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Local Government and Communities Committee Comataidh Riaghaltas Ionadail is Coimhearsnachdan

Report on the Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2019



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Local Government and Communities Committee

To consider and report on communities, housing, local government, measures against poverty, planning and regeneration matters falling within the responsibility of the Cabinet Secretary for Communities and Local Government.



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Introduction

1. The Local Government and Communities Committee reports to the Parliament as follows-
2. [The Planning \(Scotland\) Act 2019 \(Ancillary Provision\) Regulations 2019](#) were laid before the Parliament on 8 November 2019 and were referred to the Local and Government and Communities Committee for consideration.
3. The instrument makes minor amendments to the [Planning \(Scotland\) 2019 Act](#) (the 2019 Act) to replace or delete references to sections of the [Town and Country Planning \(Scotland\) Act 1997](#) that were removed during the Parliamentary process and it also corrects some typographical errors. The instrument is subject to the affirmative procedure because it amends the text of primary legislation; i.e. the 2019 Act. The [Bill for the 2019 Act](#) was passed by the Parliament on 20 June 2019 and received Royal Assent on 25 July.
4. The policy note states that Regulation 2(2) omits section 7(2)(e)(viii) of the Act. This sub-paragraph amends section 15(5)(f) of the 1997 Act, which refers to the content of the previous paragraphs of section 15(5), (a) to (e). During the passage of the Bill, a paragraph (eb) was added but later removed. There is therefore now no need to amend paragraph (f).
5. The policy note adds that Regulations 2(3) and (5) substitute references to section 3CA(7) of the 1997 Act for references to section 3A(6) or 3A(8). Section 3CA(7), inserted by section 2(13) of the Act, requires the Scottish Ministers to publish the National Planning Framework as soon as practicable after it has been adopted. Section 3A(6) and (8) required Ministers to publish the framework or any revised framework.
6. The policy note goes on to say that Sections 3A to 3C of the 1997 Act were inserted by the Planning (Scotland) Act 2006, and introduced the National Planning Framework. Sections 3A(6) to (10), 3B and 3C of the 1997 Act were repealed and sections 3AA to 3CC were inserted by amendments at stage 3 of the Bill, making substantial changes to the content and procedures for preparing the framework.
7. According to the policy note, the date on which the Framework is published will determine:
 1. whether the Framework or a local development plan will take precedence if there is any incompatibility between them (regulation 2(3)(a)),
 2. the timescale for making an application to the Court of Session to question the validity of the National Planning Framework (regulation 2(3)(b)), and
 3. when strategic development plans cease to have effect (regulation 2(5)).
8. Finally the policy note says that Regulation 2(4) omits a set of empty brackets in section 61(3), which sets out regulation making powers that are subject to affirmative procedure. The empty brackets represent a cross-reference to a section of the Bill which was deleted at stage 3.

Consideration by Committee

9. The Delegated Powers and Law Reform Committee considered this instrument at its [meeting on 19 November 2019](#) and [determined](#) that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
10. At its [meeting on 4 December 2019](#), the Local Government and Communities Committee took evidence on the instrument from:
 - Kevin Stewart, Minister for the Local Government, Housing and Planning; and
 - Jean Waddie, Planning Reform Co-ordinator, Scottish Government.
11. During the evidence session, the Minister confirmed that the regulations will correct some cross-referencing and typographical errors in the 2019 act and that they are subject to affirmative procedure because they will amend the text of primary legislation.
12. Following the evidence session on the instrument, Kevin Stewart moved motion S5M-19958-

That the Local Government and Communities Committee recommends that the Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2019 [draft] be approved.
13. **The motion was agreed to without debate or division.**

Conclusions

14. The Local Government and Communities Committee recommends that the Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2019 [draft] be approved.

