24 of the 2019 Act).*

- (1) The Secretary of State may by regulations make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects, **including effects on biodiversity**, of the proposed development.
- (2) The regulations—
 - (a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any EU obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the European Communities Act 1972, and
 - (b) may make different provisions for different classes of development.
- (3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, no statutory instrument containing such regulations shall be subject to annulment by virtue of section 275(3).
- (4) Without prejudice to subsection (1), before planning permission is granted by a planning authority in respect of anything which is development by virtue of section 26(6), the authority must consider the effect of the proposed development on the water environment.
- (4A) In subsection (1), “effects on biodiversity” includes the net positive effects on biodiversity that would be likely to result from the development.**
- (5) In subsection (4), “water environment” has the same meaning as in section 3(2) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).

40A Assessment of health effects *(as inserted by section 19 of the 2019 Act)*

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.

41 Conditional grant of planning permission *(as amended by section 32 of the 2019 Act)*

- (1) Without prejudice to the generality of section 37(1) to (3), conditions may be imposed on the grant of planning permission under that section—
 - (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;
 - (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period,
 - (c) for identifying (whether by means of a specified time period or otherwise) when the applicant may be required to—**
 - (i) make an application for a consent, agreement or approval, or**

- (ii) carry out some other action in connection with the permission or development.
- (2) Conditions may not be imposed by a planning authority under subsection (1)(a) for regulating the development or use of any land within the area of another planning authority except with the consent of that authority.
- (3) Subject to paragraph 1(6)(a) of Schedule 3, a planning permission which is granted subject to such a condition as is mentioned in subsection (1)(b) is in this Act referred to as “planning permission granted for a limited period”.
- (4) Where—
 - (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition, and
 - (b) any building or other operations are commenced after the time so specified, the commencement and carrying out of those operations do not constitute development for which that permission was granted.
- (5) [...]
- (6) Part I of Schedule 3 shall have effect for the purpose of making special provision with respect to the conditions which may be imposed on the grant of planning permission for development consisting of the winning and working of minerals.

41A Conditional grant of planning permission: noise-sensitive developments *(as inserted by section 25 of the 2019 Act)*

- (1) A development that is the subject of an application for planning permission is a “noise-sensitive development” if residents or occupiers of the development are likely to be affected by significant noise from existing activity in the vicinity of the development (a “noise source”).
- (2) Without prejudice to the generality of section 41(1), a planning authority—
 - (a) must, when considering under section 37 whether to grant planning permission for a noise-sensitive development subject to conditions, take particular account of whether the development includes sufficient measures to mitigate, minimise or manage the effect of noise between the development and any existing cultural venues or facilities (including in particular, but not limited to, live music venues), or dwellings or businesses in the vicinity of the development, and
 - (b) may not, as a condition of granting planning permission for a noise-sensitive development, impose on a noise source additional costs relating to acoustic design measures to mitigate, minimise or manage the effects of noise.

41B Conditional grant of planning permission: provision of toilet facilities within certain large developments *(as inserted by section 26 of the 2019 Act)*

- (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,
 - (e) as a cultural centre, such as a museum, concert hall or art gallery,
 - (f) as a stadium or large auditorium,
 - (g) as a major transport terminus or interchange,
 - (h) as a motorway service facility.
- (3) The toilet facility mentioned in subsection (1) is an accessible public facility 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 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—
 - (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).

42 Determination of applications to develop land without compliance with conditions previously attached *(as amended by section 20 of the 2019 Act)*

- (1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- (2) On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
 - (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly;
 - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- (3) **The Scottish Ministers may by regulations or a development order make special provision as regards the procedure to be followed in connection with such applications.**
- (4) This section does not apply if the previous permission was granted subject to a condition as to the time within which the development to which it related was to be begun, and that time has expired without the development having been begun.

43 Directions etc. as to method of dealing with applications *(as amended by section 37 of the 2019 Act)*

- (1) Provision may be made by regulations or a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by planning authorities, and in particular—
 - (a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
 - (aa) for enabling the Scottish Ministers to give directions to the planning authority requiring them, in respect of any such development, or in respect of development of any such class, as may be specified in the directions—
 - (i) to consider, where the authority are minded to grant planning permission, imposing a condition specified in, or of a nature indicated in, the directions; and
 - (ii) (unless the directions are withdrawn) not to grant planning permission without first satisfying the Scottish Ministers that such consideration has been given and that such a condition either will be imposed or need not be imposed;
 - (b) for authorising the planning authority, in such cases and subject to such conditions as may be prescribed by the regulations or the order, or by directions given by the Secretary of State under the regulations or the order, to grant planning permission for development which does not accord with the provisions of the development plan;

- (bb) for enabling the planning authority, in the course of their consideration of an application, to require from the applicant particulars, documents, materials or evidence which they consider they require to enable them to deal with the application (being particulars, documents, materials or evidence additional to any which, by virtue of section 32(2), as the case may be, was included in, accompanied or was provided in support of anything in, or relating to, the application);
 - (c) for requiring the planning authority, before granting or refusing planning permission for any development, to consult such authorities or persons as may be prescribed by the regulations or the order or by directions given by the Secretary of State under the regulations or the order;
 - (d) for requiring the planning authority to give to any applicant for planning permission, within such time as may be prescribed by the regulations or the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
 - (e) for requiring the planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed;
 - (f) for requiring, or enabling directions to be made requiring, the planning authority to give to the Scottish Ministers and to such other persons as may be prescribed by or under the regulations, order or directions, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.
- (1A) Any notice given by virtue of paragraph (d) or (e) of subsection (1)—
- (a) is to include a statement of—
 - (i) the terms of the planning authority's decision,
 - (ii) any conditions to which that decision is subject, and
 - (iii) the reasons on which the authority based that decision, and
 - (b) may include such other information as may be prescribed by the regulations or the order.
- (2) Paragraphs (d) and (f) of subsection (1) shall apply in relation to applications for an approval required by regulations under this Act or a development order as they apply in relation to applications for planning permission.
- (3) Paragraphs (a) and (f) of that subsection shall apply in relation to applications under section 75A(2) as they apply in relation to applications for planning permission.
- (4) For the purposes of the application provided for in subsection (3), the reference in paragraph (a) of subsection (1) to restricting the grant of planning permission is to be construed as a reference to restricting the making of any determination under **section 75A(4)**.

43A Schemes of delegation *(inserted by section 28 of the 2019 Act and replacing previous s.43A)*

- (1) A “scheme of delegation” is a scheme prepared by a planning authority by which an application falling within subsection (4) is to be determined by a person appointed by them (an “appointed person”).
- (2) A planning authority must prepare and keep under review a scheme of delegation and, without limit to that generality, must review it—
 - (a) at such intervals as are provided in regulations made under section 43AB, and
 - (b) whenever required to do so by the Scottish Ministers.
- (3) A planning authority may make changes to their scheme of delegation following a review.
- (4) The applications falling within this subsection are—
 - (a) an application for planning permission for a development within the category of local developments,
 - (b) an application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within the category of local developments,
 - (c) an application for any approval of the planning authority required under a development order,
 - (d) an application for a certificate of lawfulness of existing use or development under section 150,
 - (e) an application for a certificate of lawfulness of proposed use or development under section 151,
 - (f) an application for advertisement consent required by virtue of regulations made under section 182.
- (5) References in subsection (4)(a) to a development do not include references to a development of a class mentioned in section 38A(1).
- (6) A planning authority may, if they think fit, decide to determine an application which would otherwise fall to be determined by the appointed person under the scheme of delegation.
- (7) Where the planning authority make such a decision they must—
 - (a) include in the decision a statement of the reasons as to why it has been made, and
 - (b) serve a copy of the decision on the applicant.
- (8) A planning authority may not delegate the determination of applications falling within subsection (4) to an officer of the authority otherwise than in accordance with a scheme of delegation prepared under this section.

43AA Schemes of delegation: effect and operation *(as inserted by section 28 of the 2019 Act)*

- (1) A determination of an appointed person is to be treated as that of the planning authority (other than for the purposes of section 43AC, section 47 and section 154).

- (2) Where an application for planning permission falls to be determined by an appointed person, sections 27A(2), 27B(2), 30(3), 32A, 37(1) to (3), 38, 39, 40, 41(1) and (2), 42, 43(1) to (2), 46, 58, 59 and 60 and Part 1 of schedule 3 apply, with any necessary modifications (including, in the case of that Part, the modification mentioned in subsection (3)), as they apply to an application which falls to be determined by the planning authority.
- (3) The modification referred to in subsection (2) is that, in paragraph 1(6) of schedule 3, paragraph (b) is to be read as if there were substituted—
 - “(b) is to be regarded for the purposes of section 43AC as a condition imposed by a decision of the appointed person, and may accordingly be the subject of a review under section 43AC.”.
- (4) Where an application for an approval of the planning authority required under a development order falls to be determined by an appointed person, the development order applies, with any necessary modifications, as it applies to an application which falls to be determined by the planning authority.
- (5) Where an application for a certificate under section 150 or section 151 falls to be determined by an appointed person, section 150 or, as the case may be, section 151, and section 152 apply, with any necessary modifications, as they apply to an application which falls to be determined by the planning authority.
- (6) In this section, “appointed person” is to be construed in accordance with section 43A(1).

43AB Schemes of delegation: further provision and guidance *(as inserted by section 28 of the 2019 Act)*

- (1) The Scottish Ministers may by regulations make provision about—
 - (a) the required form and content of a scheme of delegation, and
 - (b) the procedures for preparing, adopting, reviewing and changing such a scheme.
- (2) Without limiting the generality of subsection (1), the regulations may require the planning authority to—
 - (a) provide the Scottish Ministers with a draft of a scheme of delegation or any proposed changes,
 - (b) make such modifications as are specified by the Scottish Ministers before adopting the scheme,
 - (c) comply with such directions as are given by the Scottish Ministers in relation to the form, content or procedures for a scheme of delegation.
- (3) A planning authority must have regard to any guidance issued by the Scottish Ministers when preparing, adopting, reviewing or changing a scheme of delegation.

43AC Review of decisions of appointed person *(as inserted by section 28 of the 2019 Act)*

- (1) Where an appointed person—
 - (a) refuses an application for planning permission or grants it subject to conditions,
 - (b) refuses an application for any consent, agreement or approval of the planning authority required by a condition imposed on a grant of planning permission or grants it subject to conditions,

- (c) refuses an application for any approval of the planning authority required under a development order or grants it subject to conditions,
 - (d) refuses an application for a certificate under section 150 or 151 (in whole or in part), or
 - (e) has not given notice of the appointed person's decision within the relevant period, the applicant may require the planning authority to review the case.
- (2) A requirement to review may not be made by virtue of paragraph (e) of subsection (1) if, within the relevant period, notice has been given to the applicant that—
- (a) the power under section 39 to decline to determine the application has been exercised, or
 - (b) the application has been referred to the Scottish Ministers in accordance with directions given under section 46.
- (3) Where a requirement to review is made by virtue of paragraph (e) of subsection (1), the appointed person is, for the purposes of the review, to be deemed to have decided to refuse the application.
- (4) On a review, the planning authority may—
- (a) in relation to a review of a decision required by virtue of paragraph (d) of subsection (1)—
 - (i) grant or refuse the applicant a certificate under section 150 or 151 accordingly (in whole or in part),
 - (ii) modify the certificate granted by the appointed person,
 - (iii) uphold the determination to refuse the application (or to refuse it in part),
 - (b) in relation to any other review—
 - (i) uphold, reverse or vary any part of the determination (whether the review relates to that part of it or not), and
 - (ii) deal with the application as if it had not been delegated to the appointed person.
- (5) Except as provided under section 239, the decision of a planning authority in a case reviewed by virtue of this section is final.
- (6) In this section, “appointed person” is to be construed in accordance with section 43A(1).
- (7) 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).

43AD Review of decisions of appointed person: further provision *(as inserted by section 28 of the 2019 Act)*

- (1) The Scottish Ministers may by regulations or a development order make provision as to the form and procedures of any review conducted by virtue of section 43AC.
- (2) Without limiting the generality of subsection (1), the regulations or order may—

- (a) make different provision for different cases or types of case,
 - (b) make different provision for different stages of a case,
 - (c) provide that the manner in which the review, or any stage of the review, is to be conducted (as for example whether oral submissions are to be made or written submissions lodged) is to be at the discretion of the planning authority,
 - (d) make provision in relation to oral or written submissions and to documents in support of such submissions (and also about the consequences of any failure to make such submissions),
 - (e) subject to section 43B, make provision about what matters may be raised in the course of the review,
 - (f) make provision in relation to time limits (including a time limit for requiring the review),
 - (g) require the planning authority to give notice to the person who has required the review about how the review has been dealt with.
- (3) Any notice given by virtue of subsection (2)(g)—
- (a) must include a statement of—
 - (i) the terms in which the planning authority have decided the case, and
 - (ii) the reasons on which the authority based that decision, and
 - (b) may include such other information as is prescribed by the regulations or the order.

43B **Matters which may be raised in a review under section 43AC** *(as amended by schedule 2 of the 2019 Act, para 7)*

- (1) In a review under section 43AC (other than one required by virtue of paragraph (e) of subsection (1)), a party to the proceedings is not to raise any matter which was not before the appointed person at the time the determination reviewed was made unless that party can demonstrate—
 - (a) that the matter could not have been raised before that time, or
 - (b) that its not being raised before that time was a consequence of exceptional circumstances.
- (2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—
 - (a) the provisions of the development plan, or
 - (b) any other material consideration.

[Section 44]

46 **Call-in of applications by Secretary of State** *(as amended by schedule 2 of the 2019 Act, para 7)*

- (1) The Secretary of State may give directions requiring any such applications as are mentioned in section 34(2) to be referred to him instead of being dealt with by planning authorities.

- (1A) A direction under subsection (1) may be withdrawn or modified by a subsequent direction.
- (2) A direction under this section—
 - (a) may be given either to a particular planning authority or to planning authorities generally, and
 - (ab) may relate to an application which is the subject of a review by the planning authority under section 43AC,
 - (b) may relate either to a particular application or to applications of a class specified in the direction.
- (3) Any application in respect of which a direction under subsection (1) has effect shall be referred to the Secretary of State.
- (4) Where an application is referred to the Secretary of State under this section—
 - (a) sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 and paragraphs 2 to 6 of Schedule 3 shall apply, with any necessary modifications, as they apply to an application which falls to be determined by the planning authority, and
 - (b) regulations or a development order may apply, with or without modifications, to an application so referred any requirements imposed by the regulations or order by virtue of section 34 or 35.
- (5) [...]
- (6) [...]
- (7) The decision of the Secretary of State on any application referred to him under this section shall be final.

46A Call-in of applications by Scottish Ministers: further provision *(as inserted by section 29 of the 2019 Act)*

- (1) The Scottish Ministers must lay before the Scottish Parliament and publish, in such manner as they consider appropriate, a statement setting out the circumstances in which they consider it appropriate to give directions as mentioned in section 46(1).
- (2) The Scottish Ministers may from time to time publish a revised or replacement statement under subsection (1).

47 Right to appeal against planning decisions and failure to take such decisions *(as amended by sections 28 and 31 of the 2019 Act)*

- (1) Where a planning authority—
 - (a) refuse an application for planning permission or grant it subject to conditions,
 - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission or grant it subject to conditions, or
 - (c) refuse an application for any approval of that authority required under a development order or grant it subject to conditions,the applicant may appeal to the Secretary of State against the decision.
- (1A) But 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).

- (2) A person who has made such an application may also appeal to the Secretary of State if the planning authority have not given to the applicant—
- (a) notice of their decision on the application,
 - (aa) notice of their decision on a review required by virtue of paragraph (e) of section 43AC(1),
 - (b) notice that they have exercised their power under section 39 to decline to determine the application, or
 - (c) notice that the application has been referred to the Secretary of State in accordance with directions given under section 46,
- within the relevant period.
- (2A) Subsection (2)(a) does not apply where the applicant may require a review under section 43AC(1)(e).
- (3) 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.
- (4) The time prescribed for the service of such a notice must not be less than—
- (a) 28 days from the date of the notification of the decision, or
 - (b) in the case of an appeal under subsection (2), 28 days from the end of the relevant period.
- (5) For the purposes of the application of sections 48(1) and 218(1)(b) and paragraph 2(2)(c) of Schedule 16 in relation to an appeal under subsection (2), the authority shall be deemed to have decided to refuse the application in question.
- (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).

[Sections 47A – 49]

50 **Alteration of simplified planning zone schemes** *(as amended by section 16 of the 2019 Act)*

- (1) [Repealed.]
- (2) A planning authority may at any time decide—
 - (b) to alter a simplified planning zone scheme adopted by them, or
 - (c) with the consent of the Secretary of State, to alter a scheme approved by him.
- (3) Schedule 5 has effect with respect to the alteration of simplified planning zone schemes and other related matters.

[Sections 51-54]

*Masterplan consent areas***54A Making and alteration of schemes** *(as inserted by section 15 of the 2019 Act)*

Schedule 5A—

- (a) makes provision about the making and alteration of masterplan consent area schemes (including the right to request that a scheme be made or altered), and
- (b) confers powers on the Scottish Ministers in connection with such schemes.

54B Scheme grants planning permission, etc. *(as inserted by section 15 of the 2019 Act)*

- (1) A masterplan consent area scheme acts as a grant of authorisation for carrying out, within the area to which the scheme relates, development that—
 - (a) is either—
 - (i) specified in the scheme, or
 - (ii) of a description specified in the scheme, and
 - (b) is begun before the end of the day on which the scheme ceases to have effect.
- (2) Authorisation granted by a scheme is subject to—
 - (a) any conditions, limitations and exceptions specified in the scheme, and
 - (b) any regulations made under paragraph 19 of schedule 5A (read with paragraph 20 of that schedule).
- (3) In this section, “authorisation” means—
 - (a) planning permission, and
 - (b) if the scheme so provides—
 - (i) consent to the construction of a new road or an extension of an existing road for the purposes of section 21(1) of the Roads (Scotland) Act 1984,
 - (ii) authorisation for works in relation to a listed building for the purposes of section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and
 - (iii) authorisation for works in relation to a building in a conservation area for the purposes of section 66(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and section 6 of that Act as applied by any regulations under section 66(3) of that Act.

54C Content of schemes: self-build housing *(as inserted by section 15 of the 2019 Act)*

- (1) A masterplan consent area scheme may, under section 54B(1)(a), specify—
 - (a) development in the form of self-build housing, or
 - (b) a description of development which includes self-build housing.
- (2) For the purpose of subsection (1), self-build housing is where an individual commissions or (whether acting alone or with other individuals) is personally involved in the design and construction of a dwelling that is intended to be the individual’s main residence once it is built.

- (3) Nothing in this section is to be construed as limiting the development or a description of development that may be specified under section 54B(1)(a).

54D **Effect of altering scheme** *(as inserted by section 15 of the 2019 Act)*

- (1) Alterations to a scheme have effect from the day they are made.
- (2) Subsection (3) applies where—
 - (a) development for which authorisation is granted by a scheme has begun, and
 - (b) the scheme is subsequently altered.
- (3) The authorisation that the scheme grants for the development is unaffected by the alteration, unless the scheme (as altered) provides otherwise.
- (4) But the scheme may not provide that the alteration affects the authorisation for the development if the effect would be to remove authorisation for anything that was authorised by the scheme when the development began.

54E **Further provision about effect of scheme** *(as inserted by section 15 of the 2019 Act)*

- (1) The right to carry out development in accordance with authorisation granted by a scheme is unaffected by any limitations or restrictions imposed in relation to any other grant of permission, consent or authorisation.
- (2) Nothing in a scheme affects the right of any person to—
 - (a) do anything that is not development, or
 - (b) carry out development for which—
 - (i) no permission, consent or authorisation which may be granted by a scheme is required, or
 - (ii) any such permission, consent or authorisation that is required is granted otherwise than under the scheme.

54F **Interpretation of provisions about schemes** *(as inserted by section 15 of the 2019 Act)*

- (1) This section makes provision about the interpretation of sections 54B to 54E.
- (2) References to a scheme are to a masterplan consent area scheme.
- (3) References to the authorisation granted by a scheme are to be construed in accordance with section 54B(3).
- (4) References to development include any activity mentioned in section 54B(3)(b) (whether or not it otherwise falls to be regarded as development for the purposes of this Act).

[Section 55 - 57]

58 Duration of planning permission *(as amended by section 32 of the 2019 Act and schedule 2, para 5)*

- (1) Where a planning permission to which this section applies is granted or deemed to be granted, it must be granted or, as the case may be, is to be deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of—
 - (a) 3 years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted, or
 - (b) such other period (whether longer or shorter) as the authority concerned may specify when granting the permission or, as the case may be, in making a direction under section 57.
- (2) If planning permission is granted or is deemed to be granted without the condition required by subsection (1), the permission is deemed to be subject to the condition that the development to which it relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted.
- (3) If development has not begun at the expiration of the period mentioned in paragraph (a) or (b) of subsection (1) or, as the case may be, subsection (2), the planning permission lapses.
- (3A) A period specified under subsection (1)(b) is to be a period—
 - (a) beginning with the date on which the planning permission is granted or deemed to be granted, and
 - (b) which the authority concerned consider appropriate having regard to the provisions of the development plan and to any other material considerations.
- (4) This section applies to every planning permission with the exception of—
 - (a) any planning permission granted by a development order,
 - (b) any planning permission for any development carried out before the grant of planning permission,
 - (c) [repealed]
 - (ca) [repealed]
 - (d) any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—
 - (i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission, or
 - (ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission,
 - (e) any planning permission granted by an enterprise zone scheme,
 - (f) any planning permission granted by a simplified planning zone scheme,
 - (fa) any planning permission granted by a masterplan consent area scheme, or
 - (g) any planning permission in principle, within the meaning of section 59.

59 Planning permission in principle *(as amended by section 32 of the 2019 Act)*

- (1) “Planning permission in principle” is planning permission (granted in accordance with the provisions of regulations or a development order)—
 - (a) in respect of the carrying out of building, engineering, mining or other operations in, on, over or under land, and
 - (b) subject to a condition, imposed under section 37(1)(a), that the development in question will not be begun until certain matters (which may, but need not be, particularised in the application) have been approved by the planning authority or as the case may be the Scottish Ministers.
- (2A) Where planning permission in principle is granted, it must be granted subject to the condition that the development to which it relates must be begun not later than the expiration of—
 - (a) 5 years beginning with the date on which the permission is granted, or
 - (b) such other period (whether longer or shorter) as the authority concerned may specify when granting the permission.
- (2B) If planning permission in principle is granted without the condition required by subsection (2A), the permission is deemed to be subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the date of the grant.
- (2C) If development has not begun at the expiration of the period mentioned in paragraph (a) or (b) of subsection (2A) or, as the case may be, subsection (2B), the planning permission in principle lapses.
- (2D) A period specified under subsection (2A)(b) is to be a period—
 - (a) beginning with the date on which the planning permission in principle is granted, and
 - (b) which the authority concerned consider appropriate having regard to the provisions of the development plan and to any other material considerations.
- (3) [Repealed.]
- (4) [Repealed.]
- (5) [Repealed.]
- (6) [Repealed.]
- (7) [Repealed.]
- (8) [Repealed.]

60 Provisions supplementary to sections 58 and 59 *(as amended by section 32 of the 2019 Act and schedule 2, para 6)*

- (1) The authority referred to in section 58(1)(b) and (3A)(b) and 59(2A)(b) and (2D)(b) is—
 - (a) the planning authority or the Secretary of State, in the case of planning permission granted by them,
 - (b) in the case of planning permission deemed to be granted under section 57(1) the department on whose direction planning permission is deemed to be granted,

- (c) in the case of planning permission deemed to be granted under section 57(2), the Secretary of State, and
 - (d) in the case of planning permission granted on an appeal determined under paragraph 1 or 5 of Schedule 4 by a person appointed by the Secretary of State to determine the appeal, that person.
- (2) [Repealed.]
- (2A) Where a planning authority grants planning permission, the fact that any of the conditions of the permission are required by the provisions of section 58 or 59 to be imposed, or are deemed by those sections to be imposed, does not prevent the conditions being the subject of a review under section 43AC or an appeal under section 47.
- 61 Termination of planning permission by reference to time limit: completion notices**
(as amended by section 33 of the 2019 Act and schedule 2, para 5)
- (1) This section applies where—
 - (a) a development to which a planning permission relates has been begun but not completed by the date on which the permission would have lapsed had the development not been begun,
 - (b) development has been begun in accordance with planning permission under a simplified planning zone scheme but has not been completed by the time the area ceases to be a simplified planning zone,
 - (ba) development has been begun in accordance with planning permission under a masterplan consent area scheme but has not been completed by the time that the scheme ceases to have effect, or
 - (c) development has been begun in accordance with planning permission under an enterprise zone scheme but has not been completed by the time the area ceases to be an enterprise zone.
 - (2) If the planning authority are of the opinion that the development will not be completed within a reasonable period, they may serve a notice (“a completion notice”) stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice.
 - (3) The period so specified must not be less than 12 months after the notice takes effect.
 - (3A) A completion notice must also—
 - (a) state that a person on whom it is served may lodge an objection,
 - (b) specify the date on which the notice will take effect if no objection is lodged before that date.
 - (3B) The date so specified must be a date at least 28 days after the date on which the notice is served.
 - (4) A completion notice shall be served—
 - (a) on the owner of the land,
 - (b) on the occupier of the land, and
 - (c) on any other person who in the opinion of the planning authority will be affected by the notice.

- (5) The planning authority may withdraw a completion notice at any time before the expiration of the period specified in it as the period at the expiration of which the planning permission is to cease to have effect.
- (6) If they do so they shall immediately give notice of the withdrawal to every person who was served with the completion notice.

62 **Effect of completion notice** *(as amended by section 33 of the 2019 Act)*

- (1) A completion notice **takes effect**—
 - (a) on the date specified in it, unless before that date an objection is lodged under section 62A(1),
 - (b) where an objection is lodged under section 62A(1), only if and when the notice is confirmed by the Scottish Ministers.
- (2) [Repealed.]
- (3) [Repealed.]
- (4) If a completion notice takes effect, the planning permission referred to in it shall become invalid at the expiration of the period specified in the notice (whether the original period specified under section 61(2) or a longer period substituted by the **Scottish Ministers** under section 62A(5)).
- (5) Subsection (4) shall not affect any permission so far as development carried out under it before the end of the period mentioned in that subsection is concerned.

62A **Objection to completion notice** *(as inserted by section 33 of the 2019 Act)*

- (1) A person on whom a completion notice is served may, prior to the date specified in it, lodge an objection to the notice with the planning authority which served it.
- (2) Where an objection is lodged under subsection (1), the planning authority must give notice of the objection to—
 - (a) every person who was served with the completion notice, and
 - (b) the Scottish Ministers.
- (3) Before confirming a completion notice, the Scottish Ministers must allow the following people the opportunity to make representations to a person appointed for the purpose by the Scottish Ministers—
 - (a) the person who lodged the objection, and
 - (b) the planning authority.
- (4) The Scottish Ministers must give notice of their decision as to whether or not to confirm the completion notice to—
 - (a) every person who was served with the completion notice, and
 - (b) the planning authority.
- (5) In confirming a completion notice, the Scottish Ministers may substitute a longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.

*Other controls over development***71 Order requiring discontinuance of use or alteration or removal of buildings or works** *(as amended by schedule 2 of the 2019 Act, para 6)*

- (1) If, having regard to the development plan and to any other material considerations, it appears to a planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—
 - (a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land, or
 - (b) that any buildings or works should be altered or removed,they may by order—
 - (i) require the discontinuance of that use, or
 - (ii) impose such conditions as may be specified in the order on the continuance of it, or
 - (iii) require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,as the case may be.
- (2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order.
- (3) Section 65 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the planning authority on an application made under this Part or section 242A .
- (4) The planning permission which may be granted by an order under this section includes planning permission, subject to such conditions as may be specified in the order, for development carried out before the date on which the order was submitted to the Secretary of State under this section.
- (5) Planning permission for such development may be granted so as to have effect from—
 - (a) the date on which the development was carried out, or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.
- (6) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.
- (7) In the case of planning permission granted by an order under this section, the authority referred to in sections 58(1)(b) and (3A)(b) and 59(2A)(b) and (2D)(b) is the planning authority making the order.
- (8) The previous provisions of this section do not apply to the use of any land for development consisting of the winning or working of minerals or involving the deposit of refuse or waste materials except as provided in Schedule 8, and in that Schedule—
 - (a) Part I shall have effect for the purpose of making provision as respects land which is or has been so used, and

- (b) Part II shall have effect as respects the registration of old mining provisions.

[Section 72 – 74]

75 Planning obligations *(as amended by sections 34 and 35 of the 2019 Act)*

- (1) A person may, in respect of land in the district of a planning authority—
- (a) by agreement with that authority, or
 - (b) unilaterally,
- enter into a **planning obligation**.
- (1A) For the purpose of this section and sections 75A to 75C, a planning obligation is an obligation which does any of the following—
- (a) restricts or regulates the development or use of land,
 - (b) requires the payment—
 - (i) of a specified amount or an amount determined in accordance with the relevant instrument, or
 - (ii) of periodical sums either indefinitely or for such period as is specified in the relevant instrument.
- (2) Without prejudice to the generality of **paragraph (a) of subsection (1A)**, the reference in **that paragraph** to restricting or regulating the development or use of land includes—
- (a) requiring operations or activities specified in the relevant instrument to be carried out in, on, under or over the land, or
 - (b) requiring the land to be used in a way so specified.
- (3) A planning obligation may—
- (a) be unconditional or subject to conditions,
 - (aa) **impose a restriction or requirement either permanently or during such period as is specified in the relevant instrument,**
 - (b) **[repealed]**
 - (c) contain such incidental and consequential provisions as—
 - (i) in the case of an agreement, appear to the planning authority to be necessary or expedient for the purposes of the agreement, or
 - (ii) in the case of a unilateral obligation, appear to the person entering into the obligation to be necessary or expedient for the purposes of that obligation.
- (4) Without prejudice to the generality of subsection (3)(a), the relevant instrument may provide for the postponement of the effectiveness of the planning obligation to a date specified in the instrument (whether the specification is of a fixed date or of a date determinable by reference to the occurrence of an event).
- (4A) **A planning authority are to publish 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.**

- (5) A relevant instrument to which the owner of the land is party may be recorded in the Register of Sasines or, as the case may be, registered in the Land Register of Scotland; and if the instrument is so recorded or registered then the planning obligation is (unless the instrument provides that only the person entering into that obligation is to be bound by it) enforceable at the instance of the planning authority—
- (a) against the owner of the land in so far as the obligation comprises a requirement mentioned in subsection (1A)(b) or (2), and
 - (b) against—
 - (i) the owner or tenant of the land, or
 - (ii) any other person having the use of the land,in so far as the obligation comprises any other requirement.
- (6) But no such obligation is enforceable against a third party who has acquired right to the land (whether or not that person has completed title) prior to the relevant instrument being so recorded or registered.
- (7) If there is a breach of a requirement, in a planning obligation, to carry out any operations in, on, under or over the land to which the obligation relates, the planning authority may—
- (a) enter the land and carry out the operations, and
 - (b) recover from the person or persons against whom the obligation is enforceable any expenses reasonably incurred by them in doing so.
- (8) Before a planning authority exercise their power under subsection (7)(a) they are to give any person against whom the planning obligation is enforceable not less than twenty-one days' notice of their intention to do so.
- (9) A person wilfully obstructing someone who is acting in the exercise of a power under subsection (7)(a) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this section, “owner” means a person who has right to the land to which the planning obligation relates whether or not that person has completed title; but if, in relation to the land (or, if the land is held *pro indiviso*, in relation to any *pro indiviso* share in the land) more than one person comes within that description of owner, then “owner” means such person as has most recently acquired such right.
- (11) But where a heritable creditor is in lawful possession of security subjects which comprise the land, then “owner” includes the heritable creditor.
- (12) For the purposes of subsection (5) it is immaterial whether the person who is owner of the land when the relevant instrument is recorded or registered was owner when the obligation was entered into.
- (13) In this section and in sections 75A to 75C, “relevant instrument” means the instrument by which a planning obligation is entered into.

75A **Modification and discharge of planning obligations** (as amended by sections 35 and 37 of the 2019 Act)

- (1) A planning obligation may not be modified or discharged except—
- (a) by agreement in writing between the planning authority and the person or persons against whom that obligation is enforceable, or

- (b) in accordance with this section or section 75B.
- (2) A person against whom a planning obligation is enforceable may apply to the planning authority for the obligation to—
 - (a) be modified as specified in the application, or
 - (b) be discharged.
- (3) [Repealed.]
- (4) On an application under subsection (2), the authority may determine that the planning obligation—
 - (a) is to continue to have effect without modification,
 - (b) is discharged, or
 - (c) is to have effect subject to modifications.
- (4A) Where the authority propose to make a determination under subsection (4)—
 - (a) discharging the planning obligation despite that not being sought in the application, or
 - (b) modifying the planning obligation in a way that is not sought in the application,they must obtain the applicant's consent before making the determination.
- (4B) Where the authority propose to make a determination under subsection (4) modifying the planning obligation so as to put or increase a burden on any non-applicant, they must obtain that person's consent before making the determination.
- (4C) Where an application under subsection (2) relates to more than one planning obligation, the authority may make a separate determination in relation to each planning obligation.
- (5) The authority are to give notice of their determination to—
 - (a) the applicant, and
 - (b) any non-applicant against whom the planning obligation is enforceable,within such period as is prescribed.
- (5A) A planning authority are to publish—
 - (a) an agreement under subsection (1)(a), and
 - (b) a notice of a determination under subsection (4),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.
- (6) This subsection applies where an agreement under subsection (1)(a) or a determination under subsection (4)(b) or (c) relates to a planning obligation the relevant instrument in relation to which has been recorded in the Register of Sasines or registered in the Land Register of Scotland.
- (7) Where subsection (6) applies—
 - (a) in a case relating to an agreement under subsection (1)(a), the agreement does not take effect until the date on which it is recorded in the Register of Sasines or registered in the Land Register, and

- (b) in a case relating to a determination under subsection (4)(b) or (c), the determination does not take effect until the date on which notice given under subsection (5) is so recorded or as the case may be so registered.
- (8) Where the determination is under subsection (4)(c), the planning obligation is enforceable as modified—
 - (a) in a case where subsection (6) applies, from the date mentioned in subsection (7), and
 - (b) in any other case, from the date on which notice is given under subsection (5).
- (9) Regulations may make provision with respect to—
 - (a) the form and content of an application under subsection (2),
 - (b) the publication of or giving of notice of any such application,
 - (ba) the giving of notice of proposed determinations to which subsection (4A) applies,
 - (c) procedures for considering any representations made with respect to any such application or proposed determination, and
 - (d) the form and content of any notice given under subsection (5).
- (10) In relation to any application referred to the Scottish Ministers by virtue of subsections (1) to (3) of section 46, the references in subsections (4), (4A), (4B), (4C) and (5) (above) to the authority are to be construed as references to the Scottish Ministers.

75B Appeals (as amended by section 37 of the 2019 Act)

- (1) Where a planning authority—
 - (a) fail to comply with section 75A(5), or
 - (b) determine that a planning obligation is to continue to have effect without modification,the applicant may appeal to the Scottish Ministers.
- (2) For the purposes of an appeal under subsection (1)(a), it is to be assumed that the authority have determined that the planning obligation is to continue to have effect without modification.
- (3) Any appeal under subsection (1) is to be made by notice served—
 - (a) within such period, and
 - (b) in such manner,as may be prescribed.
- (4) On an appeal under subsection (1) the Scottish Ministers may determine that the planning obligation—
 - (a) is to continue to have effect without modification,
 - (b) is discharged, or
 - (c) is to have effect subject to modifications.
- (4A) Where the Scottish Ministers propose to make a determination under subsection (4)—
 - (a) discharging the planning obligation despite that not being sought in the application, or

- (b) modifying the planning obligation in a way that is not sought in the application, they must obtain the applicant's consent before making the determination.
- (4B) Where the Scottish Ministers propose to make a determination under subsection (4) modifying the planning obligation so as to put or increase a burden on any non-applicant, they must obtain that person's consent before making the determination.
- (4C) Where an application under subsection (2) relates to more than one planning obligation, the Scottish Ministers may make a separate determination in relation to each planning obligation.
- (5) The Scottish Ministers are to give notice of their determination to—
- (a) the applicant, and
 - (b) any non-applicant against whom the planning obligation is enforceable,
- within such period as is prescribed.
- (6) This subsection applies where a determination under subsection (4)(b) or (c) relates to a planning obligation the relevant instrument in relation to which has been recorded in the Register of Sasines or registered in the Land Register of Scotland.
- (7) Where subsection (6) applies, the determination does not take effect until the date on which notice given under subsection (5) is so recorded or as the case may be so registered.
- (8) Where the determination is under subsection (4)(c), the planning obligation is enforceable as modified—
- (a) in a case where subsection (6) applies, from the date mentioned in subsection (7), and
 - (b) in any other case, from the date on which notice is given under subsection (5).
- (9) Regulations may make provision with respect to the form and content of any notice—
- (a) served under subsection (3), or
 - (b) given under subsection (5).
- (10) Except as provided under section 239, the determination of an appeal by the Scottish Ministers under this section is final.
- (11) Schedule 4 applies to appeals under this section, including appeals under this section as applied by regulations under any other provisions of this Act.

75C Planning obligations: continuing liability of former owner etc. *(as amended by section 34 of the 2019 Act)*

- (1) In so far as a planning obligation comprises an appropriate requirement, an owner of land does not, by virtue only of ceasing to be such an owner, cease to be bound by that obligation (unless the relevant instrument provides that he does cease to be so bound).
- (2) The relevant instrument may provide that, in so far as a planning obligation comprises any other requirement, an owner of land does not, by virtue only of ceasing to be such an owner, cease to be bound by that obligation.
- (3) For the purposes of this section, an “*appropriate requirement*” is a requirement mentioned in subsection (1A)(b) or (2) of section 75 which is due for performance.

- (4) A person who becomes an owner of land the development or use of which is subject to a planning obligation enforceable as is mentioned in section 75(5) is, unless the relevant instrument otherwise provides, severally liable with any former owner of the land for any appropriate requirement for which the former owner is liable.
- (5) But if that person incurs expenditure in the performance of any appropriate requirement for which a former owner is liable, he may recover an amount equal to that expenditure from the former owner.
- (6) In this section, “owner” has the same meaning as in section 75.

[Sections 75D – 76]

77 [Repealed by section 39(3) of the 2019 Act]

77A Compensation for withdrawal of planning permission granted by development order *(as inserted by section 39 of the 2019 Act)*

- (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.

78 Apportionment of compensation for depreciation *(as amended by schedule 2 of the 2019 Act, para 8)*

- (1) Where compensation which becomes payable under section 76 includes compensation for depreciation of an amount exceeding £20, the planning authority—
 - (a) if it appears to them to be practicable to do so, shall apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates, and
 - (b) shall give particulars of any such apportionment to the claimant and to any other person entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.
- (2) In carrying out an apportionment under subsection (1)(a), the planning authority shall—
 - (a) divide the land into parts, and

- (b) distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order in consequence of which the compensation is payable.
- (3) Regulations shall make provision—
 - (a) for enabling the claimant or any other person to whom notice of the planning authority's apportionment has been given in accordance with subsection (1), or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require it to be referred to the Lands Tribunal,
 - (b) for enabling the claimant and any other person mentioned in paragraph (a) to be heard by the Tribunal on any reference under this section of that apportionment, and
 - (c) for requiring the Tribunal, on any such reference, either to confirm or vary the apportionment and to notify the parties of the decision.
- (4) On a reference to the Lands Tribunal by virtue of subsection (3), subsections (1) and (2), so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the planning authority, of references to the Lands Tribunal.
- (5) In this section—
 - “compensation for depreciation” means so much of any compensation payable under section 76 as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land, and
 - “relevant planning decision” means the planning decision by which planning permission is refused, or is granted subject to conditions other than those previously imposed by the development order.

Sections [79 - 87]

88 **Circumstances in which purchase notices may be served** *(as amended by schedule 2 of the 2019 Act, para 6)*

- (1) This section applies where—
 - (a) on an application for planning permission to develop any land, permission is refused or is granted subject to conditions,
 - (b) by an order under section 65 planning permission in respect of any land is revoked, or is modified by the imposition of conditions, or
 - (c) an order is made under section 71 or paragraph 1 of Schedule 8 in respect of any land.
- (2) If—
 - (a) in the case mentioned in subsection (1)(a) or (b), any owner or lessee of the land claims that the conditions mentioned in subsection (3) are satisfied with respect to it, or
 - (b) in the case mentioned in subsection (1)(c), any person entitled to an interest in land in respect of which the order is made claims that the conditions mentioned in subsection (4) are satisfied with respect to it,

he may, within the prescribed time and in the prescribed manner, serve on the planning authority in whose district the land is situated a notice (in this Act referred to as “a purchase notice”) requiring that authority to purchase his interest in the land in accordance with this Chapter.

- (3) The conditions mentioned in subsection (2)(a) are—
 - (a) that the land has become incapable of reasonably beneficial use in its existing state,
 - (b) in a case where planning permission was granted subject to conditions or was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions, and
 - (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the planning authority or the Secretary of State has undertaken to grant planning permission.
- (4) The conditions mentioned in subsection (2)(b) are—
 - (a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and
 - (b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise.
- (5) For the purposes of subsection (1)(a) and any claim arising in the circumstances mentioned in that subsection, the **conditions referred to in** sections 58 and 59 shall be disregarded.
- (6) A person on whom a repairs notice has been served under section 43 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 shall not be entitled to serve a purchase notice in the circumstances mentioned in subsection (1)(a) in respect of the building in question—
 - (a) until the expiration of 3 months beginning with the date of the service of the repairs notice, and
 - (b) if during that period the compulsory acquisition of the building is begun in the exercise of powers under section 42 of that Act, unless and until the compulsory acquisition is discontinued.
- (7) For the purposes of subsection (6) a compulsory acquisition—
 - (a) is started when the notice required by paragraph 3(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is served, and
 - (b) is discontinued—
 - (i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order, and
 - (ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.
- (8) No purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1)(c), except by virtue of a claim under subsection (2)(b).

[Sections 88A – 125]**126 Penalties for non-compliance with planning contravention notice** *(as amended by section 42 of the 2019 Act)*

- (1) If at any time after the end of the period of 21 days beginning with the day on which a planning contravention notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence.
- (2) An offence under subsection (1) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.
- (3) It shall be a defence for a person charged with an offence under subsection (1) to prove that he had a reasonable excuse for failing to comply with the requirement.
- (4) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding **level 5** on the standard scale.
- (5) If any person—
 - (a) makes any statement purporting to comply with a requirement of a planning contravention notice which he knows to be false or misleading in a material particular, or
 - (b) recklessly makes such a statement which is false or misleading in a material particular,he shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding **the statutory maximum**.

[Sections 127 – 134]**135 Execution and cost of works required by enforcement notice** *(as amended by section 43 of the 2019 Act)*

- (1) If any steps which are required by an enforcement notice to be taken have not been taken within the compliance period, the planning authority may—
 - (a) enter the land and take those steps, and
 - (b) recover any expenses reasonably incurred by them in doing so **from—**
 - (i) **the person who is then the lessee of the land, or any part of the land,**
 - (ii) **any person who is then or subsequently becomes the owner of the land, or any part of the land (whether or not that person remains the owner).**
- (2) If that person did not appeal to the Secretary of State although entitled to do so, he shall not be entitled to dispute the validity of the action taken by the planning authority under subsection (1) in accordance with the enforcement notice.
- (3) In computing the amount of the expenses which may be recovered by them under subsection (1), a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.

- (4) Where a copy of an enforcement notice has been served in respect of any breach of planning control—
- (a) any expenses incurred by the owner, lessee or occupier of any land for the purpose of complying with the notice, and
 - (b) any sums paid by the owner or lessee of any land under subsection (1),
- shall be recoverable from the person by whom the breach of planning control was committed.
- (4A) **The right of recovery that an owner, lessee or occupier of land has under subsection (4) applies whether or not that person remains the owner, lessee or occupier of the land.**
- (5) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.
- (6) A planning authority taking steps under subsection (1) may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal.
- (7) After any such sale the planning authority shall pay the proceeds to the owner less the expenses recoverable by them from him.
- (8) Where a planning authority seek, under subsection (1), to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—
- (a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person, and
 - (b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,
- his liability shall be limited to the total amount of the money which he has or has had in his hands on behalf of that other person.
- (9) A planning authority who by reason of subsection (8) have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.
- (10) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) In this section and in sections 136, 136A, 140 and 141 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the planning authority may allow for compliance with it.

136 Offence where enforcement notice not complied with *(as amended by section 42 of the 2019 Act)*

- (1) Where, at any time after the end of the compliance period in respect of an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.
- (2) Where the owner of the land is in breach of the notice he shall be guilty of an offence.

- (3) In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.
- (4) A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.
- (5) A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.
- (6) An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the subsection in question by reference to any period of time following the preceding conviction for such an offence.
- (7) Where—
 - (a) a person charged with an offence under this section has not been served with a copy of the enforcement notice, and
 - (b) the notice is not contained in the appropriate register kept under section 147,it shall be a defence for him to show that he was not aware of the existence of the notice.
- (8) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding **£50,000**, and
 - (b) on conviction on indictment, to a fine.
- (9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

[Sections 136A- 137]

138 Enforcement notice to have effect against subsequent development (*as amended by section 42 of the 2019 Act*)

- (1) Compliance with an enforcement notice, whether in respect of—
 - (a) the removal or alteration of any building or works,
 - (b) the discontinuance of any use of land, or
 - (c) any other requirements contained in the notice,shall not discharge the notice.
- (2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

- (3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been removed or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were removed or altered.
- (4) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been removed or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding **the statutory maximum**.
- (5) **In determining the amount of the fine to be imposed under subsection (4), the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.**

[Sections 139 – 143]

144 Penalties for contravention of stop notice *(as amended by section 42 of the 2019 Act)*

- (1) If any person contravenes a stop notice after a site notice has been displayed or the stop notice has been served on him he shall be guilty of an offence.
- (2) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.
- (3) It shall be a defence in any proceedings under subsection (1) that—
 - (a) the stop notice was not served on the accused, and
 - (b) he had no reasonable cause to believe that the activity was prohibited by the stop notice.
- (4) References in this section to contravening a stop notice include causing or permitting its contravention.
- (5) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding **£50,000**, and
 - (b) on conviction on indictment, to a fine.
- (6) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

[Sections 144A – 144B]

144C Temporary stop notices: offences *(as amended by section 42 of the 2019 Act)*

- (1) A person is guilty of an offence if he contravenes a temporary stop notice—
 - (a) which has been served on him, or

- (b) a copy of which has been displayed in pursuance of section 144A(4).
- (2) Contravention of a temporary stop notice includes causing or permitting the contravention of it.
- (3) An offence under this section may be charged by reference to a day or to a period longer than a day.
- (4) A person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section by reference to different days or different periods.
- (5) It is a defence in any proceedings under this section that—
 - (a) the temporary stop notice was not served on the accused, and
 - (b) he did not know, and could not reasonably have been expected to know, of its existence.
- (6) A person convicted of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding **£50,000**,
 - (b) on conviction on indictment, to a fine.
- (7) In determining the amount of the fine, the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.

[Section 144D]

Breach of condition notices

145 Enforcement of conditions (as amended by section 42 of the 2019 Act)

- (1) This section applies where planning permission for carrying out any development has been granted subject to conditions.
- (2) The planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a “breach of condition notice”) on—
 - (a) any person who is carrying out or has carried out the development, or
 - (b) any person having control of the land,
 requiring him to secure compliance with such of the conditions as are specified in the notice.
- (3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.
- (4) The conditions which may be specified in a notice served by virtue of subsection (2)(b) are any of the conditions regulating the use of the land.
- (5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.
- (6) The authority may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.
- (7) The period allowed for compliance with the notice is—

- (a) such period of not less than 28 days beginning with the date of service of the notice as may be specified in the notice, or
 - (b) that period as extended by a further notice served by the planning authority on the person responsible.
- (8) If, at any time after the end of the period allowed for compliance with the notice—
- (a) any of the conditions specified in the notice is not complied with, and
 - (b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,
- the person responsible is in breach of the notice.
- (9) If the person responsible is in breach of the notice he shall be guilty of an offence.
- (10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.
- (11) It shall be a defence for a person charged with an offence under subsection (9) to prove—
- (a) that he took all reasonable measures to secure compliance with the conditions specified in the notice, or
 - (b) where the notice was served on him by virtue of subsection (2)(b), that he no longer had control of the land.
- (12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding **level 5** on the standard scale.
- (12A) In determining the amount of the fine to be imposed under subsection (12), the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.**
- (13) In this section—
- (a) “conditions” includes limitations; and
 - (b) references to carrying out any development include causing or permitting another to do so.

[Sections 145A – 153]

154 Appeals against refusal or failure to give decision on application *(as amended by section 28 of the 2019 Act)*

- (1) Where an application is made to a planning authority for a certificate under section 150 or 151 and—
- (a) the application is refused or is refused in part,
 - (b) the planning authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by regulations or a development order or within such extended period as may at any time be agreed in writing by the applicant and the authority, **or**

- (c) the planning authority do not give notice to the applicant of their decision on a review required by virtue of paragraph (e) of section 43AC(1) within such period as is prescribed by regulations or a development order or within such extended period as may at any time be agreed in writing by the applicant and the authority,

the applicant may appeal to the Secretary of State.

(1A) But—

- (a) an appeal may not be made under subsection (1)(a) in relation to any such action on the part of the planning authority as is mentioned in section 237(3A),
- (b) an appeal may not be made under subsection (1)(b) where the applicant may require a review under section 43AC(1)(e).

- (2) An appeal under subsection (1) shall be by notice given within such period (not being less than 28 days) as may be prescribed by regulations or a development order.

- (3) On any such appeal, if and so far as the Secretary of State is satisfied—

- (a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or
- (b) in the case of an appeal under subsection (1)(b) or (c), that, if the planning authority had refused the application, their refusal would not have been well-founded,

he shall grant the appellant a certificate under section 150 or 151 accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.

- (4) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.
- (5) Schedule 4 applies to appeals under this section.

[Sections 155 – 158]

158A Enforcement charters *(as amended by section 44 of the 2019 Act)*

- (1) A planning authority are to prepare an enforcement charter; that is to say, a document in which are set out—
 - (a) a statement of the authority's policies as regards their taking enforcement action for the purposes of this Act,
 - (b) an account of how members of the public are to bring any ostensible breach of planning control to the attention of the authority, and
 - (c) an account—
 - (i) of how any complaint to the authority as regards the taking by them of enforcement action is to be made, and
 - (ii) of their procedures for dealing with any such complaint.

- (1A) The charter is also to contain a statement in relation to the planning authority's monitoring of compliance with planning permissions which have been granted in respect of major developments (as described in regulations made under section 26A(2)), which must set out—

- (a) how the authority monitor compliance with such planning permissions,

- (b) how the authority record—
 - (i) the monitoring activities undertaken, and
 - (ii) the findings of those monitoring activities, and
 - (c) how the authority make such records available to the public.
- (2) The Scottish Ministers may issue guidance to a planning authority for the purposes of this section and an authority must have regard to any guidance so issued.
- (3) A planning authority must keep their enforcement charter under review and must update and re-publish it—
- (a) whenever required to do so by the Scottish Ministers, and
 - (b) (subject to paragraph (a)) whenever they think it appropriate to do so but in any event within 2 years after last publishing (or re-publishing) it.
- (4) When they publish, or re-publish, their enforcement charter, the authority are to—
- (a) send two copies of it to the Scottish Ministers, and
 - (b) place a copy of it in each public library in their district,
- and such publication, or re-publication, is to include by electronic means (as for example by means of the internet).

Charging orders

158B Liability under a charging order *(as inserted by section 43 of the 2019 Act)*

- (1) Where—
- (a) a planning authority or the Scottish Ministers (“the charging body”) have taken action in relation to land under section 135(1), and
 - (b) a person is liable under that section for the expenses reasonably incurred by the charging body in taking that action,
- the charging body may make a charging order and apply to register it in the appropriate land register.
- (2) Once the charging order is registered the amount payable under section 135(1)(b)—
- (a) becomes payable in instalments in accordance with section 158C, and
 - (b) includes the administrative expenses referred to in subsection (3)(a) and, if the order so provides, the interest charges referred to in subsection (3)(b).
- (3) The administrative expenses and interest charges referred to are—
- (a) any administrative expenses reasonably incurred by the charging body in connection with recovering the amount due under section 135(1)(b) (including the fees for registration and discharge of the charging order),
 - (b) if the charging order provides for it, interest—
 - (i) on the expenses mentioned in subsection (1)(b),
 - (ii) at the rate (which must be a reasonable rate) specified in the order,
 - (iii) in respect of the period beginning with the first demand for payment of the expenses mentioned in subsection (1)(b) and ending with payment of the amount payable under section 135(1)(b).

- (4) In this section and sections 158C to 158F, reference to section 135(1) includes reference to that section as applied by section 139(4) or 179(6).
- (5) A charging order may not be made or registered in connection with a liability under section 135(1) that was incurred before section 43 of the Planning (Scotland) Act 2019 came into force.

158C Payments under a charging order *(as inserted by section 43 of the 2019 Act)*

- (1) A charging body which makes a charging order must specify in the order—
 - (a) the number of annual instalments in which the amount payable under section 135(1)(b) is to be paid (which must be between 3 and 30), and
 - (b) the date on which each instalment falls due.
- (2) The date specified under subsection (1)(b) for the payment of the first instalment must fall at least 56 days after the date on which a copy of the charging order is served on a person from whom payment is sought.
- (3) A person may redeem the amount payable under section 135(1)(b) early by paying to the charging body—
 - (a) the amount payable under section 135(1)(b), or
 - (b) such lower sum as the person agrees with the charging body.
- (4) For the avoidance of doubt, despite the terms of a registered charging order, the charging body may (at any time) waive or reduce the amount payable under section 135(1)(b).

158D Form of a charging order *(as inserted by section 43 of the 2019 Act)*

- (1) A charging order may not be registered unless it is in the form prescribed by the Scottish Ministers in regulations.
- (2) Regulations under subsection (1) must require that a charging order contain at least the following information—
 - (a) the land to which it relates,
 - (b) the action taken under section 135(1) in relation to the land,
 - (c) the amount payable under section 135(1)(b), or a description of that amount,
 - (d) the number of annual instalments into which the amount payable under section 135(1)(b) is divided and the date on which each instalment falls due,
 - (e) notice that an instalment which is not paid is recoverable as a debt.
- (3) On making a charging order, the charging body are to serve a copy of the order on the owner of the land to which it relates.

158E Discharge of charging order *(as inserted by section 43 of the 2019 Act)*

- (1) The charging body must register a discharge of a registered charging order in the appropriate land register as soon as reasonably practicable after it has received payment in full of—
 - (a) the amount payable under section 135(1)(b), or

- (b) such lower sum as the person agrees with the charging body under section 158C(3)(b).
 - (2) A discharge of a registered charging order may not be registered unless it is in the form prescribed by the Scottish Ministers in regulations.
- 158F** **Meaning of “register” and “appropriate land register”** *(as inserted by section 43 of the 2019 Act)*
- (1) In sections 158B to 158E, “register” means—
 - (a) register the information contained in the order, discharge or notice in the Land Register of Scotland, or
 - (b) record the order, discharge or notice in the Register of Sasines,and “registered” is to be construed accordingly.
 - (2) In sections 158B and 158E, “appropriate land register” means the Land Register of Scotland or the Register of Sasines.
- A159** **Forestry and woodland strategy** *(as inserted by section 53 of the 2019 Act)*
- (1) A planning authority are to prepare a forestry and woodland strategy.
 - (2) A forestry and woodland strategy is to—
 - (a) identify woodlands of high nature conservation value in the planning authority’s area, and
 - (b) set out the planning authority’s policies and proposals in their area, as to—
 - (i) the development of forestry and woodlands,
 - (ii) the protection and enhancement of woodlands, in particular those mentioned in paragraph (a),
 - (iii) the resilience to climate change of woodlands, in particular those mentioned in paragraph (a),
 - (iv) the expansion of woodlands of a range of types to provide multiple benefits to the physical, cultural, economic, social and environmental characteristics of the area,
 - (c) any other matter which the planning authority consider appropriate.
 - (3) In preparing a forestry and woodland strategy a planning authority are to consult—
 - (a) the Scottish Ministers,
 - (b) such organisations appearing to them to represent those with an interest in the matters listed in subsection (2)(b), and
 - (c) such other persons as they consider appropriate.
 - (4) The planning authority must publish the strategy by such means as they consider appropriate.
 - (5) Two or more planning authorities may act jointly to prepare a forestry and woodland strategy.
 - (6) Where two or more planning authorities act jointly to prepare a forestry and woodland strategy, a reference in this section to—

- (a) a planning authority is to those authorities acting jointly,
 - (b) a planning authority's area is a reference to the combined area of the authorities.
- (7) In this section, "publish" includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).

[Sections 159 – 181]

182 Regulations controlling display of advertisements *(as amended by section 33 of the 2019 Act)*

- (1) Regulations shall make provision for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.
- (2) Without prejudice to the generality of subsection (1), any such regulations may provide—
 - (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed and the manner in which they are to be affixed to the land;
 - (b) for requiring the consent of the planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;
 - (c) for applying, in relation to any such consent and to applications for such consent, any of the provisions mentioned in subsection (3), subject to such adaptations and modifications as may be specified in the regulations;
 - (d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.
- (2A) The regulations may also make provision as to—
 - (a) the form and manner in which an application for consent must be made,
 - (b) particulars of such matters as are to be included in the application,
 - (c) any documents or other materials which are to accompany the application.
- (3) The provisions referred to in subsection (2)(c) are—
 - (a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 32, 34, 35, 36(2) and (3), 38, 58 to 62A, 69 and 70 and Schedules 6 and 7, and section 65 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997,
 - (b) sections 88 to 92, 94 and 95 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 88(1)(b) or (c)), and
 - (c) section 263.

183 Power to make different advertisement regulations for different areas *(as amended by schedule 2 of the 2019 Act, para 5)*

- (1) Regulations made under section 182 may make different provision with respect to different areas, and in particular may make special provision—

- (a) with respect to conservation areas,
 - (b) with respect to areas defined for the purposes of the regulations as areas of special control,
 - (c) with respect to masterplan consent areas.
- (2) An area may be defined as an area of special control if it is—
- (a) a rural area, or
 - (b) an area which appears to the Secretary of State to require special protection on grounds of amenity.
- (3) Without prejudice to the generality of subsection (1), the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.
- (4) Areas of special control for the purposes of the regulations may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.
- (5) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (4), the regulations shall provide—
- (a) for the publication of notice of the proposed order in such manner as may be prescribed,
 - (b) for the consideration of objections duly made to it, and
 - (c) for the holding of such inquiries or other hearings as may be prescribed, before the order is made or approved.
- (6) Nothing in this section or in any such regulations shall be construed as authorising the restricting or regulation of the display of any advertisement by reason only of the subject matter or wording of it.

Sections [184 – 185]

186 Enforcement of control as to advertisements *(as amended by sections 42 and 43 of the 2019 Act)*

- (1) Regulations under section 182 may make provision for enabling the planning authority to require—
- (a) the removal of any advertisement which is displayed in contravention of the regulations, or
 - (b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.
- (2) For that purpose the regulations may apply any of the provisions of Part VI with respect to enforcement notices, **charging orders** or the provisions of section 143(1) to (5), subject to such adaptations and modifications as may be specified in the regulations.

- (3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding **level 5** on the standard scale and, in the case of a continuing offence, one-tenth of **level 5** on the standard scale for each day during which the offence continues after conviction.
- (4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if—
 - (a) he is the owner or occupier of the land on which the advertisement is displayed, or
 - (b) the advertisement gives publicity to his goods, trade, business or other concerns.
- (5) A person shall not be guilty of an offence under subsection (3) by reason only—
 - (a) of his being the owner or occupier of the land on which an advertisement is displayed, or
 - (b) of his goods, trade, business or other concerns being given publicity by the advertisement,
 if he proves that it was displayed without his knowledge or consent.

[Sections 187 – 213]

PART X

STATUTORY UNDERTAKERS

Preliminary

214 **Meaning of “statutory undertakers”** (*as amended by schedule 2 of the 2019 Act, para 8*)

- (1) Subject to the following provisions of this section, in this Act “statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power or water and a relevant airport operator (within the meaning of Part V of the Airports Act 1986).
- (2) Subject to the following provisions of this section, in this Act “statutory undertaking” shall be construed in accordance with subsection (1) and, in relation to a relevant airport operator (within the meaning of Part V of the Airports Act 1986), means an airport to which that Part of that Act applies.
- (3) Subject to [subsections (5) to (5B)], for the purposes of the provisions mentioned in subsection (4) any [gas transporter, any universal postal service provider in connection with the provision of a universal postal service, the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services)] shall be deemed to be statutory undertakers and their undertakings statutory undertakings.
- (4) The provisions referred to in subsection (3) are sections 26, 57, 69, 70, 90 to 92, 94, 99, 121(11)(b), 194(2)(a), 196 to 198, 200, 202(4)(b), 205(3)(e), 208(2), 215(1) and (2), 216, 218, 219, 221 to 236, 239(10)(a), 255, 270(9), 277(2) and (3), and Schedules 6, 7, 14 and 16.
- (5) Subsection (4) shall apply—

- (a) as respects [a universal postal service provider in connection with the provision of a universal postal service, as if the reference to sections 26, 194(2)(a), 196, 200, 202(4)(b), 205(3)(e), 208(2), 215(1) and (2) and 277(2) and (3) were omitted;
 - (b) as respects [the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services), as if the references to sections 200, 215(1) and (2) and 277(2) and (3) were omitted and the reference to Schedule 16 included the words “except paragraph 3”; and
 - (c) as respects any gas transporter, as if the reference to Schedule 7 were omitted and the reference to Schedule 16 included the words “except paragraphs 1 and 3”.
- (5A) For the purposes of this Act—
- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence;
 - (b) the person's undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person's undertaking as licence holder.
- (5B) The undertaking of a universal postal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.
- (6) Any holder of a licence under section 6 of the Electricity Act 1989 shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking—
- (a) for the purposes of the provisions mentioned in subsection (7)(a), if he holds a licence under subsection (1) of that section;
 - (b) for the purposes of the provisions mentioned in subsection (7)(b), if he is entitled to exercise any power conferred by Schedule 3 to that Act; and
 - (c) for the purposes of the provisions mentioned in subsection (7)(c), if he is entitled to exercise any power conferred by paragraph 2 of Schedule 4 to that Act.
- (7) The provisions referred to in subsection (6) are—
- (a) sections 26, 90 to 92, 94, 99, 194(2)(a), 196, 200, 205(3)(e), 215(1) and (2), 216, 218, 219, 221 to 236, 239(10)(a), 255, 270(9), 277(2) and (3), Schedule 14 and paragraphs 2(2)(a) and (3)(a) of Schedule 16;
 - (b) sections 121(11)(b), 197 and 198; and
 - (c) sections 202(4)(b) and 208(2) and paragraphs 1, 6(2)(b)(iii) and (3), 8(5) and (7) and 9(1), (3) and (4) of Schedule 16.

215 **Meaning of “operational land”** (*as amended by schedule 2 of the 2019 Act, para 8*)

- (1) Subject to the following provisions of this section and to section 216, in this Act “operational land” means, in relation to statutory undertakers—
- (a) land which is used for the purpose of carrying on their undertaking, and
 - (b) land in which an interest is held for that purpose.

- (2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.
- (2A) Subsection (1) does not apply in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000.
- (2B) Subject to section 216, in this Act “operational land” means, in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, land—
 - (a) which is used by the licence holder, or by a company associated with it, for the purpose of carrying out activities authorised by the licence, or
 - (b) in which the licence holder, or a company associated with it, holds an interest for that purpose.
- (2C) If for the purposes of this Act a question arises whether land is operational land in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 the question must be decided by the Secretary of State.
- (2D) Subsection (1) does not apply in relation to a universal postal service provider.
- (2E) Subject to subsections (3) and (4) and section 216, in this Act “operational land” means, in relation to a universal postal service provider, land—
 - (a) which is used by the provider, or by a company associated with him, for any purpose in connection with the provision of a universal postal service, or
 - (b) in which the provider, or a company associated with him, holds an interest for any such purpose.
- (3) In sections 218 to 236 and paragraph 6 of Schedule 6 “operational land”, in relation to a universal postal service provider and the Civil Aviation Authority, means land of the Post Office's or, as the case may be, of the Authority's of any such class as may be prescribed by regulations .
- (4) Such regulations—
 - (a) may define a class of land by reference to any circumstances whatsoever, and
 - (b) in the case of the Civil Aviation Authority, may make provision for different circumstances, including prescribing different classes of land for the purposes of different provisions.
- (5) In the case of a universal postal service provider or the Civil Aviation Authority, if any question arises as to whether land belonging to either of them falls within a class defined by such regulations, it shall be determined by the Secretary of State.

[Sections 216 - 231]

232 Right to compensation in respect of certain decisions and orders *(as amended by schedule 2 of the 2019 Act, para 6)*

- (1) Statutory undertakers shall, subject to the following provisions of this Part, be entitled to compensation from the planning authority—
 - (a) in respect of any decision made in accordance with section 218 by which planning permission to develop operational land of those undertakers is refused or is granted subject to conditions where—

- (i) planning permission for that development would have been granted by a development order but for a direction given under such an order that planning permission so granted should not apply to the development, and
 - (ii) it is not development which has received specific parliamentary approval (within the meaning of section 216(6)(b));
 - (b) in respect of any order under section 65, as modified by section 221, by which planning permission which was granted on the application of those undertakers for the development of any such land is revoked or modified.
- (2) Where by virtue of section 224—
- (a) any right vested in or belonging to statutory undertakers is extinguished, or
 - (b) any requirement is imposed on statutory undertakers,
- those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.
- (3) Where by virtue of section 225—
- (a) any right vested in or belonging to an operator of an electronic communications code network is extinguished, or
 - (b) any requirement is imposed on such an operator,
- the operator shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.
- (4) Where—
- (a) works are carried out for the removal or resiting of statutory undertakers' apparatus, and
 - (b) the undertakers have the right to carry out those works by virtue of section 226 or an order of the Scottish Ministers under that section,
- the undertakers shall be entitled to compensation from the acquiring or appropriating authority.
- (5) Subsection (1) shall not apply in respect of a decision or order if—
- (a) it relates to land acquired by the statutory undertakers after 7th January 1947, and
 - (b) the Scottish Ministers include in the decision or order a direction that subsection (1) shall not apply to it.
- (6) The Scottish Ministers may give a direction under subsection (5) only if they are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of the decision or order in question.
- (7) For the purposes of this section the **conditions referred to in** sections 58 and 59 shall be disregarded.

237 Validity of development plans and certain orders, decisions and directions (*as amended by sections 13 and 33 of the 2019 Act and schedule 2, paras 1,5 and 7*)

- (1) Except as provided by this Part, the validity of—
- (za) the National Planning Framework and any revised framework or amendment to it, whether before or after the framework, revised framework or amended framework is published,
 - (a) a local development plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted,
 - (b) a simplified planning zone scheme or any alteration of any such scheme, whether before or after the adoption or approval of the scheme or alteration,
 - (ba) a masterplan consent area scheme or any alteration of such a scheme,
 - (c) an order under any provision of Part IX, whether before or after the order has been made,
 - (d) an order under section 230, whether before or after the order has been made,
 - (e) any such order as is mentioned in subsection (2), whether before or after it has been confirmed, or
 - (f) any such action on the part of the Secretary of State as is mentioned in subsection (3) or on the part of a planning authority as is mentioned in subsection (3A),
- shall not be questioned in any legal proceedings whatsoever.
- (2) The orders referred to in subsection (1)(e) are—
- (a) any order under section 65 or under the provisions of that section as applied by or under any other provision of this Act;
 - (b) any order under section 71 or under the provisions of that section as applied by or under any other provisions of this Act;
 - (c) any tree preservation order;
 - (d) any order made in pursuance of section 183(4);
 - (e) any order under paragraph 1, 3, 5 or 6 of Schedule 8.
- (3) The action referred to in subsection (1)(f) is action on the part of the Secretary of State of any of the following descriptions—
- (za) any decision on an application under section 31A;
 - (a) any decision on an application referred to him under section 46;
 - (b) any decision on an appeal under section 47;
 - (c) any decision to confirm a completion notice under section 62A;
 - (ca) any determination on an appeal under section 75B or 75F;
 - (d) any decision on an appeal under section 130;
 - (e) any decision to confirm or not to confirm a purchase notice including—
 - (i) any decision not to confirm such a notice in respect of part of the land to which it relates, or

- (ii) any decision to grant any permission, or give any direction, instead of confirming such a notice, either wholly or in part;
- (f) any decision on an appeal under section 154 against the refusal or partial refusal of an application for a certificate under section 150 or 151;
- (fa) any decision on an appeal under section 169;
- (g) any decision on an appeal under section 180 against a notice under section 179;
- (h) any decision relating—
 - (i) to an application for consent under a tree preservation order,
 - (ii) to an application for consent under any regulations made under section 182 or 183, or
 - (iii) to any certificate or direction under any such order or regulations, whether it is a decision on appeal or a decision on an application referred to the Secretary of State for determination in the first instance;
- (i) any decision on an application for planning permission under section 242A.
- (3A) The action on the part of a planning authority is any decision or determination in a review conducted by them by virtue of section 43AC.
- (4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such action as is mentioned in subsection (3) or on the part of a planning authority to take any such action as is mentioned in subsection (3A).

238 Proceedings for questioning validity of development plans and certain schemes and orders *(as amended by section 13 of the 2019 Act and schedule 2, paras 1 and 5)*

- (A1) If any person aggrieved by the National Planning Framework desires to question the validity of the framework on the ground—
- (a) that it is not within the powers conferred by Part 1A, or
 - (b) that any requirement of that Part or of any regulations made under that Part has not been complied with,
- the person may make an application to the Court of Session under this section.
- (1) If any person aggrieved by a local development plan desires to question the validity of the plan on the ground—
 - (a) that it is not within the powers conferred by Part II, or
 - (b) that any relevant requirement of that Part or of any regulations made under that Part has not been complied with,
 he may make an application to the Court of Session under this section.
 - (2) On any application under this section the Court of Session—
 - (a) may by interim order wholly or in part suspend the operation of the plan, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

- (b) if satisfied that the plan is wholly or to any extent outside the powers conferred by Part II, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of that Part or of any regulations made under it,

may wholly or in part quash the plan either generally or in so far as it affects any property of the applicant.

- (3) Subsections (1) and (2) shall apply, subject to any necessary modifications, **to any of the following** as they apply to any plan there mentioned—
 - (a) **a simplified planning zone scheme or an alteration of such a scheme,**
 - (b) **a masterplan consent area scheme or an alteration of such a scheme,**
 - (c) **an order under section 202, 203, 206, 207, 208 or 230.**
- (4) An application under this section must be made within 6 weeks from the relevant date.
- (5) For the purposes of subsection (4) the relevant date is—
 - (za) **in the case of an application in respect of the National Planning Framework—**
 - (i) **the date of its publication under section 3A(8)³, or**
 - (ii) **where the grounds of the application arise from an amendment to the National Planning Framework, the date on which the amendment took effect,**
 - (a) **[repealed]**
 - (aa) **in the case of an application in respect of a local development plan—**
 - (i) **the date of its publication under section 20A(1)(b), or**
 - (ii) **where the grounds of the application arise from an amendment to the local development plan, the date on which the amendment took effect,**
 - (b) **in the case of an application by virtue of subsection (3) in respect of a simplified planning zone scheme or an alteration of such a scheme, the date of the publication of the first notice of the approval or adoption of the scheme or alteration required by regulations under paragraph 12 of Schedule 5;**
 - (ba) **in the case of an application by virtue of subsection (3) in respect of a masterplan consent area scheme or an alteration of such a scheme, the date that notice is first published (in accordance with regulations under paragraph 22 of schedule 5A) that the scheme has been made or (as the case may be) altered,**
 - (c) **in the case of an application by virtue of subsection (3) in respect of an order under section 202 or 206(1)(a) the date on which the notice required by paragraph 1(7) of Schedule 16 is first published;**
 - (d) **in the case of an application by virtue of subsection (3) in respect of an order under section 203, 206(1)(b), 207 or 208, the date on which the notice required by paragraph 11 of Schedule 16 is first published in accordance with that paragraph; and**
 - (e) **in the case of an application by virtue of subsection (3) in respect of an order under section 230, the date on which the notice required by subsection (6) of that section is first published;**

³ note subsection (8) is repealed and therefore this reference is empty

but subject, in the case of those orders made under sections 202, 203 and 230, to section 241.

- (6) In their application to simplified planning zone schemes and their alteration, subsections (1) and (2) shall have effect as if they referred to Part III instead of Part II.
- (7) In their application to masterplan consent area schemes and their alteration, subsections (1) and (2) have effect as if, instead of Part II, they referred to Part III and schedule 5A.

[Sections 239 – 251]

PART 12A *(as inserted by section 46 of the 2019 Act)*

PERFORMANCE OF PLANNING AUTHORITY FUNCTIONS

Annual report

251A **Annual report on performance of functions**

- (1) As soon as reasonably practicable after the end of each financial year, a planning authority are to prepare a report on the performance of their functions (or such of their functions as are specified in regulations made by the Scottish Ministers) during that year.
- (2) The planning authority are to—
 - (a) submit a copy of the report to the Scottish Ministers, and
 - (b) publish the report.
- (3) The Scottish Ministers may by regulations make provision about—
 - (a) the form of the report,
 - (b) the content of the report (including about what quantitative and qualitative information is to be included in the report, and what outcomes are to be used to assess the performance by planning authorities of their functions),
 - (c) the process to be undertaken in preparing the report,
 - (d) how the report is to be published.
- (4) In this section, a financial year is the period of 12 months beginning with 1 April.

National performance monitoring

251B **National planning improvement co-ordinator** *(as inserted by section 47 of the 2019 Act)*

- (1) The Scottish Ministers may appoint a person (“the co-ordinator”) to—
 - (a) monitor the performance by planning authorities of their functions,
 - (b) provide advice to planning authorities, and to such other persons as the co-ordinator considers appropriate, in relation to what steps might be taken by planning authorities or such other persons to improve the performance of their functions.
- (2) The Scottish Ministers may by regulations make further provision about the appointment and functions of the co-ordinator.

252 Fees for planning applications etc. *(as amended by section 41 of the 2019 Act)*

- (1) The Scottish Ministers may by regulations make provision for the payment of a charge or fee to a planning authority in respect of—
- (a) the performance by the planning authority of any of the authority's functions,
 - (b) anything done by the authority which is calculated to facilitate, or is conducive or incidental to, the performance of any such function,
 - (c) the performance by a person appointed by virtue of a scheme of delegation under section 43A of the person's functions.
- (1ZA) The Scottish Ministers may by regulations make provision for the payment of a charge or fee to the Scottish Ministers in respect of—
- (a) the performance by the Scottish Ministers of any of their functions under the planning Acts or any order or regulations made under them,
 - (b) anything done by the Scottish Ministers which is calculated to facilitate, or is conducive or incidental to, the performance of any such function,
 - (c) the performance by a person appointed by the Scottish Ministers under paragraph 1 of schedule 4 of the person's functions.
- (1A) Regulations under subsections (1) and (1ZA) may (any or all)—
- (a) specify the person by whom the charge or fee is to be paid,
 - (b) make provision as to how the charge or fee is to be calculated (including conferring on a planning authority the power to determine how it is to be calculated),
 - (c) specify the person by whom the calculation is to be made,
 - (d) make different provision for different classes of case,
 - (da) [repealed]
 - (e) provide that a planning authority or the Scottish Ministers may waive or reduce the charge or fee,
 - (ea) specify circumstances in which a planning authority or the Scottish Ministers are or are not to waive or reduce the charge or fee,
 - (f) specify circumstances in which the charge or fee is to be transferred from one planning authority to another.
- (1AA) [repealed]
- (1AB) [repealed]
- (1AC) 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.
- (1B) Without prejudice to the generality of paragraph (d) of subsection (1A), in relation to applications for planning permission, different provision may be made under that paragraph according to whether an application is made before or after the carrying out of the development to which it relates.
- (1C) The power to make provision such as mentioned in subsection (1A)(e) and (ea) includes the power to specify the steps a planning authority are to take before or after waiving or reducing the charge or fee.

- (1D) Regulations under subsections (1) and (1ZA) may provide for a surcharge to be imposed in relation to an application for planning permission made after the carrying out of the development to which it relates 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.
- (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.
- (2) [Repealed.]
- (3) Regulations under—
- (a) subsections (1) and (1ZA) may provide for the remission or refunding of a prescribed charge or fee,
 - (b) [repealed]
- (in whole or in part) in prescribed circumstances.
- (4) Without prejudice to the generality of subsection (3), circumstances prescribed under that subsection may include those where the Scottish Ministers consider (or a person appointed by them under or by virtue of this Act considers) that in the performance or actings in respect of which the charge or fee is payable—
- (a) the planning authority have behaved unreasonably, or
 - (b) there has been unreasonable delay.
- (5)-(6) [...]
- (7) Where a charge or fee is calculated in pursuance of regulations under subsection (1A) or (1ZA), the planning authority or, as the case may be, the Scottish Ministers must secure that, taking one financial year with another, the income from the fee or charge does not exceed the cost of the performance of the function or, as the case may be, of the doing of the thing.
- (8) A financial year is a period of 12 months beginning with 1 April.

- (9) Subsection (7) does not apply in relation to surcharges imposed by virtue of subsection (1D).

[Sections 253 – 254]

255 Contributions by local authorities and statutory undertakers (*as amended by schedule 2 of the 2019 Act, para 1*)

- (1) Without prejudice to section 5(9) of the Roads (Scotland) Act 1984 (power of local roads authority to contribute towards costs incurred by Secretary of State in construction or improvement of trunk road) any local authority may contribute towards any expenses incurred by a local roads authority or the Secretary of State—
 - (a) in the acquisition of land under Part VIII of this Act or Chapter V of Part I of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997,
 - (b) in the construction or improvement of roads on land so acquired, or
 - (c) in connection with any development required in the interests of the proper planning of the area of the local authority.
- (2) Any local authority and any statutory undertakers may contribute towards any expenses incurred by a planning authority in or in connection with—
 - (a) the preparation of a local development plan or the alteration, repeal or replacement of such a plan under Part II;
 - (b) the performance of any of their functions under Part III, the provisions of Part V relating to purchase notices, Part VI (except sections 156 and 157), Part VII (except section 168), Part VIII or Schedule 3 or 8.
- (3) In the application of subsection (2) to a local authority, “planning authority” means a planning authority other than that local authority.

[Sections 256 – 263]

263A National Scenic Areas (*as amended by section 51 of the 2019 Act*)

- (1) Where it appears to the Scottish Ministers that an area is of outstanding scenic value in a national context and that the special protection measures specified in subsection (2) are appropriate for it, they may by direction designate the area as a National Scenic Area.
- (2) Where any area is for the time being designated as a National Scenic 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 National Scenic Area, the Scottish Ministers are to take account of—
 - (a) whether the area is of outstanding natural beauty,
 - (b) the amenity of the area, including—
 - (i) whether it is of historical, cultural or environmental importance; and
 - (ii) the nature of any buildings or other structures within it, and

- (c) any flora, fauna or physiographical features of the area, whether or not to any extent the product of human intervention in the landscape.
- (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
 - (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,
 - (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 National Scenic 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 provision as to—
 - (a) the form of any direction under subsection (1) or (5),
 - (b) the manner in which a National Scenic 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.

263B National Scenic Areas: report on consultation (*inserted by section 51 of the 2019 Act*)

- (1) Where in any year the Scottish Ministers have designated a National Scenic Area under section 263A(1), they must, as soon as practicable after the end of that year, prepare and publish a report on the consultation undertaken in regard to the designation.
- (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.

[Sections 264A -268]

Promotion and use of mediation etc.

268A Promotion and use of mediation etc. (*as inserted by section 40 of the 2019 Act*)

- (1) The Scottish Ministers may issue guidance in relation to the promotion and use of mediation in relation to the following—
 - (a) the preparation of local development plans and related evidence reports under Part 2,

- (b) a prospective applicant's compliance with any requirements in respect of pre-application consultation imposed under or by virtue of section 35B,
 - (c) assisting in the determination of an application for planning permission,
 - (d) any other matter related to planning that they consider appropriate.
- (2) Guidance under subsection (1) may include provision about—
 - (a) the form of mediation that is to be used in a particular circumstance, and
 - (b) the procedure to be followed in any such mediation.
 - (3) Local authorities must have regard to any guidance issued under subsection (1).
 - (4) Before issuing any guidance under subsection (1), the Scottish Ministers must consult—
 - (a) planning authorities, and
 - (b) such other persons that the Scottish Ministers consider appropriate.
 - (5) The Scottish Ministers must make any guidance issued under subsection (1) publicly available.
 - (6) The power under subsection (1) to issue guidance includes power to—
 - (a) issue guidance that varies guidance issued under that subsection, and
 - (b) revoke guidance issued under that subsection.
 - (7) For the purposes of this section, “mediation” includes any means of exploring, resolving or reducing disagreement between persons involving an impartial person that the Scottish Ministers consider appropriate.
 - (8) The Scottish Ministers must issue guidance under subsection (1) within the period of two years beginning with the date on which the Planning (Scotland) Act 2019 received Royal Assent.

269 Rights of entry (*as amended by schedule 2 of the 2019 Act, para 1*)

- (1) Any person duly authorised in writing by the Secretary of State or by a planning authority may at any reasonable time enter upon any land for the purpose of surveying it in connection with—
 - (a) the preparation, approval, adoption, making or amendment of a local development plan relating to the land under Part II,
 - (b) any application under Part III or sections 182 or 183, or under any order or regulations made under any of those provisions, for any permission, consent or determination to be given or made in connection with that land or any other land under that Part or those sections or under any such order or regulations, or
 - (c) any proposal by the planning authority or by the Secretary of State to make or serve any order or notice under Part III (other than section 61), Part VII (other than sections 160 to 163, 167 and 172 to 175) or under any order or regulations made under any of those provisions.
- (1A) Any person duly authorised in writing by the planning authority may, at any reasonable time, enter upon land for the purposes of section 144A(4).
- (2) Any person duly authorised in writing by the Secretary of State or the planning authority may at any reasonable time enter upon any land for the purpose of ascertaining whether a stop notice, temporary stop notice or an enforcement notice is being complied with.

- (3) Any person who is an officer of the Valuation Office or is duly authorised in writing by the Secretary of State may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation under this Act in respect of that land or any other land.
- (4) Any person who is an officer of the Valuation Office or is duly authorised in writing by a planning authority may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land which is payable by the planning authority under Part IV, section 204(1) or Part X (other than section 232(2) or (3) or 233(1)(a)(iii)).
- (5) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local authority or Minister authorised to acquire land under section 189 or 190, or by a local authority who have power to acquire land under Part VIII, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land, or in connection with any claim for compensation in respect of any such acquisition.
- (6) Subject to section 270, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.

[Sections 270 – 274]

275 Regulations and orders *(as amended by section 48 of the 2019 Act and schedule 2 para 9)*

- (1) The Secretary of State may make regulations—
 - (a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by any planning authority which is a local authority,
 - (b) for any purpose for which regulations are authorised or required to be made under this Act, other than a purpose for which regulations are authorised or required to be made by another Minister, and
 - (c) for any of the purposes mentioned in section 28 of the Land Compensation (Scotland) Act 1963 (power to prescribe matters relevant to Part IV).
- (2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.
- (2A) Regulations may make different provision for different purposes **and areas**.
- (2B) Any power conferred by this Act to make regulations or orders includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Scottish Ministers consider necessary or expedient.
- (3) Any statutory instrument containing regulations made under this Act (except regulations which, by virtue of any provision of this Act, are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The power to make development orders under section 30 and to make orders under sections 4(1), 26(2)(f),(6A) and (6C), 26AB(1), 31A, 54 and 100(3)(a) or paragraph 7 or 8 of Schedule 1 shall be exercisable by statutory instrument.

- (5) Any statutory instrument which contains a development order or an order under section 4(1), 54, 100(3)(a), 241B(3), 241C(6) or 241D(3)(f) or paragraph 4(5) or 5(5) of Schedule 9 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5A) No order made under section 26(6A) or (6C) or 26AB(1) is to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament.
- (6) Without prejudice to subsection (5), where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than an enactment specified in subsection (7)) or in an Act of the Scottish Parliament (other than a private Act or an enactment specified in subsection (7)) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.
- (7) The enactments referred to in subsection (6) are—
- (a) [...]
 - (b) any enactment making such provision as might by virtue of any Act of Parliament or of the Scottish Parliament have been made in relation to the area to which the development order applies by means of a byelaw, order or regulation not requiring confirmation by Parliament or by the Scottish Parliament, and
 - (c) any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.
- (7A) On the first occasion on which regulations are made under each of paragraph (d) of section 7(1) and paragraph (a)(i) of section 19(10), the statutory instrument containing the regulations is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.
- (7B) A statutory instrument containing regulations made under section 136A(4) or 145A(4) is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.
- (7BD) Regulations under sections 3CC(3), 3G(5)(b), 26B(5), 40A, 41B(4), 77A(1), 251B(2) and [] 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).
- (8) Without prejudice to section 14 of the Interpretation Act 1978, any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

[Section 275A]

275B Directions *(as inserted by section 49 of the 2019 Act)*

- (1) Having given a direction in exercise of a power conferred by virtue of this Act, the Scottish Ministers are to publish—
 - (a) the direction, and
 - (b) their reasons for giving it.
- (2) Subsection (1) does not apply in relation to the following—
 - (a) a direction under section 265A,

- (b) a direction given before the day that section 49 of the Planning (Scotland) Act 2019 comes into force,
 - (c) a direction given in the form of a regulation or order (see, for example, section 173(1)).
- (3) In this section, “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

[Section 276]

277 Interpretation (as amended by schedule 2, paras 1,5 and 7 of the 2019 Act)

- (1) In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) (Scotland) Act 1997—

“acquiring authority”, in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

“the 1947 Act” means the Town and Country Planning (Scotland) Act 1947;

“the 1972 Act” means the Town and Country Planning (Scotland) Act 1972;

“address”, in relation to electronic communications, means any number or address used for the purposes of such communications;

“advertisement” means any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the foregoing provisions of this definition), includes any hoarding or similar structure used or designed, or adapted for use and anything else used, or designed or adapted principally for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“aftercare condition” has the meaning given by paragraph 2(2) of Schedule 3;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“breach of condition notice” has the meaning given by section 145;

“breach of planning control” has the meaning given by section 123;

“bridleway” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967;

“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

“building or works” includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly and references to the removal of buildings or works include demolition of buildings and filling in of trenches;

“building operations” has the meaning given by section 26;

“caravan site” has the meaning given by section 1(4) of the Caravan Sites and Control of Development Act 1960;

“common” includes any town or village green;

“compliance period”, in relation to an enforcement notice, shall be construed in accordance with section 135(11);

“compulsory acquisition” does not include the vesting in a person by an Act of Parliament or of the Scottish Parliament of property previously vested in some other person;

“conservation area” means an area designated under section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“depositing of mineral waste” means any process whereby a mineral-working deposit is created or enlarged and “depositing of refuse or waste materials” includes the depositing of mineral waste;

“development” has the meaning given by section 26, and “develop” shall be construed accordingly;

“development consent” means development consent under the Planning Act 2008;

“development order” has the meaning given by section 30;

“development plan” shall be construed in accordance with section 24;

“disposal” means disposal by way of sale, excambion or lease, or by way of the creation of any servitude, right or privilege, or in any other manner, except by way of appropriation, gift or the creation of a heritable security, and “dispose of” shall be construed accordingly;

“electronic communication” has the same meaning as in the Electronic Communications Act 2000 (c.7);

“enactment” includes an Act of the Scottish Parliament, an enactment in any local or private Act of Parliament or in any private Act of the Scottish Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament or of the Scottish Parliament, including an order or scheme confirmed by Parliament or by the Scottish Parliament;

“enforcement notice” means a notice under section 127;

“engineering operations” includes the formation or laying out of means of access to roads;

“enterprise zone scheme” means a scheme or modified scheme having effect to grant planning permission in accordance with section 55;

“erection”, in relation to buildings as defined in this subsection, includes, extension, alteration and re-erection;

“footpath” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967;

“functions” includes powers and duties;

“gas transporter” has the same meaning as in Part I of the Gas Act 1986;

“government department” includes any Minister of the Crown;

“heritable security” means—

- (a) a heritable security within the meaning of the Conveyancing (Scotland) Act 1924, but excluding a real burden *ad factum praestandum* and including a security constituted by way of *ex facie absolute disposition*, or
- (b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act 1857, and

“heritable creditor” shall be construed accordingly;

“improvement”, in relation to a road, has the same meaning as in the Roads (Scotland) Act 1984;

“land” includes land covered with water and any building as defined by this section and, in relation to the acquisition of land under Part VIII, includes any interest in land and any servitude or right in or over land;

“Lands Tribunal” means the Lands Tribunal for Scotland;

“lease” includes a sub-lease, but does not include an option to take a lease;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“local development plan” shall be construed in accordance with section 15;

“local developments” has the meaning given by section 26A;

“local roads authority” has the same meaning as in the Roads (Scotland) Act 1984;

“major developments” has the meaning given by section 26A;

“masterplan consent area scheme” is to be construed in accordance with sections 54A to 54E,

“mineral-working deposit” means any deposit of material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land;

“minerals” includes all substances of a kind ordinarily worked for removal by underground or surface working;

“mining operations” has the meaning given by section 26;

“Minister” means any Minister of the Crown or other government department;

“national developments” has the meaning given by section 3A(4)(b);

“National Planning Framework” has the meaning given by section 3A(1);

“open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;

“operational land” has the meaning given by section 215;

“owner”, in relation to any land, includes (except in sections 35, 75, 75C, 75D and 75G) any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease of agreement, the unexpired period of which exceeds 3 years;

“the planning Acts” means this Act, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997 and the Planning (Consequential Provisions) (Scotland) Act 1997;

“planning authority” has the meaning given by section 1;

“planning contravention notice” has the meaning given by section 125;

“planning decision” means a decision made on an application under Part III or section 242A;

“planning permission” means permission under Part III or permission granted on an application made under section 242A;

“planning permission granted for a limited period” has the meaning given by section 41(3);

“prescribed” (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

“purchase notice” has the meaning given by section 88;

“restoration condition” has the meaning given by paragraph 2(2) of Schedule 3;

“road” has the same meaning as in the Roads (Scotland) Act 1984;

“simplified planning zone” and “simplified planning zone scheme” shall be construed in accordance with section 49;

“statutory undertakers” and “statutory undertaking” have the meanings given by section 214;

“steps for the protection of the environment” has the meaning given by paragraph 5(3) of Schedule 8;

“stop notice” has the meaning given by section 140;

“suspension order” and “supplementary suspension order” have the meanings given by paragraphs 5 and 6 respectively of Schedule 8;

“temporary stop notice” shall be construed in accordance with section 144A;

“tree preservation order” has the meaning given by section 160;

“universal postal service provider” means a universal service provider within the meaning of Part 3 of the Postal Services Act 2011 ; and references to the provision of a universal postal service shall be construed in accordance with that Part;

“urban development area” and “urban development corporation” have the same meaning as in section 171 of the Local Government, Planning and Land Act 1980;

“use”, in relation to land, does not include the use of land for the carrying out of any building or other operations on it;

“Valuation Office” means the Valuation Office of the Inland Revenue Department;

“waste” includes anything which is waste for the purposes of section 75(2) of the Environmental Protection Act 1990 (c. 43); and

“the winning and working of minerals” includes the extraction of minerals from a mineral working deposit.

- (3) If, in relation to anything required or authorised to be done under this Act, any question arises whether land of statutory undertakers is operational land, that question shall be determined by the Scottish Ministers.
- (4) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.
- (4A) Where an electronic communication is used for the purpose of serving on, or giving to, a person any notice or other document for the purposes of this Act, and the communication is received by that person—
 - (a) at any time before the end of a day which is a working day, it shall be deemed to have been received on that day; or
 - (b) at any time during a day which is not a working day, it shall be deemed to be received on the next working day,

and in this subsection “working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971, a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.

- (5) With respect to references in this Act to planning decisions—
 - (a) in relation to a decision altered on appeal or review by the reversal or variation of the whole or part of it, such references shall be construed as references to the decision as so altered;
 - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the planning authority and not to the decision of the Secretary of State on the appeal;
 - (ba) in relation to a decision upheld on review under section 43AC(1)(a) to (d), such references shall be construed as references to the decision of the person appointed under the scheme of delegation to determine the application and not to the decision of the planning authority on review;
 - (c) in relation to a decision given on an appeal in the circumstances mentioned in section 47(2), such references shall be construed as references to the decision so given;
 - (ca) in relation to a decision given on a review under section 43AC(1)(e), such references shall be construed as references to the decision so given;
 - (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 47(2), the time when in accordance with that section notification of a decision of the planning authority is deemed to have been received;
 - (da) the time of a planning decision—

- (i) in the case where there is or was a review under section 43AC(1)(a) to (d), shall be taken to be or have been the time of the decision as made by the person appointed under the scheme of delegation to determine the application (whether or not that decision is or was altered on review); or
 - (ii) in the case of a decision given on a review under section 43AC(1)(e), shall be taken to be or have been the time when the application is deemed to have been refused under section 43AC(3).
- (6) Section 27 shall apply for determining for the purposes of this Act when development of land shall be taken to be initiated.
- (7) In this Act any reference to a sale or purchase includes a reference to a sale or purchase by way of feu, and any reference to the price in relation to a sale or purchase includes a reference to grassum, feuduty and ground annual.
- (8) [...]
- (9) [...]
- (10) Without prejudice to section 20(2) of the Interpretation Act 1978, references in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment.
- (11) Any reference in this Act to registering an instrument (or any other document, however described) in the Land Register of Scotland is to be construed as a reference to registering the information contained in the instrument (or other document) in that Register.

[Section 278]

SCHEDULE 1 (as amended by schedule 2 of the 2019 Act, para 4)
(introduced by section 24(4))

OLD DEVELOPMENT PLANS

Preliminary

- 1 In this schedule “old development plan” means—
- (a) a local plan,
 - (b) a strategic development plan,
 - (c) supplementary guidance.

Continuation in force of old development plans

- 2 Any old development plan which immediately before the coming into force of **section 13 of the Planning (Scotland) Act 2019** was in force as respects any area shall, subject to the provisions of this Schedule, continue in force as respects that area and be treated for the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963 as being comprised in the development plan for that area.
- 3 [Repealed.]
- 4 [...]
- 5 [Repealed.]

Discontinuance of old development plans

- 6 On the publication of the revised National Planning Framework under section 3A(8)⁴ after the coming into force of section 13 of the Planning (Scotland) Act 2019, all strategic development plans and any supplementary guidance issued in connection with them cease to have effect.
- 6A On the constitution of a local development plan for an area under section 20 after the coming into force of section 13 of the Planning (Scotland) Act 2019—
- (a) so much of any local plan in force by virtue of paragraph 2 as relates to the area to which the plan so adopted relates ceases to have effect, and
 - (b) any supplementary guidance issued in connection with a local development plan for that area ceases to have effect.
- 7 The Scottish Ministers may by regulations provide that any of the provisions of an old development plan are to continue in force in relation to an area despite paragraphs 6 and 6A.
- 8 The Secretary of State may by order wholly or partly revoke **an old** development plan continued in force under this Schedule whether in its application to the whole of the district of a planning authority or in its application to part of that district and make such consequential amendments to the plan as appear to him to be necessary or expedient.

⁴ note subsection (8) is repealed and therefore this reference is empty

- 9 Before making an order with respect to a development plan under paragraph 7 or 8, the Secretary of State shall consult the planning authority for the district to which the plan relates.

Further provision as to interpretation

10 In this schedule—

“local plan” is to be construed in accordance with section 11 as that section applied immediately before the coming into force of the Planning etc. (Scotland) Act 2006,

“strategic development plan” is to be construed in accordance with section 7 as it applied immediately before the coming into force of section 6 of the Planning (Scotland) Act 2019,

“supplementary guidance” means guidance issued under section 22 of this Act as it applied immediately before the coming into force of section 9 of the Planning (Scotland) Act 2019.

[Schedules 2 – 4]

SCHEDULE 5 *(as amended by section 16 of the 2019 Act)*
(introduced by section 50(3))

SIMPLIFIED PLANNING ZONES

General

- 1 (1) A simplified planning zone scheme shall consist of a map and a written statement, and such diagrams, illustrations and descriptive matter as the planning authority think appropriate for explaining or illustrating the provisions of the scheme.
- (2) A simplified planning zone scheme shall specify—
- (a) the development or classes of development permitted by the scheme,
 - (b) the land in relation to which permission is granted, and
 - (c) any conditions, limitations or exceptions subject to which it is granted,
- and shall contain such other matters as may be prescribed.

Notification of proposals to alter scheme

- 2 An authority who decide under section 50(2) to alter a simplified planning zone scheme shall—
- (a) notify the Secretary of State of their decision as soon as practicable, and
 - (b) determine the date on which they will begin to prepare the alterations.

Power of Secretary of State to direct alteration of scheme

- 3 (1) If a person requests a planning authority to alter a simplified planning zone scheme but the authority—
- (a) refuse to do so, or
 - (b) do not within the period of 3 months from the date of the request decide to do so,
- he may, subject to sub-paragraph (2), require them to refer the matter to the Secretary of State.
- (2) A person may not require the reference of the matter to the Secretary of State if—
- (a) [repealed]
 - (b) in the case of a request to alter the scheme, the scheme to which the request relates was adopted or approved, or any alteration to it has been adopted or approved, within **the 12 months preceding the request**.
- (3) The Secretary of State shall, as soon as practicable after a matter is referred to him—
- (a) send the authority a copy of any representations made to him by the applicant which have not been made to the authority, and
 - (b) notify the authority that if they wish to make any representations in the matter they should do so, in writing, within 28 days.
- (4) After the Secretary of State has—
- (a) considered the matter and any written representations made by the applicant or the authority, and
 - (b) carried out such consultations with such persons as he thinks fit,
- he may give the authority a simplified planning zone direction.
- (5) The Secretary of State shall notify the applicant and the authority of his decision and of his reasons for it.
- 4 (1) A simplified planning zone direction is—
- (a) [repealed]
 - (b) if the request was for the alteration of a scheme, a direction to alter it in such manner as **the Scottish Ministers consider** appropriate,
- and requires the planning authority to take all the steps required by this Schedule for the adoption of proposals for the alteration of a scheme.
- (2) A direction under **sub-paragraph (1)(b)** may extend—
- (a) to the land specified in the request to the authority,
 - (b) to any part of the land so specified, or
 - (c) to land which includes the whole or part of the land so specified,
- and accordingly may direct that land shall be added to or excluded from an existing simplified planning zone.

Steps to be taken before depositing proposals

- 5 (1) A planning authority proposing to alter a simplified planning zone scheme shall, before determining the content of their proposals, comply with this paragraph.
- (2) They shall—
- (a) consult—
 - (i) the Secretary of State, and
 - (ii) any local roads authority in whose area the proposed zone or any part of it lies,
as to the effect any proposals they may make might have on existing or future roads, and
 - (b) consult or notify such persons as regulations may require them to consult or, as the case may be, notify.
- (3) They shall take such steps as may be prescribed, or as the Secretary of State may in a particular case direct, to publicise—
- (a) the fact that they propose to alter a simplified planning zone scheme, and
 - (b) the matters which they are considering including in the proposals.
- (4) They shall consider any representations that are made in accordance with regulations.

Procedure after deposit of proposals

- 6 Where a planning authority have proposed alterations to a simplified planning zone scheme, they shall—
- (a) make copies of the proposed alterations available for inspection at such places as may be prescribed,
 - (b) take such steps as may be prescribed for the purpose of advertising the fact that the proposed alterations are so available and the places at which, and times during which, they may be inspected,
 - (c) take such steps as may be prescribed for inviting representations or objections to be made within such period as may be prescribed, and
 - (d) send a copy of the proposed alterations to the Secretary of State and to any local roads authority whom they have consulted under paragraph 5(2)(a).

Procedure for dealing with objections

- 7 (1) Where objections to the proposed alterations are made, the planning authority may—
- (a) for the purpose of considering the objections, cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, appointed by the authority, or
 - (b) require the objections to be considered by a person appointed by the Secretary of State.
- (2) A planning authority shall exercise the power under sub-paragraph (1), or paragraph (a) or (b) of that sub-paragraph, if directed to do so by the Secretary of State.
- (3) Regulations may—

- (a) make provision with respect to the appointment, and qualifications for appointment, of persons for the purposes of this paragraph;
 - (b) include provision enabling the Secretary of State to direct a planning authority to appoint a particular person, or one of a specified list or class of persons;
 - (c) make provision with respect to the remuneration and allowances of the person appointed.
- (4) The Tribunals and Inquiries Act 1992 applies to a local inquiry or other hearing held under this paragraph as it applies to a statutory inquiry held by the Secretary of State, with the substitution in section 10(1) (statement of reasons for decision) for the references to a decision taken by the Secretary of State of references to a decision taken by a planning authority.
- (5) The planning authority shall—
- (a) where a person appointed under or by virtue of this paragraph is in the public service of the Crown, pay the Secretary of State, and
 - (b) in any other case, pay the person so appointed,
- a sum, determined in accordance with regulations under sub-paragraph (6), in respect of the performance by the person so appointed of his functions in relation to the inquiry or hearing (whether or not it takes place).
- (6) Regulations made by the Secretary of State may make provision with respect to the determination of the sum referred to in sub-paragraph (5) and may in particular prescribe, in relation to any class of person appointed under or by virtue of this paragraph, a standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing.
- (7) Without prejudice to the generality of sub-paragraph (6), the Secretary of State may, in prescribing by virtue of that sub-paragraph a standard daily amount for any class of person—
- (a) where the persons of that class are in the public service of the Crown, have regard to the general staff costs and overheads of his department, and
 - (b) in any other case, have regard to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings.

Adoption of proposals by planning authority

- 8 (1) After the expiry of the period for making objections or, if objections have been made in accordance with the regulations, after considering those objections and the views of any person holding an inquiry or hearing or considering the objections under paragraph 7, the planning authority may by resolution adopt the proposals (subject to the following provisions of this paragraph and of paragraph 9).
- (2) They may adopt the proposals as originally prepared or as modified so as to take account of—
- (a) any such objections as are mentioned in sub-paragraph (1) or any other objections to the proposals, or
 - (b) any other considerations which appear to the authority to be material.

- (3) After copies of the proposals have been sent to the Secretary of State and before they have been adopted by the planning authority, the Secretary of State may, if it appears to him that the proposals are unsatisfactory, direct the authority to consider modifying the proposals in such respects as are indicated in the direction.
- (4) An authority to whom a direction is given shall not adopt the proposals unless they satisfy the Secretary of State that they have made the modification necessary to conform with the direction or the direction is withdrawn.

Calling in of proposals for approval by Secretary of State

- 9 (1) After copies of proposals have been sent to the Secretary of State and before they have been adopted by the planning authority, the Secretary of State may direct that the proposals shall be submitted to him for his approval.
- (2) In that event—
- (a) the authority shall not take any further steps for the adoption of the proposals, and in particular shall not hold or proceed with a local inquiry or other hearing or any consideration of objections in respect of the proposals under paragraph 7, and
 - (b) the proposals shall not have effect unless approved by the Secretary of State and shall not require adoption by the authority.

Approval of proposals by Secretary of State

- 10 (1) The Secretary of State may after considering proposals submitted to him under paragraph 9 either approve them, in whole or in part and with or without modifications, or reject them.
- (2) In considering the proposals he may take into account any matters he thinks are relevant, whether or not they were taken into account in the proposals as submitted to him.
- (3) Where on taking the proposals into consideration the Secretary of State does not determine then to reject them he shall, before determining whether or not to approve them, consider any objections made in accordance with regulations (and not withdrawn) except objections which—
- (a) have already been considered by the planning authority or by a person appointed by the Secretary of State, or
 - (b) have already been considered at a local inquiry or other hearing.
- (4) The Secretary of State may—
- (a) for the purpose of considering any objections and the views of the planning authority and of such other persons as he thinks fit, cause a local inquiry or other hearing to be held by a person appointed by him, or
 - (b) require such objections and views to be considered by a person appointed by him.
- (5) In considering the proposals the Secretary of State may consult, or consider the views of, any planning authority or any other person; but he need not do so, or give an opportunity for the making or consideration of representations or objections, except so far as he is required to do so by sub-paragraph (3) of this paragraph.

Default powers

11 (1) Where—

- (a) a planning authority are directed under paragraph 3 to alter a simplified planning zone scheme in such manner as the Scottish Ministers consider appropriate, and
- (b) the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the authority are not taking within a reasonable period the steps required by this Schedule for the adoption of proposals for the alteration of a scheme,

he may himself make the alterations.

- (2) Where under this paragraph anything which ought to have been done by a planning authority is done by the Secretary of State, the preceding provisions of this Schedule apply, so far as practicable, with any necessary modifications in relation to the doing of that thing by the Secretary of State and the thing so done.
- (3) Where the Secretary of State incurs expenses under this paragraph in connection with the doing of anything which should have been done by a planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by the authority to the Secretary of State.

Regulations and directions

12 (1) Without prejudice to the preceding provisions of this Schedule, the Secretary of State may make regulations with respect to the form and content of simplified planning zone schemes and with respect to the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making or alteration.

(2) Any such regulations may in particular—

- (a) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in a simplified planning zone scheme and the adoption or approval of such a scheme, or of any alteration of it, or any other prescribed procedural step, and for publicity to be given to the procedure to be followed in these respects;
- (b) make provision with respect to the making and consideration of representations as to matters to be included in, or objections to, any such scheme or proposals for its alteration;
- (c) make provision with respect to the circumstances in which representations with respect to the matters to be included in such a scheme or proposals for its alteration are to be treated, for the purposes of this Schedule, as being objections made in accordance with regulations;
- (d) without prejudice to paragraph (a), provide for notice to be given to particular persons of the adoption or approval of a simplified planning zone scheme, or an alteration to such a scheme, if they have objected to the proposals and have notified the planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;
- (e) require or authorise a planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;

- (f) require a planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any document which has been made public, subject (if the regulations so provide) to the payment of a reasonable charge;
 - (g) provide for the publication and inspection of a simplified planning zone scheme which has been adopted or approved, or any document adopted or approved altering such a scheme, and for copies of any such scheme or document to be made available on sale.
- (3) Regulations under this paragraph may extend throughout Scotland or to specified areas only and may make different provision for different cases.
 - (4) Subject to the preceding provisions of this Schedule and to any regulations under this paragraph, the Secretary of State may give directions to any planning authority or to planning authorities generally—
 - (a) for formulating the procedure for the carrying out of their functions under this Schedule;
 - (b) for requiring them to give him such information as he may require for carrying out any of his functions under this Schedule.

SCHEDULE 5A *(as inserted by section 16 of the 2019 Act)*
(introduced by section 54A)

MASTERPLAN CONSENT AREAS

PART 1

CONTENT OF SCHEMES

General

- 1 (1) A scheme is to consist of—
 - (a) a map,
 - (b) a written statement, and
 - (c) such diagrams, illustrations and other descriptive matter as the relevant planning authority think appropriate for explaining or illustrating the scheme's provisions.
- (2) A scheme must specify—
 - (a) the area to which the scheme relates,
 - (b) the development, or descriptions of development, for which the scheme grants authorisation,
 - (c) the date on which the scheme comes into effect,
 - (d) the date on which the scheme ceases to have effect.
- (3) The Scottish Ministers may by regulations prescribe further information that must be included in a scheme.
- (4) A scheme may not specify as the date on which it ceases to have effect a date that falls more than 10 years after it comes into effect.
- (5) In sub-paragraph (1)(c), “the relevant planning authority” means the authority in whose district the area to which the scheme relates lies.

Further provision about conditions, limitations and exceptions

- 2 (1) A scheme may specify different conditions, limitations or exceptions to the authorisation it confers for different cases.
- (2) Obtaining a planning authority's consent for development to begin may be specified as a condition of authorisation being conferred by a scheme.

Places that cannot be included in a scheme

- 3 (1) A scheme may not include any place which sub-paragraph (4) applies to at the time the scheme is made.
- (2) A scheme may not be altered so as to include a place that is, at the time the alteration is made, a place to which sub-paragraph (4) applies.
- (3) For the avoidance of doubt, if—
- (a) a place is included in an area to which a scheme relates, and
 - (b) that place subsequently becomes a place to which sub-paragraph (4) applies,
- the place is not, as a result, excluded from the area to which the scheme relates.
- (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).

PART 2

MAKING AND ALTERING OF SCHEMES BY PLANNING AUTHORITIES

Power to make or alter scheme

- 4 At any time, a planning authority may (in accordance with Part 3)—
- (a) make a scheme for a part of their district, or
 - (b) alter a scheme that relates to an area in their district.

Duty to periodically consider making scheme

- 5 (1) Each planning authority must, 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 an area in their district.
- (2) 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 2019 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 (3).
- (3) After each occasion on which an authority consider the matters mentioned in sub-paragraph (1), they must publish a statement setting out—
- (a) what they decided, and
 - (b) the reasons for their decision.
- (4) The Scottish Ministers may by regulations prescribe requirements in respect of the statement mentioned in sub-paragraph (3).
- (5) The requirements that may be specified under sub-paragraph (4) include, in particular, requirements as to—
- (a) what information a statement must contain,
 - (b) how it is to be published, and
 - (c) to whom copies of it are to be sent.

Duty to seek to make or alter scheme when directed to do so

- 6 (1) The Scottish Ministers may at any time direct a planning authority to—
- (a) make a scheme in such terms as the Scottish Ministers consider appropriate, or
 - (b) alter a scheme in such manner as the Scottish Ministers consider appropriate.

- (2) It is the duty of a planning authority given a direction under this paragraph to seek to make or (as the case may be) alter a scheme in accordance with the direction.
- (3) Sub-paragraph (2) does not relieve a planning authority from having to comply with the requirements for making or altering a scheme set out in Part 3.

PART 3

PROCESS FOR PLANNING AUTHORITY MAKING OR ALTERING SCHEME

CHAPTER 1

PROCESS FOR ALL CASES

Outline of process

- 7 (1) Before making or altering a scheme, a planning authority must—
- (a) formulate their proposals for the scheme or alteration to be made having first consulted in accordance with paragraph 8, and
 - (b) consult on their proposals in accordance with paragraphs 9 and 10.
- (2) Having considered any responses received to the consultation on their proposals (as paragraph 10 requires), the planning authority may (subject to any direction under paragraph 12 or Chapter 1 of Part 4)—
- (a) make the proposed scheme or alteration,
 - (b) make a scheme or alteration which, in light of the consideration given to responses received to the consultation and any other matters which appear to the authority to be material, differs from what they proposed, or
 - (c) decide not to make any scheme or alteration.
- (3) If the planning authority wish to make an alteration that would have an effect described in sub-paragraph (1)(b) of paragraph 13, they must wait as required by that paragraph before making the alteration.

Consultation on possible proposals

- 8 (1) Before publicising, in accordance with paragraph 9, proposals for making or altering a scheme, a planning authority must—
- (a) comply with any requirements as to consultation prescribed in regulations under this paragraph, and
 - (b) have regard to any valid representations received from anyone consulted in compliance with those requirements.
- (2) The Scottish Ministers are to prescribe by regulations requirements about—
- (a) who a planning authority must consult before determining the content of any proposals which may be publicised in accordance with paragraph 9,
 - (b) how that consultation is to be undertaken, and
 - (c) how representations to the planning authority must be made by anyone consulted if they are to be treated as valid representations for the purpose of sub-paragraph (1)(b).
- (3) Without prejudice to the generality of sub-paragraph (2), regulations made under this paragraph may—

- (a) require a planning authority to consult the public (or a portion of the public), or
- (b) empower the Scottish Ministers to direct an authority to do so in particular cases.

Publicity for proposals

- 9 (1) Before making or altering a scheme, a planning authority must—
- (a) comply with the requirements for publicising, and inviting representations in relation to, their proposals for making or altering the scheme, and
 - (b) wait until the period for representations has expired.
- (2) The Scottish Ministers are to prescribe by regulations—
- (a) the requirements for publicising and inviting representations in relation to proposals for making or altering a scheme, and
 - (b) the period for representations.

Consideration of representations

- 10 (1) Where a planning authority have received validly submitted representations in relation to their proposals for making or altering a scheme, they may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until they have considered the representations.
- (2) For the purpose of this paragraph, representations are validly submitted if—
- (a) they are submitted within the period for representations prescribed under paragraph 9(2), and
 - (b) they comply with any requirements prescribed by the Scottish Ministers in regulations under this sub-paragraph about how representations must be submitted.

CHAPTER 2

FURTHER PROCESS FOR SOME CASES

Requirement to hold hearings

- 11 (1) The Scottish Ministers may by regulations prescribe circumstances in which, to fulfil the requirement under paragraph 10(1), a planning authority must give a person of a description prescribed in the regulations an opportunity to appear before and be heard by a committee of the authority.
- (2) The requirement under paragraph 10(1) for a planning authority to consider representations includes any representations made at a hearing required by regulations under sub-paragraph (1).
- (3) Each planning authority is to make such rules as they consider appropriate in relation to—
- (a) the procedures in accordance with which any hearing required by regulations under sub-paragraph (1) is arranged and conducted (including, without prejudice to the generality of this sub-paragraph, procedures for ensuring relevance and avoiding repetition),
 - (b) any other procedures consequent upon such a hearing,

- (c) any right of attendance at such a hearing (other than for the purpose of appearing before, and being heard by, a committee).
- (4) Any requirement to hold hearings created by regulations under sub-paragraph (1) is subject to paragraph 14(3)(b).

Requirement to notify the Scottish Ministers of certain proposals

- 12 (1) The Scottish Ministers may direct a planning authority to notify them, as soon as reasonably practicable, of any proposals for making or altering a scheme that the authority have publicised in accordance with paragraph 9.
- (2) Where a planning authority are required by a direction under this paragraph to notify the Scottish Ministers of their proposals, the authority may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until the period provided for in the direction has ended.
- (3) A direction under this paragraph may—
 - (a) be addressed to a particular authority or all authorities,
 - (b) require that the Scottish Ministers be notified of proposals if—
 - (i) the proposals are of a description specified in the direction, or
 - (ii) an event specified in the direction occurs in connection with the proposals,
 - (c) provide for the period in the direction to be either—
 - (i) a specified period of time, or
 - (ii) an indefinite period that ends only when the Scottish Ministers tell the authority it has ended.

Pause before making certain alterations

- 13 (1) Sub-paragraph (2) applies where, having completed the consultation process in relation to their proposals for altering a scheme—
 - (a) a planning authority intend to alter the scheme (whether in the terms proposed or otherwise), and
 - (b) the intended alteration would have the effect of—
 - (i) excluding a place from the area to which the scheme relates,
 - (ii) withdrawing authorisation granted by the scheme, or
 - (iii) making the authorisation granted by the scheme subject to new or more stringent conditions, limitations or exceptions.
- (2) The intended alteration may not be made before the end of the day that falls 12 months after the consultation process was completed.
- (3) For the purpose of this paragraph, the consultation process in relation to proposals to alter a scheme is completed—
 - (a) on the last day of hearings in relation to the proposals required by regulations under paragraph 13(1), or

- (b) if no such hearings are required in relation to the proposals, on the last day that representations in relation to the proposals could be validly submitted for the purpose of paragraph 10.

PART 4

SCOTTISH MINISTERS' POWERS TO MAKE AND ALTER SCHEMES AND STOP PROPOSALS

CHAPTER 1

CALLING IN PLANNING AUTHORITIES' PROPOSALS

Power to call in proposals

- 14 (1) For the purposes of this Chapter, a call-in direction is a direction given to a planning authority by the Scottish Ministers in relation to the authority's proposals for making or altering a scheme.
- (2) A call-in direction may be given in relation to an authority's proposals at any time prior to the authority making the proposed scheme or alteration (whether in the terms proposed or otherwise).
 - (3) Once a planning authority have been given a call-in direction, the authority—
 - (a) may not make the proposed scheme or alteration (whether in the terms proposed or otherwise), and
 - (b) must not begin, or as the case may be proceed with, any hearings in relation to the proposals that would (but for this paragraph) be required by regulations under paragraph 11(1).

Powers after calling in

- 15 (1) Where a call-in direction has been given in relation to a planning authority's proposals for making or altering a scheme, the Scottish Ministers may—
- (a) make the scheme or alteration proposed,
 - (b) make a scheme or alteration that is different from what the authority proposed, or
 - (c) decline to make any scheme or alteration.
- (2) In considering what to do under sub-paragraph (1), the Scottish Ministers may take matters into account despite their not having been taken into account by the planning authority in formulating their proposals.
 - (3) The Scottish Ministers may, for the purpose of deciding what to do under sub-paragraph (1), cause a local inquiry or other hearing to be held by a person appointed by them.
 - (4) If—
 - (a) the Scottish Ministers decide to alter a scheme under sub-paragraph (1), and
 - (b) the alteration they intend to make would have one of the effects described in paragraph 13(1)(b),
 they may not make the alteration until the end of the day that falls 12 months after the day on which they decided to make the alteration.

CHAPTER 2**MAKING OR ALTERING SCHEME FOLLOWING PARAGRAPH 6 DIRECTION***Power to make or alter scheme*

- 16 (1) The Scottish Ministers may (in accordance with paragraph 17) make, or alter, a scheme if—
- (a) they have given a planning authority a direction under paragraph 6, and
 - (b) they are satisfied that the planning authority are not fulfilling the duty arising from that direction within a reasonable period.
- (2) In order to satisfy themselves of the matter mentioned in sub-paragraph (1)(b), the Scottish Ministers must cause a local inquiry or other hearing to be held by a person appointed by them.

Process for making or altering schemes

- 17 (1) Unless stated otherwise, the enactments mentioned in sub-paragraph (2) apply to the making, or alteration, of a scheme by the Scottish Ministers under paragraph 16—
- (a) as they apply to the making or (as the case may be) alteration of a scheme by a planning authority, but
 - (b) subject to the modifications set out in sub-paragraphs (3) to (6).
- (2) The enactments referred to in sub-paragraph (1) are—
- (a) Part 3, and
 - (b) any regulations made under—
 - (i) Part 3, or
 - (ii) paragraph 22.
- (3) References to a planning authority are to be read as references to the Scottish Ministers.
- (4) References to a planning authority's district are to the district in which the area to which the scheme relates lies (or would lie were the scheme or alteration in question made).
- (5) References to a committee of a planning authority are to—
- (a) the Scottish Ministers, or
 - (b) a person appointed by the Scottish Ministers to discharge the function in question on their behalf.
- (6) Requirements to—
- (a) consult, and
 - (b) send things to,
- the Scottish Ministers do not apply.

Recovery of costs

- 18 (1) Having incurred costs in complying with an enactment mentioned in paragraph 17(2) in connection with making or altering a scheme under paragraph 16, the Scottish Ministers may require the relevant planning authority to pay them—
- (a) an amount equal to the costs they incurred, or

- (b) such lesser amount as they consider appropriate.
- (2) In sub-paragraph (1) “the relevant planning authority” is the authority in whose district the area to which the scheme relates lies (or would have lain had it been made).

PART 5

FURTHER POWERS OF SCOTTISH MINISTERS

CHAPTER 1

EXCLUDING KINDS OF DEVELOPMENT FROM SCHEMES

Power to exclude kinds of development

- 19 (1) The Scottish Ministers may by regulations provide that no scheme grants authorisation in relation to development of a kind described in the regulations.
- (2) Regulations under this paragraph may describe a kind of development by reference to its being development of land that is specified, or of a description specified, in the regulations.
 - (3) Sub-paragraph (2) is not exhaustive of the ways in which kinds of development can be described in regulations under this paragraph.

Effect of exclusion on existing schemes

- 20 If a scheme has conferred authorisation in relation to development of a kind that regulations under paragraph 19 state cannot be granted authorisation by a scheme—
- (a) the scheme ceases to have the effect of granting authorisation for any new development of that kind from the date the regulations prescribe, but
 - (b) the authorisation granted by the scheme is unaffected by the regulations in relation to development begun before that date.

CHAPTER 2

POWERS IN RELATION TO PROCEDURE, ETC.

Directions about procedure and provision of information

- 21 (1) The Scottish Ministers may give a planning authority a direction—
- (a) about how the authority are to formulate their procedures for carrying out their functions under this schedule,
 - (b) requiring that the authority provide the Scottish Ministers with information specified in the direction.
- (2) A planning authority must comply with any direction given under sub-paragraph (1).
- (3) Information may not be specified under sub-paragraph (1)(b) unless it is information that the Scottish Ministers require for carrying out their functions under this schedule.

Regulations about form, content and procedure

- 22 (1) The Scottish Ministers may make regulations about—
- (a) the form and content of schemes, and
 - (b) the procedure to be followed in connection with making and altering schemes.

- (2) Regulations under this paragraph may in particular—
- (d) provide for the publicity to be given to—
 - (i) matters included, or proposed for inclusion in, a scheme,
 - (ii) the making or alteration of a scheme,
 - (iii) any procedural step in relation to the making or alteration of a scheme,
 - (b) make provision with respect to the making and consideration of representations concerning—
 - (i) whether a scheme should be made,
 - (ii) what should be included in a scheme,
 - (c) require, or authorise, consultation with persons identified in the regulations (by name or description) prior to the taking of steps in the process of making or altering a scheme,
 - (d) require a planning authority, in circumstances prescribed in the regulations, to give anyone who requests them copies of documents which have been made public,
 - (e) allow a planning authority to impose a reasonable charge on anyone given a copy of a document in accordance with provision made by virtue of paragraph (d),
 - (f) provide for the publication and inspection of—
 - (i) any scheme which has been made, or
 - (ii) a document setting out alterations that have been, or are to be, made to a scheme,
 - (g) provide for the sale of copies of—
 - (i) schemes, and
 - (ii) any document that sets out alterations that have been, or are to be, made to a scheme.

PART 6

INTERPRETATION

Application of section 54F

- 23 Section 54F applies to the interpretation of this schedule as it does to sections 54B to 54E.

Calculation of periods

- 24 (1) Where a period is described in this schedule (in whatever terms) as ending after a specified number of months or years—
- (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.

- (2) In sub-paragraph (1), “the final month” means the month arrived at by counting forwards the specified number of calendar months or years from the month in which the period began.
- (3) For example, if a period described as ending after 6 months begins on 31 August it ends on 28 February (or 29 February in a leap year).

[Schedules 6 – 13]

SCHEDULE 14 (*as amended by schedule 1 of the 2019 Act, para 1*)
(*introduced by section 100*)

BLIGHTED LAND

Land allocated for public authority functions in development plans etc.

1 [Repealed.]

- 2 (1) This paragraph applies to land which—
 - (a) is allocated for the purposes of any such functions as are mentioned in **sub-paragraph (1A)** by a local development plan in force, or
 - (b) is land defined in such a plan as the site of proposed development for the purposes of any such functions.

(1A) The functions are—

 - (a) the functions of a government department, local authority or statutory undertaker,
 - (b) the provision by an electronic communications operator of an electronic communications code network, or
 - (c) the provision by a former PTO of a public electronic communications network or a public electronic communications service.
 - (2) In sub-paragraph (1), the reference to a local development plan in force includes a reference to a proposed local development plan which has been submitted to the Scottish Ministers under section 18(3)(b) or 19A(5)(b)(ii).
 - (3) Sub-paragraph (2) ceases to apply—
 - (a) when the proposed local development plan (whether or not modified) is constituted under section 20(1) as the local development plan, or
 - (b) when as regards the proposed local development plan the planning authority arrive at the consideration mentioned in section 19A(6).
 - (4) In sub-paragraph (2) references to anything done under any provision include references to anything done under that provision as it applies by virtue of section 23B.

3 This paragraph applies to land indicated in a plan (other than a development plan) approved by a resolution passed by a planning authority for the purpose of the exercise of their powers under Part III as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers.

4 This paragraph applies to land in respect of which a planning authority—

- (a) have resolved to take action to safeguard it for development for the purposes of any such functions as are mentioned in paragraph 3, or
- (b) have been directed by the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.

[Schedule 14, paragraphs 5 – 18, and schedules 15 – 17]

SCHEDULE 18 (*as amended by schedule 2 of the 2019 Act, para 8*)
(*introduced by sections 261 to 263*)

PROVISIONS OF THIS ACT REFERRED TO IN SECTIONS 261 TO 263
PART I

PROVISIONS REFERRED TO IN SECTIONS 261(1) AND (2) AND 262(1)

Sections 4 to 22.

Section 24.

Section 26.

Section 27(2) to (6) so far as applying for the purposes of sections 58, 59 and 61.

Section 28.

Section 30.

Section 31 except subsection (4).

Section 32 to 34.

Section 36.

Section 37(1) to (3).

Section 39.

Section 41(1) to (5).

Sections 43 and 44.

Sections 46 to 48.

Section 57(1), (3) and (4).

Sections 58 to 63.

Sections 65 to 73.

Sections 75 to 77A.

Section 83.

Section 86 to 89.

Section 90(1) to (5).

Sections 91 and 92.

Section 93.

Section 94(1) to (7).

Section 95.

In section 99(1), the definition of “the relevant provisions”.

Section 108(1) and (2).

Sections 113 and 114.

Section 117.

Sections 123 to 126.

Sections 130 to 136.

Sections 138 to 145.

Sections 148 to 158.

Sections 160 to 162.

Sections 164 and 165.

Section 169(10).

Sections 170 and 171.

Section 172(4).

Sections 176 to 180.

Sections 182 to 186.

Section 188.

Section 189(1) to (7).

Sections 190 to 194.

Sections 196 to 206.

Section 208.

Sections 211 and 212.

Section 215(1) and (2).

Section 216(1) to (6).

Section 217(1) and (3).

Section 218(1) to (3).

Sections 219 to 236.

Section 237(1) except paragraphs (e) and (f).

Section 238.

Section 241, with the omission in subsection (2) of the references to section 239.

Section 242(1), with the omission of the definition of “private interest”, (2) and (3).

Section 243(1).

Section 245(1) to (4) (the reference, in subsection (1)(c), to Part III being construed as not referring to sections 34 and 35).

Section 246.

Sections 253 to 256.

Sections 261 and 262.

Section 263(1) to (4).

Section 269 except subsection (3).

Section 270.

Sections 272 and 273.

In section 275, subsections (4) and (5) so far as relating to section 5, and subsection (7).

In section 277(1), the definition of “mineral working deposit”.

Schedule 1.

Schedule 2 paragraphs 1 to 3.

Schedule 3 paragraphs 7 and 8.

Schedule 4.

Schedule 5 paragraph 7(5).

Schedules 6 and 7.

Schedule 8 paragraphs 1 to 12.

Schedule 11.

Schedule 13 paragraph 2.

Schedule 16 paragraphs 1, 2 and 4 to 11.

SCHEDULE 19 *(as inserted by section 14 of the 2019 Act)*
(introduced by section 15A)

LOCAL PLACE PLANS

Preparation of local place plans

- 1 (1) A community body may prepare a local place plan.
- (2) A local place plan is a proposal as to the development or use of land.
- (3) It may also identify land and buildings that the community body considers to be of particular significance to the local area.
- (4) In preparing a local place plan, a community body must—
- (a) have regard to—
 - (i) the local development plan for the land, or any part of the land, to which the local place plan relates,
 - (ii) the National Planning Framework,
 - (iii) such other matters (if any) as are prescribed,
 - (b) set out reasons for considering that the local development plan should be amended, and
 - (c) comply with any prescribed requirements as to—
 - (i) the form and content of the plan, and
 - (ii) steps which must be taken before preparing the plan.

Submission of local place plans

- 2 (1) A community body must comply with any prescribed requirements as to—
- (a) steps which must be taken before submitting a local place plan,
 - (b) how the views of councillors for the area to which the local place plan relates are to be taken into account in the preparation of the local place plan, and
 - (c) information which must be submitted alongside a local place plan.
- (2) Having complied with any requirements under sub-paragraph (1), a community body may submit a local place plan to the planning authority for the district to which the plan relates.

Register of local place plans

- 3 (1) Every planning authority must keep a register of local place plans.
- (2) When a valid local place plan relating to their district is submitted to them by a community body, a planning authority must—
- (a) include it in their register, and
 - (b) inform the community body that submitted the plan that it has been registered.
- (3) If a planning authority decide not to register a local place plan on the basis that it is not valid, the authority must give their reasons for reaching that view to the community body that submitted the plan.
- (4) A local place plan is valid, for the purpose of this paragraph, if the requirements under paragraphs 1(4) and 2(1) have been complied with in relation to it.
- (5) The Scottish Ministers may by regulations make provision about—
- (a) the manner in which a register must be—
 - (i) kept, and
 - (ii) made available to the public,
 - (b) the information about a local place plan that must be included in a register,
 - (c) when a planning authority may, or must, remove a local place plan from their register, causing it to cease to be a registered local place plan.

Map of local place plans

- 4 Every planning authority must make publicly available, in the manner prescribed, a map of their district that shows the land to which the local place plans in their register of local place plans relate.

Meaning of “community body”

- 5 In this schedule, “community body” means—
- (a) a community-controlled body within the definition given in section 19 of the Community Empowerment (Scotland) Act 2015, or
 - (b) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973.