
NORTH AYRSHIRE COUNCIL

4 December 2019

Planning Committee

Title: The Planning (Scotland) Act 2019 Commencement Regulations

Purpose: To update the Planning Committee on the implementation of the Planning (Scotland) Act 2019.

Recommendation: It is recommended that the Planning Committee notes the content of the report.

1. Executive Summary

- 1.1 Following the enactment of the Planning (Scotland) Bill 2019 in July 2019, the Scottish Government is progressing with its post-bill work programme to implement the new Act. Each section of the Act will be brought into force by commencement regulations. Four commencement regulations have been laid in Parliament to date, giving effect to provisions for a new purpose for planning; the content and procedures for preparing the National Planning Framework; the 'Agent of Change' Principle, among others.

2. Background

- 2.1 On 4 September 2019, the enactment of the Planning Bill was reported to the Planning Committee. At the end of September 2019, the Scottish Government published a post-bill work programme, 'Transforming Planning in Practice', setting out how it will move forward with implementing the legislation, which introduces a number of changes to the overall framework under which planning operates.
- 2.2 Each section of the Act will be brought into force by commencement regulations, the first of which came into force on 8 November 2019. Three further commencement regulations have been laid in Parliament. Where relevant, the commencement regulations incorporate saving and transitional provisions and only affect new applications or notices from a specified date.
- 2.3 The following provisions have been brought into force and are identified as directly relevant to local planning authorities:
- All decision notices issued on or after 1 March 2020 must include a statement as to whether the authority consider the development is in accordance with the development plan, and their reasons for taking that view. (Section 30).

- A requirement to take account of the impact of noise from existing activities on new noise-sensitive developments – known as the Agent of Change principle – will have effect in relation to applications received from 20 December 2019 (Section 25). The planning authority must take particular account of whether the new development includes sufficient measures to “mitigate, minimise or manage” the effect of noise between the development and any existing cultural venues or facilities, dwellings or businesses in the vicinity.
- Requirement to notify Councillors, MSPs and MPs of applications for major development will apply to applications received from 1 March 2020 (Section 23).
- Removal of the requirement for full Council decisions on applications requiring a pre-determination hearing, for decisions taken from 1 March 2020 (Section 27).
- Section 53 brings into force, from 1 December 2019, the requirement for all planning authorities to prepare a forestry and woodland strategy.
- Increased fines for failure to comply with various types of planning control notices will apply to offences committed in relation to notices served from 20 December 2019 (Section 42).

2.3 Other notable sections of the Planning (Scotland) Act 2019 which have come into force include:

- Purpose of Planning – introduction of a purpose of planning: ‘to manage the development and use of land in the long-term public interest’, defined as contributing to sustainable development or achieving national outcomes (Section 1). This purpose applies in the context of preparing the National Planning Framework and local development plans but not development management.
- National Planning Framework – amendments to the content and procedures for preparing the National Planning Framework (Section 2). Early work has already begun on preparing the fourth National Planning Framework (NPF4), the long-term spatial strategy for Scotland to 2050. Scottish Government plans to publish a draft of NPF4 for public consultation in Q3 2020, following a period of extensive engagement earlier in the year.
- Sections on open space strategies, regional spatial strategies, local development plans, delivery programmes and local place plans have partially come into force for the limited purposes of enabling Scottish Ministers to make regulations and guidance to be issued, varied, published and revoked.
- From 1 December 2019, Scottish Ministers have the power to: appoint a National Planning Improvement Co-ordinator; make regulations to amend the requirements for certain large developments to include Changing Places Toilets (to align with those set out in the Building Standards Technical Guidance); plus amended powers to make regulations about planning fees, including the ability to introduce more discretionary charging, discounts, and a surcharge for retrospective applications.

3. Proposals

- 3.1 It is recommended that the Planning Committee notes the contents of the report. Further updates will be provided to inform Committee throughout the programme of implementation of the Planning (Scotland) Act 2019, which is expected to take two years.

4. Implications/Socio-economic Duty

Financial

- 4.1 None.

Human Resources

- 4.2 None.

Legal

- 4.3 New provisions relating to the processing and determination of planning applications are introduced by the Planning (Scotland) Act 2019, which the Council must adhere to.

Equality/Socio-economic

- 4.4 None.

Environmental and Sustainability

- 4.5 None.

Key Priorities

- 4.6 None.

Community Wealth Building

- 4.7 None.

5. Consultation

- 5.1 None.

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Alistair Gemmell, Planning Officer**, on **01294 324021**.

Background Papers

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