Planning and Compulsory Purchase Act 2004

2004 CHAPTER 5

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An Act to make provision relating to spatial development and town and country planning; and the compulsory acquisition of land.

[13th May 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Extent

Preamble: England, Wales

PART 1

REGIONAL FUNCTIONS

Spatial strategy

Repealed

1 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Planning bodies

Repealed

2 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

3 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

4 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

4A […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

RSS revision

Repealed

5 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

6 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

7 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

8 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

9 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

10 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Supplementary

Repealed

11 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

Repealed

12 […][1]

Notes

[1] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

PART 2

LOCAL DEVELOPMENT

Survey

Partially In Force

13 Survey of area

(1) The local planning authority must keep under review the matters which may be expected to affect the development of their area or the planning of its development.

(2) These matters include–

(a) the principal physical, economic, social and environmental characteristics of the area of the authority;

(b) the principal purposes for which land is used in the area;

(c) the size, composition and distribution of the population of the area;

(d) the communications, transport system and traffic of the area;

(e) any other considerations which may be expected to affect those matters;

(f) such other matters as may be prescribed or as the Secretary of State (in a particular case) may direct.

(3) The matters also include–

(a) any changes which the authority think may occur in relation to any other matter;

(b) the effect such changes are likely to have on the development of the authority's area or on the planning of such development.

(4) The local planning authority may also keep under review and examine the matters mentioned in subsections (2) and (3) in relation to any neighbouring area to the extent that those matters may be expected to affect the area of the authority.

(5) In exercising a function under subsection (4) a local planning authority must consult with the local planning authority for the neighbouring area in question.

(6) If a neighbouring area is in Wales references to the local planning authority for that area must be construed in accordance with Part 6.

Commencement

Pt 2 s. 13(1)-(6): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 13-(6): England, Wales

Partially In Force

14 Survey of area: county councils

(1) A county council in respect of so much of their area for which there is a district council must keep under review the matters which may be expected to affect development of that area or the planning of its development in so far as the development relates to a county matter.

(2) Subsections (2) to (6) of section 13 apply for the purposes of subsection (1) as they apply for the purposes of that section; and references to the local planning authority must be construed as references to the county council.

(3) The Secretary of State may by regulations require or (in a particular case) may direct a county council to keep under review in relation to so much of their area as is mentioned in subsection (1) such of the matters mentioned in section 13(1) to (4) as he prescribes or directs (as the case may be).

(4) For the purposes of subsection (3)–

(a) it is immaterial whether any development relates to a county matter;

(b) if a matter which is prescribed or in respect of which the Secretary of State gives a direction falls within section 13(4) the county council must consult the local planning authority for the area in question.

(5) The county council must make available the results of their review under subsection (3) to such persons as the Secretary of State prescribes or directs (as the case may be).

(6) References to a county matter must be construed in accordance with paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph (1)(i)).

Commencement

Pt 2 s. 14(1)-(6): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 14-(6): England, Wales

[Register] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Pt 6 s.151(1) (May 12, 2016)

Law In Force

[14A Register of land

(1) The Secretary of State may make regulations requiring a local planning authority in England to prepare, maintain and publish a register of land within (or partly within) the authority's area which—

(a) is of a prescribed description, or
(b) satisfies prescribed criteria.

(2) The regulations may require the register to be kept in two or more parts.
A reference to the register in the following subsections includes a reference to a prescribed part of the register.

(3) The regulations may make provision permitting the local planning authority to enter in the register land within (or partly within) the authority's area which—

(a) is of a prescribed description or satisfies prescribed criteria, and
(b) is not required by the regulations to be entered in the register.

(4) The regulations may—

(a) require or authorise a local planning authority to carry out consultation and other procedures in relation to entries in the register;
(b) specify descriptions of land that are not to be entered in the register;
(c) confer a discretion on a local planning authority, in prescribed circumstances, not to enter in the register land of a prescribed description that the authority would otherwise be required to enter in it;
(d) require a local planning authority exercising the discretion referred to in paragraph (c) to explain why they have done so;
(e) specify information to be included in the register;
(f) make provision about revising the register.

(5) The regulations may specify a description of land by reference to a description in national policies and advice.

(6) The regulations may confer power on the Secretary of State to require a local planning authority—

(a) to prepare or publish the register, or to bring the register up to date, by a specified date;

(b) to provide the Secretary of State with specified information, in a specified form and by a specified date, in relation to the register.

In this subsection "specified" means specified by the Secretary of State.

(7) In exercising their functions under the regulations, a local planning authority must have regard to—

(a) the development plan;

(b) national policies and advice;

(c) any guidance issued by the Secretary of State for the purposes of the regulations.

(8) In this section "national policies and advice" means national policies and advice contained in guidance issued by the Secretary of State (as it has effect from time to time).
] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Pt 6 s.151(1) (May 12, 2016)

Extent

Pt 2 s. 14A(1)-(8): England, Wales

Development schemes

Partially In Force With Amendments Pending

15 Local development scheme

(1) The local planning authority must prepare and maintain a scheme to be known as their local development scheme.

(2) The scheme must specify–

(a) **[…]**[1]

[(aa) the local development documents which are to be development plan documents; **]** [2]

(b) the subject matter and geographical area to which each **[** development plan document **]** [3] is to relate;

(c) **[…]**[1]

(d) which **[** development plan documents **]** [4] (if any) are to be prepared jointly with one or more other local planning authorities;

(e) any matter or area in respect of which the authority have agreed (or propose to agree) to the constitution of a joint committee under section 29;

(f) the timetable for the preparation and revision of the **[** development plan documents **]** [4] ;

(g) such other matters as are prescribed.

(3) **[…]**[5]

[(3A) If a local planning authority have not prepared a local development scheme, the Secretary of State or the Mayor of London may—

(a) prepare a local development scheme for the authority, and

(b) direct the authority to bring that scheme into effect.

] [6]

(4) The Secretary of State **[** or the Mayor of London **]** [7] may direct the local planning authority to make such amendments to the scheme as he thinks appropriate **[** for the purpose of ensuring **[** full and effective coverage (both geographically and with regard to subject matter) **]** [9] of the authority's area by the development plan documents (taken as a whole) for that area **]** [8] .

[(4A) The Mayor of London–

(a) may give a direction under subsection **[** (3A) or **]** [11] (4) only if the local planning authority are a London borough, and

(b) in considering whether to give such a direction, and which amendments to include in the direction, must have regard to any guidance issued by the Secretary of State.

] [10]

(5) **[** A direction under subsection **[** (3A) or **]** [11] (4) **]** [12] must contain the Secretary of State's **[** , or (as the case may be) the Mayor of London's, **]** [13] reasons for giving it.

(6) The local planning authority must comply with a direction given under subsection **[** (3A) or **]** [11] (4). **[** In the case of a direction given by the Mayor of London, this subsection is subject to subsections (6A) to (6E). **]** [14]

[(6A) If at any time the Mayor of London gives a direction under subsection **[** (3A) or **]** [11] (4)–

(a) he must at that time send a copy of the direction to the Secretary of State, and

(b) **[** effect is not to be given to the direction **]** [16] until such time as may be prescribed.

(6B) The Secretary of State may, within such time as may be prescribed, direct the local planning authority–

(a) to disregard a direction given under subsection **[** (3A) or **]** [11] (4) by the Mayor of London, or

(b) to give effect to the direction with such modifications as may be specified in the Secretary of State's direction.

(6C) Such a direction must contain the Secretary of State's reasons for giving it.

(6D) If at any time the Secretary of State gives a direction under subsection (6B), the Secretary of State must at that time send a copy of the direction to the Mayor of London.

(6E) The local planning authority must comply with any direction given by the Secretary of State under subsection (6B). **]** [15]

[(7) To bring the scheme into effect, the local planning authority must resolve that the scheme is to have effect and in the resolution specify the date from which the scheme is to have effect. **]** [17]

(8) The local planning authority must revise their local development scheme–

(a) at such time as they consider appropriate;

(b) when directed to do so by the Secretary of State **[** or the Mayor of London **]** [18] .

[In the case of a direction given by the Mayor of London, paragraph (b) is subject to subsections (8B) to (8F). **]** [19]

[(8A) The Mayor of London–

(a) may give a direction under subsection (8) only if the local planning authority are a London borough, and

(b) in considering whether to give such a direction, must have regard to any guidance issued by the Secretary of State.

[(8AA) A direction may be given under subsection (8)(b) only if **[—]** [22]

[(a) the person giving the direction thinks that revision of the scheme is necessary for the purpose of ensuring full and effective coverage (both geographically and with regard to subject matter) of the authority's area by the development plan documents (taken as a whole) for that area, or

(b) the Secretary of State has published data standards under section 36(3) which apply to the local development scheme and the person giving the direction thinks that the scheme should be revised so that it complies with the standards. **]** [22]

] [21]

(8B) If at any time the Mayor of London gives a direction under subsection (8)(b)–

(a) he must at that time send a copy of the direction to the Secretary of State, and

(b) the scheme is not to be revised until such time as may be prescribed.

(8C) The Secretary of State may, within such time as may be prescribed, direct the local planning authority to disregard a direction given under subsection (8)(b) by the Mayor of London.

(8D) Such a direction must contain the Secretary of State's reasons for giving it.

(8E) If at any time the Secretary of State gives a direction under subsection (8C), the Secretary of State must at that time send a copy of the direction to the Mayor of London.

(8F) The local planning authority must comply with any direction given by the Secretary of State under subsection (8C). **]** [20]

(9) Subsections (2) to (7) apply to the revision of a scheme as they apply to the preparation of the scheme.

[(9A) The local planning authority must make the following available to the public—

(a) the up-to-date text of the scheme,

(b) a copy of any amendments made to the scheme, and

(c) up-to-date information showing the state of the authority's compliance (or non-compliance) with the timetable mentioned in subsection (2)(f).

] [23]

[(10) Section 38(1) of the Greater London Authority Act 1999 (delegation of functions by the Mayor) does not apply to the Mayor of London's functions under this section of giving a direction. **]** [24]

Notes

1 Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2009 as SI 2009/400)

2 Added by Planning Act 2008 c. 29 Pt 9 c.2 s.180(2)(b) (April 6, 2009 in relation to England and Wales)

3 Word substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(2)(c) (April 6, 2009 in relation to England and Wales)

4 Word substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(2)(e) (April 6, 2009 in relation to England and Wales)

5 Repealed by Localism Act 2011 c. 20 Sch.25(17) para.1 (January 15, 2012)

6 Added by Housing and Planning Act 2016 c. 22 Pt 6 s.143(1) (July 13, 2016)

7 Words inserted by Greater London Authority Act 2007 c. 24 Pt 7 s.30(4) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[8] Words inserted by Localism Act 2011 c. 20 Pt 6 c.1 s.111(3) (January 15, 2012)

[9] Words substituted by Housing and Planning Act 2016 c. 22 Pt 6 s.143(2) (July 13, 2016)

[10] Added by Greater London Authority Act 2007 c. 24 Pt 7 s.30(5) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[11] Words inserted by Housing and Planning Act 2016 c. 22 Pt 6 s.143(3) (July 13, 2016)

[12] Words substituted by Greater London Authority Act 2007 c. 24 Pt 7 s.30(6)(a) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[13] Words inserted by Greater London Authority Act 2007 c. 24 Pt 7 s.30(6)(b) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[14] Words inserted by Greater London Authority Act 2007 c. 24 Pt 7 s.30(7) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[15] Added by Greater London Authority Act 2007 c. 24 Pt 7 s.30(8) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[16] Words substituted by Localism Act 2011 c. 20 Pt 6 c.1 s.111(4) (January 15, 2012)

[17] Substituted by Localism Act 2011 c. 20 Pt 6 c.1 s.111(5) (January 15, 2012)

[18] Words inserted by Greater London Authority Act 2007 c. 24 Pt 7 s.30(9)(a) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[19] Words inserted by Greater London Authority Act 2007 c. 24 Pt 7 s.30(9)(b) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[20] Added by Greater London Authority Act 2007 c. 24 Pt 7 s.30(10) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

[21] Added by Localism Act 2011 c. 20 Pt 6 c.1 s.111(6) (January 15, 2012)

[22] Existing text renumbered as s.15(8AA)(a) and a word and s.15(8AA)(b) inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.11(4) (July 19, 2017)

[23] Added by Localism Act 2011 c. 20 Pt 6 c.1 s.111(7) (January 15, 2012)

[24] Added by Greater London Authority Act 2007 c. 24 Pt 7 s.30(11) (June 27, 2008 subject to savings specified in SI 2008/1372 art.3)

Amendments Pending

Pt 2 s. 15(3)(c): repealed by Localism Act 2011 c. 20 Sch. 8 para. 8 (Not yet in force)

Pt 2 s. 15(3)(c): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Commencement

Pt 2 s. 15(1)-(9): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 15-(8AA), (8B)-(10): England, Wales

Pt 2 s. 15(8AA)(a)-(8AA)(b): (extent not available)

Partially In Force

16 Minerals and waste development scheme

(1) A county council in respect of any part of their area for which there is a district council must prepare and maintain a scheme to be known as their minerals and waste development scheme.

(2) Section 15 (ignoring subsections (1) and (2)(e)) applies in relation to a minerals and waste development scheme as it applies in relation to a local development scheme.

(3) This Part applies to a minerals and waste development scheme as it applies to a local development scheme and for that purpose–

(a) references to a local development scheme include references to a minerals and waste development scheme;

(b) references to a local planning authority include references to a county council.

(4) But subsection (3) does not apply to–

(a) section 17(3);

(b) section 24(1)(b), (4) and (7);

(c) the references in section 24(5) to subsection (4) and the Mayor;

(d) sections 29 to 31.

[(5) Also, subsection (3)(b) does not apply to section 33A(1)(a) and (b). **]** [1]

Notes

[1] Added by Localism Act 2011 c. 20 Pt 6 c.1 s.110(2) (November 15, 2011)

Commencement

Pt 2 s. 16(1)-(4)(d): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 16-(5): England, Wales

Documents

Partially In Force

17 Local development documents

(1)-(2) **[…]**[1]

(3) **[** The local planning authority's local development documents **]** [2] must (taken as a whole) set out the authority's policies (however expressed) relating to the development and use of land in their area.

(4) **[** Where a county council is required to prepare a minerals and waste development scheme in respect of an area, the council's local development documents must (taken as a whole) set out the council's policies (however expressed) for that area **]** [3] in relation to development which is a county matter within the meaning of paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph (1)(i)).

(5) If to any extent a policy set out in a local development document conflicts with any other statement or information in the document the conflict must be resolved in favour of the policy.

(6) The authority must keep under review their local development documents having regard to the results of any review carried out under section 13 or 14.

[(6A) The Secretary of State may by regulations make provision requiring a local planning authority to review a local development document at such times as may be prescribed.

(6B) If regulations under subsection (6A) require a local planning authority to review a local development document—

(a) they must consider whether to revise the document following each review, and

(b) if they decide not to do so, they must publish their reasons for considering that no revisions are necessary.

(6C) Any duty imposed by virtue of subsection (6A) applies in addition to the duty in subsection (6). **]** [4]

(7) Regulations under this section may prescribe–

[(za) which descriptions of documents are, or if prepared are, to be prepared as local development documents; **]** [5]

(a) which descriptions of local development documents are development plan documents;

(b) the form and content of the local development documents;

(c) the time at which any step in the preparation of any such document must be taken.

(8) A document is a local development document only in so far as it or any part of it–

(a) is adopted by resolution of the local planning authority as a local development document;

(b) is approved by the Secretary of State under section 21 or 27 **[** ; **]** [6]

[(c) is approved by the Mayor of London under paragraph 2 of Schedule A1;

(d) is approved by a combined authority under paragraph 6 of that Schedule **[** ; **]** [7] **]** [6]

[(e) is approved by an upper-tier county council (as defined in that Schedule) under paragraph 7C of that Schedule. **]** [7]

Notes

1 Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2009 as SI 2009/400)

2 Words substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(3)(b) (April 6, 2009 in relation to England and Wales)

3 Words substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(3)(c) (April 6, 2009 in relation to England and Wales)

4 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.12 (April 27, 2017 to the extent that they confer power on the Secretary of State to make regulations; July 19, 2017 otherwise)

5 Added by Planning Act 2008 c. 29 Pt 9 c.2 s.180(3)(d) (April 6, 2009 in relation to England and Wales)

6 Added by Housing and Planning Act 2016 c. 22 Pt 6 s.147(3) (October 1, 2016)

7 Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.9 (January 16, 2018)

Commencement

Pt 2 s. 17(1)-(8)(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 17-(6), (7)-(8)(d): England, Wales

Pt 2 s. 17(6A)-(6C), (8)(e): (extent not available)

Partially In Force

18 Statement of community involvement

(1) The local planning authority must prepare a statement of community involvement.

(2) The statement of community involvement is a statement of the authority's policy as to the involvement in the exercise of the authority's functions under **[** sections 13, 15,19, 26 and 28 **]** [1] of this Act and Part 3 of the principal Act of persons who appear to the authority to have an interest in matters relating to development in their area.

[(2A) **[** Subject to subsection (2B), the **]** [3] reference in subsection (2) to functions under Part 3 of the principal Act does not include functions under any provision of that Act relating to neighbourhood development orders (including any function under any of sections 61F to 61H of that Act). **]** [2]

[(2B) A statement of community involvement must set out the local planning authority's policies for giving advice or assistance under—

(a) paragraph 3 of Schedule 4B to the principal Act (advice or assistance on proposals for making of neighbourhood development orders), and

(b) paragraph 3 of Schedule A2 to this Act (advice or assistance on proposals for modification of neighbourhood development plans).

(2C) The reference in subsection (2B)(a) to Schedule 4B to the principal Act includes that Schedule as applied by section 38A(3) of this Act (process for making neighbourhood development plans).

(2D) Subsection (2B) applies regardless of whether, at any given time—

(a) an area within the area of the authority has been designated as a neighbourhood area, or

(b) there is a qualifying body which is entitled to submit proposals to the authority for the making by the authority of a neighbourhood development order or a neighbourhood development plan.

] [4]

[(3) For the purposes of this Part (except sections 19(2) and 24) the statement of community involvement is a local development document.
This is subject to section 17(8).
] [5]

[(3A) The statement of community involvement must not be specified as a development plan document in the local development scheme. **]** [6]

[(3B) The Secretary of State may by regulations prescribe matters to be addressed by a statement of community involvement in addition to the matters mentioned in subsection (2). **]** [7]

(4)-(6) **[…]**[8]

Notes

1 Words inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.13(2) (July 31, 2018: 2004 c.5 s.18 came into force on April 27, 2017 for the limited purpose of making regulations; July 31, 2018 subject to transitional provisions specified in SI 2018/38 reg.5 otherwise)

2 Added by Localism Act 2011 c. 20 Sch.12 para.28 (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

[3] Words inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.6(2) (July 31, 2018)

[4] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.6(3) (July 31, 2018)

[5] Substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(4)(a) (April 6, 2009 in relation to England and Wales)

[6] Added by Planning Act 2008 c. 29 Pt 9 c.2 s.180(4)(b) (April 6, 2009 in relation to England and Wales)

[7] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.13(3) (April 27, 2017 to the extent that they confer power on the Secretary of State to make regulations; not yet in force otherwise)

[8] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2009 as SI 2009/400)

Commencement

Pt 2 s. 18(1)-(6)(b): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 18(1)-(6)(b): England, Wales

Partially In Force With Amendments Pending

19 Preparation of local development documents

(1) **[** Development plan documents **]** [1] must be prepared in accordance with the local development scheme.

[(1A) Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. **]** [2]

[(1B) Each local planning authority must identify the strategic priorities for the development and use of land in the authority's area.

(1C) Policies to address those priorities must be set out in the local planning authority's development plan documents (taken as a whole).

(1D) Subsection (1C) does not apply in the case of a London borough council or a Mayoral development corporation if and to the extent that the council or corporation are satisfied that policies to address those priorities are set out in the spatial development strategy.

(1E) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority's area, subsection (1D) also applies in relation to—

(a) a local planning authority whose area is within, or the same as, the area of the combined authority, and

(b) the spatial development strategy published by the combined authority.

] [3]

(2) In preparing a **[** development plan document or any other **]** [4] local development document the local planning authority must have regard to–

(a) national policies and advice contained in guidance issued by the Secretary of State;

(b) **[** the regional strategy **]** [5] for the region in which the area of the authority is situated, if the area is outside Greater London;

(c) the spatial development strategy if the authority are a London borough or if any part of the authority's area adjoins Greater London;

(d) **[** the regional strategy **]**[5] for any region which adjoins the area of the authority;
(e) the **[** National Development Framework for Wales, **]**[6] if any part of the authority's area adjoins Wales;
(f)-(g) **[…]**[7]
(h) any other local development document which has been adopted by the authority;
(i) the resources likely to be available for implementing the proposals in the document;
(j) such other matters as the Secretary of State prescribes.

(3) In preparing the **[** local development documents (other than their statement of community involvement) **]**[8] the authority must also comply with their statement of community involvement.

(4) But subsection (3) does not apply at any time before the authority have adopted their statement of community involvement.

(5) The local planning authority must also–
(a) carry out an appraisal of the sustainability of the proposals in each **[** development plan document **]**[9] ;
(b) prepare a report of the findings of the appraisal.

(6) The Secretary of State may by regulations make provision–
(a) as to any further documents which must be prepared by the authority in connection with the preparation of a local development document;
(b) as to the form and content of such documents.

(7) **[…]**[7]

Notes

1 Words substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(5)(a) (April 6, 2009 in relation to England and Wales)
2 Added by Planning Act 2008 c. 29 Pt 9 c.2 s.182 (April 6, 2009 in relation to England and Wales)
3 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.8(1) (January 18, 2018)
4 Words inserted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(5)(b) (April 6, 2009 in relation to England and Wales)
5 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.14 (April 1, 2010)
6 Words substituted by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.24 (December 4, 2020)
7 Repealed by Deregulation Act 2015 c. 20 s.100(2)(b) (May 26, 2015)
8 Words substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(5)(c) (April 6, 2009 in relation to England and Wales)
9 Word substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(5)(d) (April 6, 2009 in relation to England and Wales)

Amendments Pending

Pt 2 s. 19(2)(b): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 2 s. 19(2)(d): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Commencement

Pt 2 s. 19(1)-(6)(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 19-(6)(b): England, Wales

Partially In Force

20 Independent examination

(1) The local planning authority must submit every development plan document to the Secretary of State for independent examination.

(2) But the authority must not submit such a document unless–

(a) they have complied with any relevant requirements contained in regulations under this Part, and

(b) they think the document is ready for independent examination.

(3) The authority must also send to the Secretary of State (in addition to the development plan document) such other documents (or copies of documents) and such information as is prescribed.

(4) The examination must be carried out by a person appointed by the Secretary of State.

(5) The purpose of an independent examination is to determine in respect of the development plan document–

(a) whether it satisfies the requirements of sections 19 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents;

(b) whether it is sound **[** ; and **]** [1]

[(c) whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation. **]** [1]

(6) Any person who makes representations seeking to change a development plan document must (if he so requests) be given the opportunity to appear before and be heard by the person carrying out the examination.

[(6A) The Secretary of State may by notice to the person appointed to carry out the examination—

(a) direct the person not to take any step, or any further step, in connection with the examination of the development plan document, or of a specified part of it, until a specified time or until the direction is withdrawn;

(b) require the person—

(i) to consider any specified matters;

(ii) to give an opportunity, or further opportunity, to specified persons to appear before and be heard by the person;

(iii) to take any specified procedural step in connection with the examination.

In this subsection "specified" means specified in the notice.

] [2]

[(7) Where the person appointed to carry out the examination—

(a) has carried it out, and

(b) considers that, in all the circumstances, it would be reasonable to conclude—

(i) that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, and

(ii) that the local planning authority complied with any duty imposed on the authority by section 33A in relation to the document's preparation,

the person must recommend that the document is adopted and give reasons for the recommendation.

(7A) Where the person appointed to carry out the examination—

(a) has carried it out, and

(b) is not required by subsection (7) to recommend that the document is adopted,

the person must recommend non-adoption of the document and give reasons for the recommendation.

(7B) Subsection (7C) applies where the person appointed to carry out the examination—

(a) does not consider that, in all the circumstances, it would be reasonable to conclude that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, but

(b) does consider that, in all the circumstances, it would be reasonable to conclude that the local planning authority complied with any duty imposed on the authority by section 33A in relation to the document's preparation.

(7C) If asked to do so by the local planning authority, the person appointed to carry out the examination must recommend modifications of the document that would make it one that—

(a) satisfies the requirements mentioned in subsection (5)(a), and

(b) is sound.

] [3]

(8) The local planning authority must publish the recommendations and the reasons.

Notes

[1] Added by Localism Act 2011 c. 20 Pt 6 c.1 s.110(3) (November 15, 2011)

[2] Added by Housing and Planning Act 2016 c. 22 Pt 6 s.144 (July 13, 2016)

[3] S.20(7)-(7C) substituted for s.20(7) by Localism Act 2011 c. 20 Pt 6 c.1 s.112(2) (January 15, 2012: substitution has effect in relation to all adoptions of development plan documents that take place after the coming into force of this subsection, including an adoption where steps in relation to the document have taken place before then)

Commencement

Pt 2 s. 20(1)-(8): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 20-(8): England, Wales

Partially In Force

21 Intervention by Secretary of State

(1) If the Secretary of State thinks that a local development document is unsatisfactory–

(a) he may at any time before the document is adopted under section 23 direct the local planning authority to modify the document in accordance with the direction;

(b) if he gives such a direction he must state his reasons for doing so.

(2) The authority–

(a) must comply with the direction;

(b) must not adopt the document unless the Secretary of State gives notice that he is satisfied that they have complied with the direction.

(3) But subsection (2) does not apply if **[** or to the extent that **]** [1] the Secretary of State withdraws the direction.

(4) At any time before a development plan document is adopted by a local planning authority the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval.

(5) The following paragraphs apply if the Secretary of State gives a direction under subsection (4)–

(a) the authority must not take any step in connection with the adoption of the document until the Secretary of State gives his decision **[** , or withdraws the direction **]** [2] ;

[(b) if the direction is given, and not withdrawn, before the authority have submitted the document under section 20(1), the Secretary of State must hold an independent examination; **]** [3]

(c) if the direction is given after the authority have submitted the document but before the person appointed to carry out the examination has made his recommendations **[** , and is not withdrawn before those recommendations are made, the person **]** [4] must make his recommendations to the Secretary of State;

[(d) the document has no effect unless the document or (as the case may be) the relevant part of it has been approved by the Secretary of State, or the direction is withdrawn. **]** [5]

[(5A) Subsections (4) to (7C) of section 20 apply to an examination held under subsection (5)(b), the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State.

(5B) For the purposes of subsection (5)(d) the "relevant part" of a development plan document is the part that—

(a) is covered by a direction under subsection (4) which refers to only part of the document, or

(b) continues to be covered by a direction under subsection (4) following the partial withdrawal of the direction.

] [6]

(6) The Secretary of State must publish the recommendations made to him by virtue of subsection (5)(b) or (c) and the reasons of the person making the recommendations.

(7) In considering a document or part of a document submitted under subsection (4) the Secretary of State may take account of any matter which he thinks is relevant.

(8) It is immaterial whether any such matter was taken account of by the authority.

(9) In relation to a document or part of a document submitted to him under subsection (4) the Secretary of State–

(a) may approve, approve subject to specified modifications or reject the document or part;

(b) must give reasons for his decision under paragraph (a).

[(9A) The Secretary of State may at any time—

(a) after a development plan document has been submitted for independent examination under section 20, but

(b) before it is adopted under section 23,

direct the local planning authority to withdraw the document.

] [7]

(10) In the exercise of any function under this section the Secretary of State must have regard to the local development scheme.

[(11) The local planning authority must reimburse the Secretary of State for any expenditure incurred by the Secretary of State under this section that is specified in a notice given to the authority by the Secretary of State. **]** [8]

[(12) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities who have prepared the document. **]** [9]

Notes

1 Words inserted by Housing and Planning Act 2016 c. 22 Pt 6 s.145(1) (October 1, 2016)

2 Words inserted by Housing and Planning Act 2016 c. 22 Pt 6 s.145(2)(a) (October 1, 2016)

3 Substituted by Housing and Planning Act 2016 c. 22 Pt 6 s.145(2)(b) (October 1, 2016)

4 Word substituted by Housing and Planning Act 2016 c. 22 Pt 6 s.145(2)(c) (October 1, 2016)

5 Substituted by Housing and Planning Act 2016 c. 22 Pt 6 s.145(2)(d) (October 1, 2016)

6 Added by Housing and Planning Act 2016 c. 22 Pt 6 s.145(3) (October 1, 2016)

7 Added by Localism Act 2011 c. 20 Pt 6 c.1 s.112(5) (January 15, 2012)

8 Added by Housing and Planning Act 2016 c. 22 Pt 6 s.145(4) (October 1, 2016)

9 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(3) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Commencement

Pt 2 s. 21(1)-(10): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 21-(11): England, Wales

Pt 2 s. 21(12): (extent not available)

Law In Force

[21A Temporary direction pending possible use of intervention powers

(1) If the Secretary of State is considering whether to give a direction to a local planning authority under section 21 in relation to a development plan document or other local development document, he may direct the authority not to take any step in connection with the adoption of the document—

(a) until the time (if any) specified in the direction, or

(b) until the direction is withdrawn.

(2) A document to which a direction under this section relates has no effect while the direction is in force.

(3) A direction given under this section in relation to a document ceases to have effect if a direction is given under section 21 in relation to that document.

] [1]

Notes

1 Added by Housing and Planning Act 2016 c. 22 Pt 6 s.145(5) (May 26, 2016)

Extent

Pt 2 s. 21A(1)-(3): England, Wales

Partially In Force

22 Withdrawal of local development documents

(1) A local planning authority may at any time before a local development document is adopted under section 23 withdraw the document.

(2) **[…]**[1]

Notes

[1] Repealed by Localism Act 2011 c. 20 Sch.25(17) para.1 (January 15, 2012)

Commencement

Pt 2 s. 22(1)-(2)(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 22-(2)(b): England, Wales

Partially In Force

23 Adoption of local development documents

(1) The local planning authority may adopt a local development document (other than a development plan document) either as originally prepared or as modified to take account of–

(a) any representations made in relation to the document;

(b) any other matter they think is relevant.

[(2) If the person appointed to carry out the independent examination of a development plan document recommends that it is adopted, the authority may adopt the document—

(a) as it is, or

(b) with modifications that (taken together) do not materially affect the policies set out in it.

(2A) Subsection (3) applies if the person appointed to carry out the independent examination of a development plan document—

(a) recommends non-adoption, and

(b) under section 20(7C) recommends modifications ("the main modifications").

(3) The authority may adopt the document—

(a) with the main modifications, or

(b) with the main modifications and additional modifications if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications.

] [1]

(4) The authority must not adopt a development plan document unless they do so in accordance with subsection (2) or (3).

(5) A document is adopted for the purposes of this section if it is adopted by resolution of the authority.

Notes

[1] S.23(2),(2A) and (3) substituted for s.23(2) and (3) by Localism Act 2011 c. 20 Pt 6 c.1 s.112(3) (January 15, 2012: substitution has effect in relation to all adoptions of development plan documents that take place after the coming into force of this subsection, including an adoption where steps in relation to the document have taken place before then)

Commencement

Pt 2 s. 23(1)-(5): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 23(1)-(5): England, Wales

Partially In Force With Amendments Pending

24 Conformity with regional strategy

(1) The local development documents must be in general conformity with–

(a) **[** the regional strategy **]** [1] (if the area of the local planning authority is in a region other than London);

(b) the spatial development strategy (if the local planning authority are a London borough **[** or a Mayoral development corporation **]** [2]).

(2)-(3) **[…]**[3]

(4) A local planning authority which are a London borough **[** or a Mayoral development corporation **]** [2] –

(a) must request the opinion in writing of the Mayor of London as to the general conformity of a development plan document with the spatial development strategy;

(b) may request the opinion in writing of the Mayor as to the general conformity of any other local development document with the spatial development strategy.

(5) Whether or not the local planning authority make a request mentioned in **[** subsection (4), the Mayor may give an opinion as to the general conformity of a local development document with the spatial development strategy **]** [4] .

(6) **[…]**[3]

(7) If in the opinion of the Mayor a document is not in general conformity with the spatial development strategy the Mayor must be taken to have made representations seeking a change to the document.

(8)-(9) **[…]**[3]

Notes

[1] Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.15(2) (April 1, 2010)

[2] Words inserted by Localism Act 2011 c. 20 Sch.22 para.55 (January 15, 2012)

[3] Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

[4] Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.15(4) (April 1, 2010)

Amendments Pending

Pt 2 s. 24(1)(a): repealed by Localism Act 2011 c. 20, Sch. 25(16) para. 1 (date to be appointed)

Pt 2 s. 24: words substituted by Localism Act 2011 c. 20, Sch. 8 para. 10(2) (date to be appointed)

Commencement

Pt 2 s. 24(1)-(9): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 24-(9): England, Wales

Partially In Force

25 Revocation of local development documents

The Secretary of State–

(a) may at any time revoke a local development document at the request of the local planning authority;

(b) may prescribe descriptions of local development document which may be revoked by the authority themselves.

Commencement

Pt 2 s. 25(a)-(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 25-(b): England, Wales

Partially In Force

26 Revision of local development documents

(1) The local planning authority may at any time prepare a revision of a local development document.

(2) The authority must prepare a revision of a local development document–

(a) if the Secretary of State directs them to do so, and

(b) in accordance with such timetable as he directs.

(3) This Part applies to the revision of a local development document as it applies to the preparation of the document.

(4) Subsection (5) applies if any part of the area of the local planning authority is an area to which an enterprise zone scheme relates.

(5) As soon as practicable after the occurrence of a relevant event–

(a) the authority must review every local development document in the light of the enterprise zone scheme;

(b) if they think that any modifications of the document are required in consequence of the scheme they must prepare a revised document containing the modifications.

(6) The following are relevant events–

(a) the making of an order under paragraph 5 of Schedule 32 to the Local Government, Planning and Land Act 1980 (c. 65) (designation of enterprise zone);

(b) the giving of notification under paragraph 11(1) of that Schedule (approval of modification of enterprise zone scheme).

(7) References to an enterprise zone and an enterprise zone scheme must be construed in accordance with that Act.

Commencement

Pt 2 s. 26(1)-(7): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 26-(7): England, Wales

Partially In Force

[27 Secretary of State's default powers

(1) This section applies if the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document.

(2) The Secretary of State may—

(a) prepare or revise (as the case may be) the document, or

(b) give directions to the authority in relation to the preparation or revision of the document.

(3) The Secretary of State must either—

(a) hold an independent examination, or

(b) direct the authority to submit the document for independent examination.

(4) The Secretary of State must either—

(a) publish the recommendations and reasons of the person appointed to hold the examination, or

(b) give directions to the authority in relation to publication of those recommendations and reasons.

(5) The Secretary of State may—

(a) approve the document, or approve it subject to specified modifications, as a local development document,

(b) direct the authority to consider adopting the document by resolution of the authority as a local development document, or

(c) (except where it was prepared or revised by the Secretary of State under subsection (2)(a)) reject the document.

(6) Subsections (4) to (7C) of section 20 apply (subject to subsection (7) below) to an examination held under subsection (3)(a), the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State.

(7) Subsections (5)(c), (7)(b)(ii) and (7B)(b) of section 20 do not apply to an independent examination held—

(a) under subsection (3)(a), or

(b) in response to a direction under subsection (3)(b),

in respect of a document prepared or revised by the Secretary of State under subsection (2)(a).

(8) The Secretary of State must give reasons for anything he does in pursuance of subsection (2) or (5).

(9) The authority must reimburse the Secretary of State for any expenditure he incurs in connection with anything—

(a) which is done by him under subsection (2)(a), and

(b) which the authority failed or omitted to do as mentioned in subsection (1).

[(10) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities for whom the document has been prepared. **]** [2]
] [1]

Notes

[1] Substituted by Housing and Planning Act 2016 c. 22 Pt 6 s.146 (October 1, 2016)

[2] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(4) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Commencement

Pt 2 s. 27(1)-(6)(b): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 27(1)-(9)(b): England, Wales

Pt 2 s. 27(10): (extent not available)

Law In Force

[27A Default powers exercisable by Mayor of London [, combined authority or county council] [2]

Schedule A1 (default powers exercisable by Mayor of London [, combined authority or county council] [2]) has effect.] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Pt 6 s.147(1) (October 1, 2016)

[2] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.10 (January 16, 2018)

Extent

Pt 2 s. 27A: England, Wales

Partially In Force With Amendments Pending

28 Joint local development documents

(1) Two or more local planning authorities may agree to prepare one or more joint local development documents.

(2) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint local development document as it applies for the purposes of any step which may be or is required to be taken in relation to a local development document.

(3) For the purposes of subsection (2) anything which must be done by or in relation to a local planning authority in connection with a local development document must be done by or in relation to each of the authorities mentioned in subsection (1) in connection with a joint local development document.

(4) Any requirement of this Part in relation to [regional strategy] [1] is a requirement in relation to [regional strategy] [1] for the region in which each authority mentioned in subsection (1) is situated.

(5) If the authorities mentioned in subsection (1) include one or more London boroughs the requirements of this Part in relation to the spatial development strategy also apply.

(6) Subsections (7) to (9) apply if a local planning authority withdraw from an agreement mentioned in subsection (1).

(7) Any step taken in relation to the document must be treated as a step taken by–

(a) an authority which were a party to the agreement for the purposes of any corresponding document prepared by them;

(b) two or more other authorities who were parties to the agreement for the purposes of any corresponding joint local development document.

(8) Any independent examination of a local development document to which the agreement relates must be suspended.

(9) If before the end of the period prescribed for the purposes of this subsection an authority which were a party to the agreement request the Secretary of State to do so he may direct that–

[(a) the examination is resumed in relation to—

(i) any corresponding document prepared by an authority which were a party to the agreement, or

(ii) any corresponding joint local development document prepared by two or more other authorities which were parties to the agreement;

] [2]

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

(10) A joint local development document is a local development document prepared jointly by two or more local planning authorities.

(11) The Secretary of State may by regulations make provision as to what is a corresponding document **[** or a corresponding joint local development document for the purposes of this section. **]** [3]

.

Notes

[1] Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.16 (April 1, 2010)

[2] Substituted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(6) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

[3] Words inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(7) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Amendments Pending

Pt 2 s. 28(4): repealed by Localism Act 2011 c. 20, Sch. 25(16) para. 1 (date to be appointed)

Commencement

Pt 2 s. 28(1)-(11): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 28-(9)(a), (9)(b)-(11): England, Wales

Pt 2 s. 28(9)(a)(i)-(9)(a)(ii): (extent not available)

Law In Force

[28A Power to direct preparation of joint development plan documents

(1) The Secretary of State may direct two or more local planning authorities to prepare a joint development plan document.

(2) The Secretary of State may give a direction under this section in relation to a document whether or not it is specified in the local development schemes of the local planning authorities in question as a document which is to be prepared jointly with one or more other local planning authorities.

(3) The Secretary of State may give a direction under this section only if the Secretary of State considers that to do so will facilitate the more effective planning of the development and use of land in the area of one or more of the local planning authorities in question.

(4) A direction under this section may specify—

(a) the area to be covered by the joint development plan document to which the direction relates;

(b) the matters to be covered by that document;

(c) the timetable for preparation of that document.

(5) The Secretary of State must, when giving a direction under this section, notify the local planning authorities to which it applies of the reasons for giving it.

(6) If the Secretary of State gives a direction under this section, the Secretary of State may direct the local planning authorities to which it is given to amend their local development schemes so that they cover the joint development plan document to which it relates.

(7) A joint development plan document is a development plan document which is, or is required to be, prepared jointly by two or more local planning authorities pursuant to a direction under this section.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(2) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Extent

Pt 2 s. 28A(1)-(7): England, Wales

Law In Force

[28B Application of Part to joint development plan documents

(1) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint development plan document as it applies for the purposes of any step which may be or is required to be taken in relation to a development plan document.

(2) For the purposes of subsection (1) anything which must be done by or in relation to a local planning authority in connection with a development plan document must be done by or in relation to each of the authorities mentioned in section 28A(1) in connection with a joint development plan document.

(3) If the authorities mentioned in section 28A(1) include a London borough council or a Mayoral development corporation, the requirements of this Part in relation to the spatial development strategy also apply.

(4) Those requirements also apply if—

(a) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the combined authority's area, and

(b) the authorities mentioned in section 28A(1) include a local planning authority whose area is within, or is the same as, the area of the combined authority.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(2) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Extent

Pt 2 s. 28B(1)-(4)(b): England, Wales

Law In Force

[28C Modification or withdrawal of direction under section 28A

(1) The Secretary of State may modify or withdraw a direction under section 28A by notice in writing to the authorities to which it was given.

(2) The Secretary of State must, when modifying or withdrawing a direction under section 28A, notify the local planning authorities to which it was given of the reasons for the modification or withdrawal.

(3) The following provisions of this section apply if—

(a) the Secretary of State withdraws a direction under section 28A, or

(b) the Secretary of State modifies a direction under that section so that it ceases to apply to one or more of the local planning authorities to which it was given.

(4) Any step taken in relation to the joint development plan document to which the direction related is to be treated as a step taken by—

(a) a local planning authority to which the direction applied for the purposes of any corresponding document prepared by them, or

(b) two or more local planning authorities to which the direction applied for the purposes of any corresponding joint development plan document prepared by them.

(5) Any independent examination of a joint development plan document to which the direction related must be suspended.

(6) If before the end of the period prescribed for the purposes of this subsection a local planning authority to which the direction applied request the Secretary of State to do so, the Secretary of State may direct that—

(a) the examination is resumed in relation to—

(i) any corresponding document prepared by a local planning authority to which the direction applied, or

(ii) any corresponding joint development plan document prepared by two or more local planning authorities to which the direction applied, and

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

(7) The Secretary of State may by regulations make provision as to what is a corresponding document or a corresponding joint development plan document for the purposes of this section.
] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(2) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Extent

Pt 2 s. 28C(1)-(7): England, Wales

Joint committees

Partially In Force

29 Joint committees

(1) This section applies if one or more local planning authorities agree with one or more county councils in relation to any area of such a council for which there is also a district council to establish a joint committee to be, for the purposes of this Part, the local planning authority–

(a) for the area specified in the agreement;

(b) in respect of such matters as are so specified.

(2) The Secretary of State may by order constitute a joint committee to be the local planning authority–

(a) for the area;

(b) in respect of those matters.

(3) Such an order–

(a) must specify the authority or authorities and county council or councils (the constituent authorities) which are to constitute the joint committee;

(b) may make provision as to such other matters as the Secretary of State thinks are necessary or expedient to facilitate the exercise by the joint committee of its functions.

(4) Provision under subsection (3)(b)–

(a) may include provision corresponding to provisions relating to joint committees in Part 6 of the Local Government Act 1972 (c. 70);

(b) may apply (with or without modifications) such enactments relating to local authorities as the Secretary of State thinks appropriate.

(5) If an order under this section is annulled in pursuance of a resolution of either House of Parliament–

(a) with effect from the date of the resolution the joint committee ceases to be the local planning authority as mentioned in subsection (2);

(b) anything which the joint committee (as the local planning authority) was required to do for the purposes of this Part must be done for their area by each local planning authority which were a constituent authority of the joint committee;

(c) each of those local planning authorities must revise their local development scheme accordingly.

(6) Nothing in this section or section 30 confers on a local planning authority constituted by virtue of an order under this section any function in relation to section 13 or 14.

(7) The policies adopted by the joint committee in the exercise of its functions under this Part must be taken for the purposes of the planning Acts to be the policies of each of the constituent authorities which are a local planning authority.

(8) Subsection (9) applies to any function–

(a) which is conferred on a local planning authority (within the meaning of the principal Act) under or by virtue of the planning Acts, and

(b) which relates to the authority's local development scheme or local development documents.

(9) If the authority is a constituent authority of a joint committee references to the authority's local development scheme or local development documents must be construed as including references to the scheme or documents of the joint committee.

(10) For the purposes of subsection (4) a local authority is any of the following–

(a) a county council;

(b) a district council;

(c) a London borough council.

Commencement

Pt 2 s. 29(1)-(10)(c): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 29-(10)(c): England, Wales

Partially In Force

30 Joint committees: additional functions

(1) This section applies if the constituent authorities to a joint committee agree that the joint committee is to be, for the purposes of this Part, the local planning authority for any area or matter which is not the subject of–

(a) an order under section 29, or

(b) an earlier agreement under this section.

(2) Each of the constituent authorities and the joint committee must revise their local development scheme in accordance with the agreement.

(3) With effect from the date when the last such revision takes effect the joint committee is, for the purposes of this Part, the local planning authority for the area or matter mentioned in subsection (1).

Commencement

Pt 2 s. 30(1)-(3): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 30(1)-(3): England, Wales

Partially In Force

31 Dissolution of joint committee

(1) This section applies if a constituent authority requests the Secretary of State to revoke an order constituting a joint committee as the local planning authority for any area or in respect of any matter.

(2) The Secretary of State may revoke the order.

(3) Any step taken by the joint committee in relation to a local development scheme or a local development document must be treated for the purposes of any corresponding scheme or document as a step taken by a successor authority.

(4) A successor authority is–

(a) a local planning authority which were a constituent authority of the joint committee;

(b) a joint committee constituted by order under section 29 for an area which does not include an area which was not part of the area of the joint committee mentioned in subsection (1).

(5) If the revocation takes effect at any time when an independent examination is being carried out in relation to a local development document the examination must be suspended.

(6) But if before the end of the period prescribed for the purposes of this subsection a successor authority falling within subsection (4)(a) requests the Secretary of State to do so he may direct that–

(a) the examination is resumed in relation to the corresponding document;

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

(7) The Secretary of State may by regulations make provision as to what is a corresponding scheme or document.

Commencement

Pt 2 s. 31(1)-(7): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 31-(7): England, Wales

Miscellaneous

Partially In Force

32 Exclusion of certain representations

(1) This section applies to any representation or objection in respect of anything which is done or is proposed to be done in pursuance of–

(a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the Highways Act 1980 (c. 66);

(b) an order or scheme under section 7, 9, 11, 13 or 20 of the Highways Act 1959 (c. 25), section 3 of the Highways (Miscellaneous Provisions) Act 1961 (c. 63) or section 1 or 10 of the Highways Act 1971 (c. 41) (which provisions were replaced by the provisions mentioned in paragraph (a));

(c) an order under section 1 of the New Towns Act 1981 (c. 64).

(2) If the Secretary of State or a local planning authority thinks that a representation made in relation to a local development document is in substance a representation or objection to which this section applies he or they (as the case may be) may disregard it.

Commencement

Pt 2 s. 32(1)-(2): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 32(1)-(2): England, Wales

Partially In Force

33 Urban development corporations

The Secretary of State may direct **[** that the provisions of— **]** [1]

[(a) this Part, or

(b) any particular regulations made under section 14A, do not apply

to the area of an urban development corporation. **]** [1]

Notes

[1] Words and s.33(a) and (b) substituted for words by Housing and Planning Act 2016 c. 22 Pt 6 s.151(2) (May 12, 2016)

Commencement

Pt 2 s. 33: September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 33(a)-(b): England, Wales

Law In Force

[33A Duty to co-operate in relation to planning of sustainable development

(1) Each person who is—

(a) a local planning authority,

(b) a county council in England that is not a local planning authority, or

(c) a body, or other person, that is prescribed or of a prescribed description,

must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (9) in maximising the effectiveness with which activities within subsection (3) are undertaken.

(2) In particular, the duty imposed on a person by subsection (1) requires the person—

(a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and

(b) to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3).

(3) The activities within this subsection are—

(a) the preparation of development plan documents,

(b) the preparation of other local development documents,

(c) the preparation of marine plans under the Marine and Coastal Access Act 2009 for the English inshore region, the English offshore region or any part of either of those regions,

(d) activities that can reasonably be considered to prepare the way for activities within any of paragraphs (a) to (c) that are, or could be, contemplated, and

(e) activities that support activities within any of paragraphs (a) to (c),

so far as relating to a strategic matter.

(4) For the purposes of subsection (3), each of the following is a "strategic matter"—

(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and

(b) sustainable development or use of land in a two-tier area if the development or use—

(i) is a county matter, or

(ii) has or would have a significant impact on a county matter.

(5) In subsection (4)—

"county matter" has the meaning given by paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph 1(1)(i)),

"planning area" means—

(a) the area of—

(i) a district council (including a metropolitan district council),

(ii) a London borough council, or

(iii) a county council in England for an area for which there is no district council,

but only so far as that area is neither in a National Park nor in the Broads,

(b) a National Park,

(c) the Broads,

(d) the English inshore region, or

(e) the English offshore region, and

"two-tier area" means an area—

(a) for which there is a county council and a district council, but
(b) which is not in a National Park.

(6) The engagement required of a person by subsection (2)(a) includes, in particular—
(a) considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3), and
(b) if the person is a local planning authority, considering whether to agree under section 28 to prepare joint local development documents.

(7) A person subject to the duty under subsection (1) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

(8) A person, or description of persons, may be prescribed for the purposes of subsection (1)(c) only if the person, or persons of that description, exercise functions for the purposes of an enactment.

(9) A person is within this subsection if the person is a body, or other person, that is prescribed or of a prescribed description.

(10) In this section—
"the English inshore region" and "the English offshore region" have the same meaning as in the Marine and Coastal Access Act 2009, and
"land" includes the waters within those regions and the bed and subsoil of those waters.
] [1]

Notes

[1] Added by Localism Act 2011 c. 20 Pt 6 c.1 s.110(1) (November 15, 2011)

Extent

Pt 2 s. 33A(1)-(10) definition of "land": England, Wales

Partially In Force

34 Guidance

[(1) In the exercise of any function conferred under or by virtue of this Part the local planning authority must have regard to any guidance issued by the Secretary of State.

(2) The Secretary of State must issue guidance for local planning authorities on how their local development documents (taken as a whole) should address housing needs that result from old age or disability. **]** [1]

Notes

[1] Existing words renumbered as s.34(1) and s.34(2) inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.8(2) (July 4, 2019)

Commencement

Pt 2 s. 34: September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 34(1)-(2): (extent not available)

Partially In Force

35 [Authorities] [1] monitoring [reports] [1]

(1) **[…]**[2]

(2) **[** Every local planning authority must prepare reports containing **]** [3] such information as is prescribed as to–

(a) the implementation of the local development scheme;

(b) the extent to which the policies set out in the local development documents are being achieved.

(3) **[** A report under subsection (2) must— **]** [4]

[(a) be in respect of a period—

(i) which the authority considers appropriate in the interests of transparency,

(ii) which begins with the end of the period covered by the authority's most recent report under subsection (2), and

(iii) which is not longer than 12 months or such shorter period as is prescribed;

] [4]

(c) be in such form as is prescribed;

(d) contain such other matter as is prescribed.

[(3A) Subsection (3B) applies if a London borough council or a Mayoral development corporation have determined in accordance with section 19(1D) that—

(a) policies to address the strategic priorities for the development and use of land in their area are set out in the spatial development strategy, and

(b) accordingly, such policies will not to that extent be set out in their development plan documents.

(3B) Each report by the council or corporation under subsection (2) must—

(a) indicate that such policies are set out in the spatial development strategy, and

(b) specify where in the strategy those policies are set out.

(3C) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority's area, subsections (3A) and (3B) also apply in relation to—

(a) a local planning authority whose area is within, or the same as, the area of the combined authority, and

(b) the spatial development strategy published by the combined authority.

] [5]

[(4) The authority must make the authority's reports under this section available to the public. **]** [6]

Notes

[1] Word substituted by Localism Act 2011 c. 20 Pt 6 c.1 s.113(6) (January 15, 2012)

[2] Repealed by Localism Act 2011 c. 20 Sch.25(17) para.1 (January 15, 2012)

[3] Words substituted by Localism Act 2011 c. 20 Pt 6 c.1 s.113(3) (January 15, 2012)

[4] Words and s.35(3)(a) substituted for words and s.35(3)(a) and (b) by Localism Act 2011 c. 20 Pt 6 c.1 s.113(4) (January 15, 2012)

[5] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.8(3) (January 16, 2018)

[6] Added by Localism Act 2011 c. 20 Pt 6 c.1 s.113(5) (January 15, 2012)

Commencement

Pt 2 s. 35(1)-(3)(d): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 35-(3)(d), (4): England, Wales

Pt 2 s. 35(3A)-(3C)(b): (extent not available)

General

Partially In Force

36 Regulations [and standards] [1]

(1) The Secretary of State may by regulations make provision in connection with the exercise by any person of functions under this Part.

(2) The regulations may in particular make provision as to–

(a) the procedure to be followed by the local planning authority in carrying out the appraisal under section 19;

(b) the procedure to be followed in the preparation of local development documents;

(c) requirements about the giving of notice and publicity;

(d) requirements about inspection by the public of a local development document or any other document;

(e) the nature and extent of consultation with and participation by the public in anything done under this Part;

(f) the making of representations about any matter to be included in a local development document;

(g) consideration of any such representations;

(h) the remuneration and allowances payable to a person appointed to carry out an independent examination under section 20;

(i) the determination of the time at which anything must be done for the purposes of this Part;

(j) the manner of publication of any draft, report or other document published under this Part;

(k) monitoring the exercise by local planning authorities of their functions under this Part;

(l) the making of reasonable charges for the provision of copies of documents required by or under this Part.

[(3) The Secretary of State may from time to time publish data standards for—

(a) local development schemes,

(b) local development documents, or
(c) local development documents of a particular kind.

(4) For this purpose a "data standard" is a written standard which contains technical specifications for a scheme or document or the data contained in a scheme or document.

(5) A local planning authority must comply with the data standards published under subsection (3) in preparing, publishing, maintaining or revising a scheme or document to which the standards apply. **]** [2]

Notes

[1] Words inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.11(2) (July 19, 2017)

[2] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.11(3) (July 19, 2017)

Commencement

Pt 2 s. 36(1)-(2)(l): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 36-(2)(l): England, Wales

Pt 2 s. 36(3)-(5): (extent not available)

Partially In Force With Amendments Pending

37 Interpretation

(1) Local development scheme must be construed in accordance with section 15.

(2) Local development document must be construed in accordance with **[** sections 17 and 18(3) **]** [1].

[(3) A development plan document is a local development document which is specified as a development plan document in the local development scheme. **]** [2]

(4) Local planning authorities are–
(a) district councils;
(b) London borough councils;
(c) metropolitan district councils;
(d) county councils in relation to any area in England for which there is no district council;
(e) the Broads Authority.

(5) A National Park authority is the local planning authority for the whole of its area and subsection (4) must be construed subject to that.

[(5ZA) Subsection (4) must also be construed subject to any order under section 198(2) of the Localism Act 2011 so far as providing that a Mayoral development corporation is, as regards an area, to be the local planning authority for some or all of the purposes of this Part in relation to some or all kinds of development.

(5ZB) Where such an order makes such provision, that MDC is, in relation to the kinds of development concerned, the local planning authority for the area and purposes concerned in place

of any authority who, in relation to those kinds of development, would otherwise be the local planning authority for that area and those purposes. **]** [3]

[(5A) Subsection (4) must **[** additionally be construed, and subsection (5ZB) must be construed, **]** [5] subject to any designation order under section 13 of the Housing and Regeneration Act 2008 (power to make designation orders) providing that the Homes and Communities Agency is to be the local planning authority–

(a) for an area specified in the order, and

(b) for all purposes of this Part or any such purposes so specified.

(5B) Where such an order makes such provision, the Homes and Communities Agency is the local planning authority for the area and the purposes concerned in place of any authority who would otherwise be the local planning authority for that area and those purposes. **]** [4]

[(5C) Joint local development document must be construed in accordance with section 28(10).

(5D) Joint development plan document must be construed in accordance with section 28A(7). **]** [6]

[(6) "Regional strategy" means a regional strategy under Part 5 of the Local Democracy, Economic Development and Construction Act 2009.

(6A) "Responsible regional authorities" is to be construed in accordance with Part 5 of the Local Democracy, Economic Development and Construction Act 2009. **]** [7]

(7) This section applies for the purposes of this Part.

Notes

1 Words substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(6)(a) (April 6, 2009 in relation to England and Wales)

2 Substituted by Planning Act 2008 c. 29 Pt 9 c.2 s.180(6)(b) (April 6, 2009 in relation to England and Wales)

3 Added by Localism Act 2011 c. 20 Sch.22 para.56(2) (January 15, 2012)

4 Added by Housing and Regeneration Act 2008 c. 17 Sch.8 para.81 (December 1, 2008)

5 Words substituted by Localism Act 2011 c. 20 Sch.22 para.56(3) (January 15, 2012)

6 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(8) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

7 S.37(6) and (6A) substituted for s.37(6) by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.17 (April 1, 2010)

Amendments Pending

Pt 2 s. 37(6)-(6A): repealed by Localism Act 2011 c. 20, Sch. 25(16) para. 1 (date to be appointed)

Commencement

Pt 2 s. 37(1)-(7): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(b))

Extent

Pt 2 s. 37(1)-(5B), (6)-(7): England, Wales

Pt 2 s. 37(5C)-(5D): (extent not available)

PART 3

DEVELOPMENT

Development plan

Law In Force With Amendments Pending

38 Development plan

(1) A reference to the development plan in any enactment mentioned in subsection (7) must be construed in accordance with subsections (2) to (5).

(2) For the purposes of any area in Greater London the development plan is–

(a) the spatial development strategy, **[…]**[1]

(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area **[**, and**]**[1]

[(c) the neighbourhood development plans which have been made in relation to that area.**]**[1]

(3) For the purposes of any other area in England the development plan is–

(a) the **[**regional strategy**]**[2] for the region in which the area is situated **[** (if there is a regional strategy for that region)**]**[3] , **[…]**[4]

(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area **[**, and**]**[4]

[(c) the neighbourhood development plans which have been made in relation to that area.**]**[4]

[(3A) For the purposes of any area in England (but subject to subsection (3B)) a neighbourhood development plan which relates to that area also forms part of the development plan for that area if—

(a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but

(b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.

(3B) The neighbourhood development plan ceases to form part of the development plan if the local planning authority decide under section 38A(6) not to make the plan.**]**[5]

(4) For the purposes of any area in Wales the development plan is **[**—**]**[6]

[(a) the National Development Framework for Wales,

[(b) any strategic development plan for an area that includes all or part of that area, and**]**[7]

(c) the local development plan for that area.**]**[6]

(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document **[**to become part of the development plan**]**[8] .

(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

(7) The enactments are–

(a) this Act;
(b) the planning Acts;
(c) any other enactment relating to town and country planning;
(d) the Land Compensation Act 1961 (c. 33);
(e) the Highways Act 1980 (c. 66).

(8) In subsection (5) references to a development plan include a development plan for the purposes of paragraph 1 of Schedule 8.

[(9) Development plan document must be construed in accordance with section 37(3). **]** [9]

[(10) Neighbourhood development plan must be construed in accordance with section 38A. **]** [10]

Notes

1 Added by Localism Act 2011 c. 20 Sch.9(2) para.6(a) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

2 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Pt 5 s.82(1) (April 1, 2010)

3 Words inserted by Localism Act 2011 c. 20 Sch.8 para.13(1) (November 15, 2011)

4 Added by Localism Act 2011 c. 20 Sch.9(2) para.6(b) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

5 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.3 (July 19, 2017)

6 S.38(4)(a)-(c) substituted for words by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.9 (December 4, 2020)

7 Substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.2 (January 21, 2021)

8 Words substituted by Localism Act 2011 c. 20 Sch.9(2) para.6(c) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

9 Added by Planning Act 2008 c. 29 Pt 9 c.2 s.180(7) (April 6, 2009 in relation to England and Wales)

10 Added by Localism Act 2011 c. 20 Sch.9(2) para.6(d) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

Amendments Pending

Pt 3 s. 38(3)(a): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Commencement

Pt 3 s. 38(1)-(8): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales subject to transitional provisions and savings specified in SI 2005/2847 art.3 (SI 2004/2202 art. 2(b); SI 2005/2847 art. 2(a), art. 3)

Extent

Pt 3 s. 38-(10): England, Wales

Law In Force

[38A Meaning of "neighbourhood development plan"

(1) Any qualifying body is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan.

(2) A "neighbourhood development plan" is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.

(3) Schedule 4B to the principal Act, which makes provision about the process for the making of neighbourhood development orders, including—

(a) provision for independent examination of orders proposed by qualifying bodies, and

(b) provision for the holding of referendums on orders proposed by those bodies,

is to apply in relation to neighbourhood development plans (subject to the modifications set out in section 38C(5) of this Act).

(4) A local planning authority to whom a proposal for the making of a neighbourhood development plan has been made—

(a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan, and

(b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held [and, in any event, by such date as may be prescribed] [2] .

(5) If—

(a) there are two applicable referendums under that Schedule as so applied (because the plan relates to a neighbourhood area designated as a business area under section 61H of the principal Act), and

(b) in one of those referendums (but not the other) more than half of those voting have voted in favour of the plan,

the authority may (but need not) make a neighbourhood development plan to which the proposal relates.

(6) The authority are not to be subject to the duty under subsection (4)(a) if they consider that the making of the plan would breach, or would otherwise be incompatible with, any [retained EU obligation] [3] or any of the Convention rights (within the meaning of the Human Rights Act 1998).

(7) Regulations made by the Secretary of State may make provision as to the procedure to be followed by local planning authorities in cases where they act under subsection (6).

(8) The regulations may in particular make provision—

(a) for the holding of an examination,

(b) as to the payment by a local planning authority of remuneration and expenses of the examiner,

(c) as to the award of costs by the examiner,

(d) as to the giving of notice and publicity,
(e) as to the information and documents that are to be made available to the public,
(f) as to the making of reasonable charges for anything provided as a result of the regulations,
(g) as to consultation with and participation by the public, and (h) as to the making and consideration of representations (including the time by which representations must be made).

(9) The authority must publish in such manner as may be prescribed—
(a) their decision to act under subsection (4) or (6),
(b) their reasons for making that decision, and
(c) such other matters relating to that decision as may be prescribed.

(10) The authority must send a copy of the matters required to be published to—
(a) the qualifying body that initiated the process for the making of the plan, and
(b) such other persons as may be prescribed.

(11) If a neighbourhood development plan is in force in relation to a neighbourhood area—
(a) a qualifying body may make a proposal for the existing plan to be replaced by a new one, and
(b) the process for the making of the replacement plan is the same as the process for the making of the existing plan.

[(11A) Subsection (11) is subject to Schedule A2, which makes provision for the modification of a neighbourhood development plan. **]** [4]

[(11B) Subsection (11C) applies if, as a result of a modification of a neighbourhood area under section 61G(6) of the principal Act, a neighbourhood development plan relates to more than one neighbourhood area.

(11C) The replacement of the plan by a new plan in relation to one or some of those areas does not affect the continuation in force of the plan in relation to the other area or areas. **]** [5]

(12) For the purposes of this section—
"local planning authority" has the same meaning as it has in Part 2 (see section 37), but the Broads Authority are to be the only local planning authority for the Broads,
"neighbourhood area" has the meaning given by sections 61G and 61I(1) of the principal Act,
"prescribed" means prescribed by regulations made by the Secretary of State, and
"qualifying body" means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the principal Act, as applied by section 38C of this Act.

] [1]

Notes

[1] Added by Localism Act 2011 c. 20 Sch.9(2) para.7 (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

[2] Words inserted by Housing and Planning Act 2016 c. 22 Pt 6 s.140(3) (May 12, 2016)

[3] Words substituted by Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 Pt 2 reg.3(2) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[4] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.4(5) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)

[5] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.5(6) (January 31, 2018)

Extent

Pt 3 s. 38A(1)-(12) definition of "qualifying body": England, Wales

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Law In Force

[38B Provision that may be made by neighbourhood development plans

(1) A neighbourhood development plan—

(a) must specify the period for which it is to have effect,

(b) may not include provision about development that is excluded development, and

(c) may not relate to more than one neighbourhood area.

(2) Only one neighbourhood development plan may be made for each neighbourhood area.

[(2A) Subsections (1)(c) and (2) are subject to section 61G(6D) of the principal Act (as applied by section 38C(5A) of this Act). **]** [2]

(3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

(4) Regulations made by the Secretary of State may make provision—

(a) restricting the provision that may be included in neighbourhood development plans about the use of land,

(b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and

(c) prescribing the form of neighbourhood development plans.

(5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.

(6) Section 61K of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection (1)(b).

] [1]

Notes

[1] Added by Localism Act 2011 c. 20 Sch.9(2) para.7 (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

[2] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.5(7) (January 31, 2018)

Extent

Pt 3 s. 38B(1)-(2), (3)-(6): England, Wales

Pt 3 s. 38B(2A): (extent not available)

Law In Force

[38C Supplementary provisions

(1) The following provisions of the principal Act are to apply in relation to neighbourhood development plans.

(2) The provisions to be applied are—

(a) section 61F (authorisation to act in relation to neighbourhood areas),

(b) section 61I(2) and (3) (neighbourhood areas in areas of two or more local planning authorities),

(c) section 61M (revocation or modification of neighbourhood development orders),

(d) section 61N (legal challenges),

(e) section 61O (guidance), and

(f) section 61P (provision as to the making of certain decisions by local planning authorities).

[(2A) Section 61F of the principal Act is to apply in accordance with subsection (2) of this section as if—

(a) subsections (8)(a) and (8B) also referred to a proposal for the modification of a neighbourhood development plan,

(b) subsection (13)(b) also referred to a proposal for the modification of a neighbourhood development plan made by a neighbourhood forum, and

(c) subsection (13)(c) also referred to any duty of a local planning authority under paragraph 7, 8 or 9 of Schedule A2 to this Act.

] [2]

(3) Section 61M of the principal Act is to apply in accordance with subsection (2) of this section as if **[—]** [3]

[(a) the words "by order" (wherever occurring) were omitted, and

(b) the reference in subsection (4A) to a modification materially affecting any planning permission granted by the order were to a modification materially affecting the policies in the plan. **]** [3]

(4) Section 61N(1) of the principal Act is to apply in accordance with subsection (2) of this section as if the reference to section 61E(4) or (8) of that Act were a reference to section 38A(4) or (6) of this Act.

(5) Schedule 4B to the principal Act is to apply in accordance with 38A(3) of this Act with the following modifications—

(a) the reference to section 61E(8) of the principal Act is to be read as a reference to section 38A(6) of this Act,

(b) references to the provision made by or under sections 61E(2), 61J and 61L of the principal Act are to be read as references to the provision made by or under sections 38A and 38B of this Act,

(c) references to section 61L(2)(b) or (5) of the principal Act are to be disregarded, and

(d) paragraph 8 is to have effect as if sub-paragraphs (2)(b) and (c) and (3) to (5) were omitted.

[(5A) Section 61G(6D) of the principal Act is to apply in relation to neighbourhood development plans as if it also provided that a modification under section 61G(6) of that Act of a designation of a neighbourhood area does not affect the continuation in force of a neighbourhood development plan even though, as a result of the modification, more than one plan has effect for the same area. **]** [4]

(6) Regulations under section 61G(11) of the principal Act (designation of areas as neighbourhood areas) may include provision about the consequences of the modification of designations **[—]** [5]

[(a) on proposals for neighbourhood development plans, or on neighbourhood development plans, that have already been made, or

(b) on proposals for the modification of neighbourhood development plans, or on modifications of neighbourhood development plans, that have already been made. **]** [5]

(7) The fact that the list of applied provisions includes section 61N(2) and (3) of the principal Act is not to affect the operation of section 20(2) of the Interpretation Act 1978 in relation to other references to enactments applied in accordance with this section.
] [1]

Notes

1 Added by Localism Act 2011 c. 20 Sch.9(2) para.7 (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

2 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.4(7) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)

3 Existing words renumbered as s.38C(3)(a) and word and s.38C(3)(b) inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.4(8) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)

4 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.5(8) (January 31, 2018)

5 Existing words renumbered as s.38C(6)(a) and word and s.38C(6)(b) inserted by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.4(9) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)

Extent

Pt 3 s. 38C(1)-(2)(f), (3), (4)-(5)(d), (6), (7): England, Wales

Pt 3 s. 38C(2A)-(2A)(c), (3)(a)-(3)(b), (5A), (6)(a)-(6)(b): (extent not available)

Sustainable development

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England

Law In Force With Amendments Pending

Wales

39 Sustainable development

(1) This section applies to any person who or body which exercises any function–

(a) **[…]**[1]

(b) under Part 2 **[** of this Act **]**[2] in relation to local development documents **[.]**[3]

(c) **[…]**[3]

(2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.

(3) For the purposes of subsection (2) the person or body must have regard to national policies and advice contained in guidance issued by–

(a) the Secretary of State for the purposes of **[** subsection (1)(b) **]**[4] **[.]**[5]

(b) **[…]**[5]

Notes

1 Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

2 Words inserted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.18(2)(b) (April 1, 2010)

3 Repealed by Planning (Wales) Act 2015 anaw. 4 Pt 2 s.2(6)(a) (April 1, 2016 subject to transitional provision specified in SI 2015/1987 art.6)

4 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.18(3) (April 1, 2010)

5 Repealed by Planning (Wales) Act 2015 anaw. 4 Pt 2 s.2(6)(b) (April 1, 2016 subject to transitional provision specified in SI 2015/1987 art.6)

England

[39 Sustainable development

(1) This section applies to any person who or body which exercises any function–

(a) **[…]**[2]

(b) under Part 2 **[** of this Act **]**[3] in relation to local development documents **[.]**[4]

(c) **[…]**[4]

(2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.

(2A) For the purposes of subsection (2) the person or body must (in particular) have regard to the desirability of achieving good design.

(3) For the purposes of subsection (2) the person or body must have regard to national policies and advice contained in guidance issued by–

(a) the Secretary of State for the purposes of **[** subsection (1)(b) **]** [5] **[** . **]** [6]
(b) **[…]**[6]
] [1]

Notes

1 Added by Planning Act 2008 c. 29 Pt 9 c.2 s.183 (April 6, 2009 as SI 2009/400)

2 Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(4) para.1 (April 1, 2010)

3 Words inserted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.18(2)(b) (April 1, 2010)

4 Repealed by Planning (Wales) Act 2015 anaw. 4 Pt 2 s.2(6)(a) (April 1, 2016 subject to transitional provision specified in SI 2015/1987 art.6)

5 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.18(3) (April 1, 2010)

6 Repealed by Planning (Wales) Act 2015 anaw. 4 Pt 2 s.2(6)(b) (April 1, 2016 subject to transitional provision specified in SI 2015/1987 art.6)

Amendments Pending

Pt 3 s. 39(2A): added by Planning Act 2008 c. 29, Pt 9 c. 2 s. 183 (date to be appointed)

Commencement

Pt 3 s. 39(1)-(3)(b): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(d); SI 2005/2847 art. 2(b))

Extent

Pt 3 s. 39-(3)(b): England, Wales

PART 4

DEVELOPMENT CONTROL

Local development orders

Law In Force

40 Local development orders

(1) In the principal Act after section 61 (supplementary provision about development orders) there are inserted the following sections–

"Local development orders

61A Local development orders

(1) A local planning authority may by order (a local development order) make provision to implement policies–

(a) in one or more development plan documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004);

(b) in a local development plan (within the meaning of Part 6 of that Act).

(2) A local development order may grant planning permission–

(a) for development specified in the order;

(b) for development of any class so specified.

(3) A local development order may relate to–

(a) all land in the area of the relevant authority;

(b) any part of that land;

(c) a site specified in the order.

(4) A local development order may make different provision for different descriptions of land.

(5) But a development order may specify any area or class of development in respect of which a local development order must not be made.

(6) A local planning authority may revoke a local development order at any time.

(7) Schedule 4A makes provision in connection with local development orders.

61B Intervention by Secretary of State or National Assembly

(1) At any time before a local development order is adopted by a local planning authority the appropriate authority may direct that the order (or any part of it) is submitted to it for its approval.

(2) If the appropriate authority gives a direction under subsection (1)–

(a) the authority must not take any step in connection with the adoption of the order until the appropriate authority gives its decision;

(b) the order has no effect unless it (or, if the direction relates to only part of an order, the part) has been approved by the appropriate authority.

(3) In considering an order or part of an order submitted under subsection (1) the appropriate authority may take account of any matter which it thinks is relevant.

(4) It is immaterial whether any such matter was taken account of by the local planning authority.

(5) The appropriate authority–

(a) may approve or reject an order or part of an order submitted to it under subsection (1);

(b) must give reasons for its decision under paragraph (a).

(6) If the appropriate authority thinks that a local development order is unsatisfactory–

(a) it may at any time before the order is adopted by the local planning authority direct them to modify it in accordance with the direction;
(b) if it gives such a direction it must state its reasons for doing so.

(7) The local planning authority–
(a) must comply with the direction;
(b) must not adopt the order unless the appropriate authority gives notice that it is satisfied that they have complied with the direction.

(8) The appropriate authority–
(a) may at any time by order revoke a local development order if it thinks it is expedient to do so;
(b) must, if it revokes a local development order, state its reasons for doing so.

(9) Subsections (3) to (6) of section 100 apply to an order under subsection (8) above as they apply to an order under subsection (1) of that section and for that purpose references to the Secretary of State must be construed as references to the appropriate authority.

(10) The appropriate authority is–
(a) the Secretary of State in relation to England;
(b) the National Assembly for Wales in relation to Wales.

61C Permission granted by local development order

(1) Planning permission granted by a local development order may be granted–
(a) unconditionally, or
(b) subject to such conditions or limitations as are specified in the order.

(2) If the permission is granted for development of a specified description the order may enable the local planning authority to direct that the permission does not apply in relation to–
(a) development in a particular area, or
(b) any particular development."

(2) In each of the following provisions of the principal Act in each place where it occurs after "development order" there is inserted "or a local development order"–
(a) section 56(5)(a) (definition of material development);
(b)-(k) **[…]**[1]
(l) section 279(1)(a)(i) (compensation for certain decisions and orders).

(3) Section 333 of the principal Act (regulations and orders) is amended as follows–
(a) in subsection (4) after "55(2)(f)," there is inserted "61A(5)";
(b) in subsection (5)(b) after "28," there is inserted "61A(5) (unless it is made by the National Assembly for Wales),".

(4) Schedule 1 further amends the principal Act.

Notes

[1] Repealed by Localism Act 2011 c. 20 Sch.12 para.29 (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the

purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

Commencement

Pt 4 s. 40(1)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; May 10, 2006 in relation to England; April 30, 2012 in relation to Wales (SI 2004/2097 art. 2; SI 2006/1061 art. 2(a); SI 2012/1100 art. 2)

Extent

Pt 4 s. 40-(4): England, Wales

Revision of development orders

Law In Force

41 Effect of revision or revocation of development order on incomplete development

In the principal Act after section 61C (planning permission granted by local development orders) (inserted by section 40 of this Act) there is inserted the following section–

"61D Effect of revision or revocation of development order on incomplete development

(1) A development order or local development order may include provision permitting the completion of development if–

(a) planning permission is granted by the order in respect of the development, and

(b) the planning permission is withdrawn at a time after the development is started but before it is completed.

(2) Planning permission granted by a development order is withdrawn–

(a) if the order is revoked;

(b) if the order is amended so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;

(c) by the issue of a direction under powers conferred by the order.

(3) Planning permission granted by a local development order is withdrawn–

(a) if the order is revoked under section 61A(6) or 61B(8);

(b) if the order is revised in pursuance of paragraph 2 of Schedule 4A so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;

(c) by the issue of a direction under powers conferred by the order.

(4) The power under this section to include provision in a development order or a local development order may be exercised differently for different purposes."

Commencement

Pt 4 s. 41: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; May 10, 2006 in relation to England; April 30, 2012 in relation to Wales (SI 2004/2097 art. 2; SI 2006/1061 art. 2(a); SI 2012/1100 art. 2)

Extent

Pt 4 s. 41-: England, Wales

Applications

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England

Partially In Force With Amendments Pending

Wales

42 Applications for planning permission and certain consents

(1) In the principal Act for section 62 (form and content of applications for planning permission) there is substituted the following section–

"62 Applications for planning permission

(1) A development order may make provision as to applications for planning permission made to a local planning authority.

(2) Provision referred to in subsection (1) includes provision as to–

(a) the form and manner in which the application must be made;
(b) particulars of such matters as are to be included in the application;
(c) documents or other materials as are to accompany the application.

(3) The local planning authority may require that an application for planning permission must include–

(a) such particulars as they think necessary;
(b) such evidence in support of anything in or relating to the application as they think necessary.

(4) But a requirement under subsection (3) must not be inconsistent with provision made under subsection (1).

(5) A development order must require that an application for planning permission of such description as is specified in the order must be accompanied by such of the following as is so specified–

(a) a statement about the design principles and concepts that have been applied to the development;

(b) a statement about how issues relating to access to the development have been dealt with.

(6) The form and content of a statement mentioned in subsection (5) is such as is required by the development order."

(2) In section 73 of the principal Act (determination of applications to develop land without compliance with conditions previously attached) subsection (3) is omitted.

(3) In section 198 of that Act (tree preservation orders) after subsection (7) there is inserted–

"(8) In relation to an application for consent under a tree preservation order the appropriate authority may by regulations make provision as to–

(a) the form and manner in which the application must be made;

(b) particulars of such matters as are to be included in the application;

(c) the documents or other materials as are to accompany the application.

(9) The appropriate authority is–

(a) the Secretary of State in relation to England;

(b) the National Assembly for Wales in relation to Wales,

and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored."

(4) In section 220 of that Act (regulations controlling display of advertisements) after subsection (2) there is inserted the following subsection–

"(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 must accompany the application."

(5) In the principal Act before section 328 (settled land and land of universities and colleges) there is inserted the following section–

"327A Applications: compliance with requirements

(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to–

(a) the form or manner in which the application must be made;

(b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement."

(6) In section 10(2) of the listed buildings Act (applications for listed buildings consent) the words from "shall be made" to "require and" are omitted.

(7) In section 10(3) of that Act for paragraph (a) there are substituted the following paragraphs–

"(a) the form and manner in which such applications are to be made;
(aa) particulars of such matters as are to be included in such applications;
(ab) the documents or other materials as are to accompany such applications;".

(8) In section 10 of that Act after subsection (3) there are inserted the following subsections–

"(4) The regulations must require that an application for listed building consent of such description as is prescribed must be accompanied by such of the following as is prescribed–
(a) a statement about the design principles and concepts that have been applied to the works;
(b) a statement about how issues relating to access to the building have been dealt with.

(5) The form and content of a statement mentioned in subsection (4) is such as is prescribed."

(9) In section 89(1) of that Act (application of certain provisions of the principal Act) after the entry relating to section 323 there is inserted–

"section 327A (compliance with requirements relating to applications),".

England

[42 Applications for planning permission and certain consents

(1) In the principal Act for section 62 (form and content of applications for planning permission) there is substituted the following section–

"62 Applications for planning permission

(1) A development order may make provision as to applications for planning permission made to a local planning authority.

(2) Provision referred to in subsection (1) includes provision as to–
(a) the form and manner in which the application must be made;
(b) particulars of such matters as are to be included in the application;
(c) documents or other materials as are to accompany the application.

(3) The local planning authority may require that an application for planning permission must include–
(a) such particulars as they think necessary;
(b) such evidence in support of anything in or relating to the application as they think necessary.

(4) But a requirement under subsection (3) must not be inconsistent with provision made under subsection (1).

(5) A development order must require that an application for planning permission of such description as is specified in the order must be accompanied by such of the following as is so specified–

(a) a statement about the design principles and concepts that have been applied to the development;

(b) a statement about how issues relating to access to the development have been dealt with.

(6) The form and content of a statement mentioned in subsection (5) is such as is required by the development order."

(2) In section 73 of the principal Act (determination of applications to develop land without compliance with conditions previously attached) subsection (3) is omitted.

(4) In section 220 of that Act (regulations controlling display of advertisements) after subsection (2) there is inserted the following subsection–

"(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 must accompany the application."

(5) In the principal Act before section 328 (settled land and land of universities and colleges) there is inserted the following section–

"327A Applications: compliance with requirements

(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to–

(a) the form or manner in which the application must be made;

(b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement."

(6) In section 10(2) of the listed buildings Act (applications for listed buildings consent) the words from "shall be made" to "require and" are omitted.

(7) In section 10(3) of that Act for paragraph (a) there are substituted the following paragraphs–

"(a) the form and manner in which such applications are to be made;

(aa) particulars of such matters as are to be included in such applications;

(ab) the documents or other materials as are to accompany such applications;".

(8) In section 10 of that Act after subsection (3) there are inserted the following subsections–

"(4) The regulations must require that an application for listed building consent of such description as is prescribed must be accompanied by such of the following as is prescribed–

(a) a statement about the design principles and concepts that have been applied to the works;

(b) a statement about how issues relating to access to the building have been dealt with.

(5) The form and content of a statement mentioned in subsection (4) is such as is prescribed."

(9) In section 89(1) of that Act (application of certain provisions of the principal Act) after the entry relating to section 323 there is inserted–

"section 327A (compliance with requirements relating to applications),".

] [1]

Notes

[1] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2012 as SI 2012/601)

Amendments Pending

Pt 4 s. 42(3): repealed by Planning Act 2008 c. 29, Sch. 13 para. 1 (date to be appointed)

Commencement

Pt 4 s. 42(1)-(9): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; May 10, 2006 in relation to England for provisions specified in SI 2006/1061 art.3(a); June 30, 2007 in relation to Wales for provisions specified in SI 2007/1369 art.2(a) subject to savings specified in SI 2007/1369 art.3(1); not yet in force otherwise (SI 2004/2097 art. 2; SI 2006/1061 art. 3(a); SI 2007/1369 art. 2(a), art. 3(1))

Extent

Pt 4 s. 42-(9): England, Wales

Partially In Force

43 Power to decline to determine applications

(1) For section 70A of the principal Act (power of local planning authority to decline to determine application) there are substituted the following sections–

"70A Power to decline to determine subsequent application

(1) A local planning authority may decline to determine a relevant application if–

(a) any of the conditions in subsections (2) to (4) is satisfied, and

(b) the authority think there has been no significant change in the relevant considerations since the relevant event.

(2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application referred to him under section 76A or 77.

(3) The condition is that in that period the Secretary of State has dismissed an appeal–

(a) against the refusal of a similar application, or

(b) under section 78(2) in respect of a similar application.

(4) The condition is that–

(a) in that period the local planning authority have refused more than one similar application, and

(b) there has been no appeal to the Secretary of State against any such refusal.

(5) A relevant application is–

(a) an application for planning permission for the development of any land;

(b) an application for approval in pursuance of section 60(2).

(6) The relevant considerations are–

(a) the development plan so far as material to the application;

(b) any other material considerations.

(7) The relevant event is–

(a) for the purposes of subsections (2) and (4) the refusal of the similar application;

(b) for the purposes of subsection (3) the dismissal of the appeal.

(8) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.

70B Power to decline to determine overlapping application

(1) A local planning authority may decline to determine an application for planning permission for the development of any land which is made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 76A or 77 or on an appeal under section 78 and the Secretary of State has not issued his decision.

(4) The condition is that a similar application–

(a) has been granted by the local planning authority,

(b) has been refused by them, or

(c) has not been determined by them within the determination period,

and the time within which an appeal could be made to the Secretary of State under section 78 has not expired.

(5) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.

(6) The determination period is–

(a) the period prescribed by the development order for the determination of the application, or

(b) such longer period as the applicant and the authority have agreed for the determination of the application."

(2) In section 78(2)(aa) of that Act after "70A" there is inserted "or 70B".

(3) After section 81 of the listed buildings Act (authorities with functions under the Act) there are inserted the following sections–

"Power to decline to determine application

81A Power to decline to determine subsequent application

(1) A local planning authority may decline to determine an application for a relevant consent if–

(a) one or more of the conditions in subsections (2) to (4) is satisfied, and

(b) the authority think there has been no significant change in any material considerations since the relevant event.

(2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application referred to him under section 12.

(3) The condition is that in that period the Secretary of State has dismissed an appeal–

(a) against the refusal of a similar application, or

(b) under section 20(2) in respect of a similar application.

(4) The condition is that–

(a) in that period the local planning authority have refused more than one similar application, and

(b) there has been no appeal to the Secretary of State against any such refusal.

(5) Relevant consent is–

(a) listed building consent, or

(b) conservation area consent.

(6) The relevant event is–

(a) for the purposes of subsections (2) and (4) the refusal of the similar application;

(b) for the purposes of subsection (3) the dismissal of the appeal.

(7) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.

(8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.

81B Power to decline to determine overlapping application

(1) A local planning authority may decline to determine an application for a relevant consent which is made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 12 or on an appeal under section 20 and the Secretary of State has not issued his decision.

(4) The condition is that a similar application–

(a) has been granted by the local planning authority,

(b) has been refused by them, or

(c) has not been determined by them within the determination period,

and the time within which an appeal could be made to the Secretary of State under section 20 has not expired.

(5) Relevant consent is–

(a) listed building consent, or

(b) conservation area consent.

(6) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.

(7) The determination period is–

(a) the period prescribed for the determination of the application, or

(b) such longer period as the applicant and the authority have agreed for the determination of the application.

(8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74."

(4) Section 20(2) of that Act (appeals) is amended as follows–

(a) for "neither" there is substituted "done none of the following";

(b) after paragraph (a) for "nor" there is substituted–

"(aa) given notice to the applicant that they have exercised their power under section 81A or 81B to decline to determine the application;".

(5) This section has effect only in relation to applications made under the principal Act or the listed buildings Act which are received by the local planning authority after this section comes into force.

Commencement

Pt 4 s. 43(1), (3), (4)(b): August 24, 2005 in relation to England for purposes specified in SI 2005/2081 art.2(a); April 6, 2009 in relation to England otherwise; not yet in force otherwise (SI 2005/2081 art. 2(a); SI 2009/384 art. 2(a))

Pt 4 s. 43(2): April 6, 2009 in relation to England; not yet in force otherwise (SI 2009/384 art. 2(b))

Pt 4 s. 43(4): August 24, 2005

Pt 4 s. 43(4)(a), (5): August 24, 2005 in relation to England; not yet in force otherwise (SI 2005/2081 art. 2(a))

Extent

Pt 4 s. 43(1)-(5): England, Wales

Major infrastructure projects

Partially In Force

44 Major infrastructure projects

In the principal Act the following sections are inserted before section 77 (Reference of applications to the Secretary of State)–

"76A Major infrastructure projects

(1) This section applies to–

(a) an application for planning permission;

(b) an application for the approval of a local planning authority required under a development order,

if the Secretary of State thinks that the development to which the application relates is of national or regional importance.

(2) The Secretary of State may direct that the application must be referred to him instead of being dealt with by the local planning authority.

(3) If the Secretary of State gives a direction under subsection (2) he may also direct that any application–

(a) under or for the purposes of the planning Acts, and

(b) which he thinks is connected with the application mentioned in subsection (1),

must also be referred to him instead of being dealt with by the local planning authority.

(4) If the Secretary of State gives a direction under this section–

(a) the application must be referred to him;

(b) he must appoint an inspector to consider the application.

(5) If the Secretary of State gives a direction under subsection (2) the applicant must prepare an economic impact report which must–

(a) be in such form and contain such matter as is prescribed by development order;

(b) be submitted to the Secretary of State in accordance with such provision as is so prescribed.

(6) For the purposes of subsection (5) the Secretary of State may, by development order, prescribe such requirements as to publicity and notice as he thinks appropriate.

(7) A direction under this section or section 76B may be varied or revoked by a subsequent direction.

(8) The decision of the Secretary of State on any application referred to him under this section is final.

(9) Regional relates to a region listed in Schedule 1 to the Regional Development Agencies Act 1998 (c. 45).

(10) The following provisions of this Act apply (with any necessary modifications) to an application referred to the Secretary of State under this section as they apply to an application which falls to be determined by a local planning authority–

(a) section 70;

(b) section 72(1) and (5);
(c) section 73;
(d) section 73A.

(11) A development order may apply (with or without modifications) any requirements imposed by the order by virtue of section 65 or 71 to an application referred to the Secretary of State under this section.

(12) This section does not apply to an application which relates to the development of land in Wales.

76B Major infrastructure projects: inspectors

(1) This section applies if the Secretary of State appoints an inspector under section 76A(4)(b) (the lead inspector).

(2) The Secretary of State may direct the lead inspector–
(a) to consider such matters relating to the application as are prescribed;
(b) to make recommendations to the Secretary of State on those matters.

(3) After considering any recommendations of the lead inspector the Secretary of State may–
(a) appoint such number of additional inspectors as he thinks appropriate;
(b) direct that each of the additional inspectors must consider such matters relating to the application as the lead inspector decides.

(4) An additional inspector must–
(a) comply with such directions as to procedural matters as the lead inspector gives;
(b) report to the lead inspector on the matters he is appointed to consider.

(5) A copy of directions given as mentioned in subsection (4)(a) must be given to–
(a) the person who made the application;
(b) the local planning authority;
(c) any other person who requests it.

(6) If the Secretary of State does not act under subsection (3) he must direct the lead inspector to consider the application on his own.

(7) In every case the lead inspector must report to the Secretary of State on–
(a) his consideration of the application;
(b) the consideration of the additional inspectors (if any) of the matters mentioned in subsection (3)(b).

(8) The function of the lead inspector in pursuance of subsection (2)–
(a) may be exercised from time to time;
(b) includes making recommendations as to the number of additional inspectors required from time to time.

(9) The power of the Secretary of State under subsection (3) to appoint an additional inspector includes power to revoke such an appointment."

Commencement

Pt 4 s. 44: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; August 24, 2005 in relation to England subject to savings specified in SI 2005/2081 art.4(1); not yet in force otherwise (SI 2004/2097 art. 2; SI 2005/2081 art. 2(b), art. 4(1))

Extent

Pt 4 s. 44-: England, Wales

Simplified planning zones

Not Yet In Force With Amendments Pending

45 Simplified planning zones

(1) In section 83 of the principal Act (making simplified planning zone schemes) subsection (1) is omitted.

(2) Before section 83(2) of that Act there are inserted the following subsections–

"(1A) This section applies if–

(a) the regional spatial strategy for the region in which the area of a local planning authority in England is situated identifies the need for a simplified planning zone in that area (or any part of it);

(b) the criteria prescribed by the National Assembly for Wales for the need for a simplified planning zone are satisfied in relation to the area (or any part of the area) of a local planning authority in Wales.

(1B) The local planning authority must consider the question for which part or parts of their area a simplified planning zone scheme is desirable.

(1C) The local planning authority must keep under review the question mentioned in subsection (1B)."

(3) For section 83(2) of that Act there are substituted the following subsections–

"(2) A local planning authority must make a simplified planning zone scheme for all or any part of their area–

(a) if as a result of the consideration mentioned in subsection (1B) or the review mentioned in subsection (1C) they decide that it is desirable to do so;

(b) if they are directed to do so by the Secretary of State or the National Assembly for Wales (as the case may be).

(2A) A local planning authority may at any time–

(a) alter a scheme adopted by them;

(b) with the consent of the Secretary of State alter a scheme made or altered by him under paragraph 12 of Schedule 7 or approved by him under paragraph 11 of that Schedule;

(c) with the consent of the National Assembly for Wales alter a scheme made or altered by it under paragraph 12 of Schedule 7 or approved by it under paragraph 11 of that Schedule.

(2B) A simplified planning zone scheme for an area in England must be in conformity with the regional spatial strategy."

(4) In section 83 of that Act after subsection (3) there is inserted the following subsection–

"(4) In this section and in Schedule 7–

(a) a reference to the regional spatial strategy must be construed in relation to any area in Greater London as a reference to the spatial development strategy;

(b) a reference to a region must be construed in relation to such an area as a reference to Greater London."

(5) In section 85(1) of that Act (duration of simplified planning zone scheme) for the words from "period" to the end there is substituted "specified period".

(6) After section 85(1) of that Act there is inserted the following subsection–

"(1A) The specified period is the period not exceeding 10 years–

(a) beginning with the date when the scheme is adopted or approved, and

(b) which is specified in the scheme."

(7) In Schedule 7 of that Act in paragraph 2 (notification of proposal to make scheme) for "decide under section 83(2) to make or" there is substituted "are required under section 83(2) to make or decide under section 83(2A) to".

(8) In Schedule 7 of that Act paragraphs 3 and 4 are omitted.

(9) In Schedule 7 of that Act in paragraph 12 (default powers of Secretary of State) for sub-paragraph (1) there are substituted the following sub-paragraphs–

"(1) This paragraph applies if each of the following conditions is satisfied.

(1A) The first condition is that–

(a) the regional spatial strategy for the region in which the area of a local planning authority is situated identifies the need for a simplified planning zone in any part of their area, or

(b) the criteria prescribed by the National Assembly for Wales for the need for a simplified planning zone are satisfied in relation to the area of a local planning authority in Wales.

(1B) The second condition is that the Secretary of State or the National Assembly for Wales (as the case may be) 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 making or alteration of a scheme.

(1C) The Secretary of State or the National Assembly for Wales (as the case may be) may make or alter the scheme."

Amendments Pending

Pt 4 s. 45(A1): added by Localism Act 2011 c. 20 Sch. 8 para. 14(2) (Not yet in force)

Pt 4 s. 45(1): words substituted by Localism Act 2011 c. 20 Sch. 8 para. 14(3) (Not yet in force)

Pt 4 s. 45(2): repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(4)(a) (Not yet in force)

Pt 4 s. 45(2): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(4)(b) (Not yet in force)

Pt 4 s. 45(2): words repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 4 s. 45(3): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(5)(a)(i) (Not yet in force)

Pt 4 s. 45(3): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(5)(a)(ii) (Not yet in force)

Pt 4 s. 45(3): repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(5)(b) (Not yet in force)

Pt 4 s. 45(3): repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(5)(c) (Not yet in force)

Pt 4 s. 45(3): words repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 4 s. 45(4): repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(6) (Not yet in force)

Pt 4 s. 45(9): repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(7)(a)(i) (Not yet in force)

Pt 4 s. 45(9): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(7)(a)(ii) (Not yet in force)

Pt 4 s. 45(9): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(7)(b)(i) (Not yet in force)

Pt 4 s. 45(9): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(7)(b)(ii) (Not yet in force)

Pt 4 s. 45(9): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(7)(c)(i) (Not yet in force)

Pt 4 s. 45(9): words repealed by Localism Act 2011 c. 20 Sch. 8 para. 14(7)(c)(ii) (Not yet in force)

Pt 4 s. 45(9): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 4 s. 45(9): words repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Commencement

Pt 4 s. 45(1)-(9): Date to be appointed (not yet in force)

Extent

Pt 4 s. 45(1)-(9): England, Wales

Planning contribution

Repealed

46 […][1]

Notes

[1] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (January 26, 2009)

Repealed

47 […][1]

Notes

[1] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (January 26, 2009)

Repealed

48 […][1]

Notes

[1] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (January 26, 2009)

Miscellaneous

Law In Force

49 Development to include certain internal operations

(1) In the principal Act in section 55 (meaning of development) after subsection (2) there are inserted the following subsections–

> "(2A) The Secretary of State may in a development order specify any circumstances or description of circumstances in which subsection (2) does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.
>
> (2B) The development order may make different provision for different purposes."

(2) This subsection applies if–

(a) section 55(2) of the principal Act is disapplied in respect of any operations by virtue of a development order under section 55(2A) of that Act,

(b) at the date the development order comes into force a certificate under section 192 of the principal Act (certificate of lawfulness of proposed use or development) is in force in respect of the operations, and

(c) before that date no such operations have been begun.

(3) If subsection (2) applies the certificate under section 192 of the principal Act is of no effect.

(4) A development order made for the purposes of section 55(2A) of the principal Act does not affect any operations begun before it is made.

Commencement

Pt 4 s. 49(1)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; May 10, 2006 in relation to England; June 22, 2015 in relation to Wales otherwise (SI 2004/2097 art. 2; SI 2006/1061 art. 2(b); SI 2015/340 art. 2(a))

Extent

Pt 4 s. 49-(4): England, Wales

Partially In Force

50 Appeal made: functions of local planning authority

(1) In the principal Act after section 78 (right to appeal) there is inserted the following section–

"78A Appeal made: functions of local planning authorities

(1) This section applies if a person who has made an application mentioned in section 78(1)(a) appeals to the Secretary of State under section 78(2).

(2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 78(2).

(3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application–

(a) the appeal must be treated as an appeal under section 78(1) against the refusal;

(b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;

(c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.

(4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity–

(a) to proceed with the appeal as an appeal under section 78(1) against the grant of the application subject to conditions;

(b) to revise the grounds of the appeal;

(c) to change any option the person has chosen relating to the procedure for the appeal.

(5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.

(6) The additional period is the period prescribed by development order for the purposes of this section and which starts on the day on which the person appeals under section 78(2)."

(2) In the listed buildings Act after section 20 (right to appeal) there is inserted the following section–

"20A Appeal made: functions of local planning authorities

(1) This section applies if a person who has made an application mentioned in section 20(1)(a) appeals to the Secretary of State under section 20(2).

(2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 20(2).

(3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application–

(a) the appeal must be treated as an appeal under section 20(1) against the refusal;

(b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;

(c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.

(4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity–

(a) to proceed with the appeal as an appeal under section 20(1) against the grant of the application subject to conditions;

(b) to revise the grounds of the appeal;

(c) to change any option the person has chosen relating to the procedure for the appeal.

(5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.

(6) The additional period is the period prescribed for the purposes of this section and which starts on the day on which the person appeals under section 20(2)."

(3) This section has effect only in relation to relevant applications which are received by the local planning authority after the commencement of this section.

(4) The following are relevant applications–

(a) an application mentioned in section 78(1)(a) of the principal Act;

(b) an application mentioned in section 20(1)(a) of the listed buildings Act;

(c) an application mentioned in section 20(1)(a) of the listed buildings Act as given effect by section 74(3) of that Act (application of certain provisions to the control of demolition in conservation areas).

Commencement

Pt 4 s. 50(1)-(4)(c): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 22, 2015 in relation to Wales; not yet in force otherwise (SI 2004/2097 art. 2; SI 2015/340 art. 2(b))

Extent

Pt 4 s. 50-(4)(c): England, Wales

Partially In Force

51 Duration of permission and consent

(1) Section 91 of the principal Act (limit on duration of planning permission) is amended as follows–

(a) **[…]**[1]

(b) after subsection (3) there are inserted the following subsections–

"(3A) Subsection (3B) applies if any proceedings are begun to challenge the validity of a grant of planning permission or of a deemed grant of planning permission.

(3B) The period before the end of which the development to which the planning permission relates is required to be begun in pursuance of subsection (1) or (3) must be taken to be extended by one year.

(3C) Nothing in this section prevents the development being begun from the time the permission is granted or deemed to be granted."

(2) **[…]**[2]

(3) In section 73 of the principal Act (applications to develop land without compliance with existing conditions) after subsection (4) there is inserted the following subsection–

"(5) Planning permission must not be granted under this section to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which–

(a) a development must be started;

(b) an application for approval of reserved matters (within the meaning of section 92) must be made."

(4) Section 18 of the listed buildings Act (limit of duration of listed buildings consent) is amended as follows–

(a) in subsections (1)(a) and (2) for the words "five years" there is substituted "three years";

(b) after subsection (2) there are inserted the following subsections–

"(2A) Subsection (2B) applies if any proceedings are begun to challenge the validity of a grant of listed building consent or of a deemed grant of listed building consent.

(2B) The period before the end of which the works to which the consent relates are required to be begun in pursuance of subsection (1) or (2) must be taken to be extended by one year.

(2C) Nothing in this section prevents the works being begun from the time the consent is granted."

(5) In section 19 of that Act (variation or discharge of conditions) after subsection (4) there is inserted the following subsection–

"(5) But a variation or discharge of conditions under this section must not–

(a) vary a condition subject to which a consent was granted by extending the time within which the works must be started;

(b) discharge such a condition."

(6) This section has effect only in relation to applications made under the principal Act or the listed buildings Act which are received by the local planning authority after the commencement of the section.

Notes

[1] Repealed by Planning (Wales) Act 2015 anaw. 4 Pt 6 s.35(8) (March 16, 2016 subject to transitional provisions specified in SI 2016/52 art.13)

[2] Repealed by Planning (Wales) Act 2015 anaw. 4 Pt 6 s.36(7) (March 16, 2016 subject to transitional provisions specified in SI 2016/52 art.13)

Commencement

Pt 4 s. 51(1): August 24, 2005

Pt 4 s. 51(1)(a), (2)-(6): August 24, 2005 in relation to England; not yet in force otherwise (SI 2005/2081 art. 2(c))

Pt 4 s. 51(1)(b): August 24, 2005 in relation to England; June 22, 2015 in relation to Wales for the purpose specified in SI 2015/340 art.3; not yet in force otherwise (SI 2015/340 art. 3)

Extent

Pt 4 s. 51(1)-(6): England, Wales

Law In Force

52 Temporary stop notice

After section 171D of the principal Act (penalties for non-compliance with planning contravention notice) there are inserted the following sections–

"Temporary stop notices

171E Temporary stop notice

(1) This section applies if the local planning authority think–

(a) that there has been a breach of planning control in relation to any land, and

(b) that it is expedient that the activity (or any part of the activity) which amounts to the breach is stopped immediately.

(2) The authority may issue a temporary stop notice.

(3) The notice must be in writing and must–

(a) specify the activity which the authority think amounts to the breach;

(b) prohibit the carrying on of the activity (or of so much of the activity as is specified in the notice);

(c) set out the authority's reasons for issuing the notice.

(4) A temporary stop notice may be served on any of the following–

(a) the person who the authority think is carrying on the activity;

(b) a person who the authority think is an occupier of the land;

(c) a person who the authority think has an interest in the land.

(5) The authority must display on the land–

(a) a copy of the notice;

(b) a statement of the effect of the notice and of section 171G.

(6) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (5).

(7) A temporary stop notice ceases to have effect–

(a) at the end of the period of 28 days starting on the day the copy notice is so displayed,

(b) at the end of such shorter period starting on that day as is specified in the notice, or

(c) if it is withdrawn by the local planning authority.

171F Temporary stop notice: restrictions

(1) A temporary stop notice does not prohibit–

(a) the use of a building as a dwelling house;

(b) the carrying out of an activity of such description or in such circumstances as is prescribed.

(2) A temporary stop notice does not prohibit the carrying out of any activity which has been carried out (whether or not continuously) for a period of four years ending with the day on which the copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (2) does not prevent a temporary stop notice prohibiting–

(a) activity consisting of or incidental to building, engineering, mining or other operations, or

(b) the deposit of refuse or waste materials.

(4) For the purposes of subsection (2) any period during which the activity is authorised by planning permission must be ignored.

(5) A second or subsequent temporary stop notice must not be issued in respect of the same activity unless the local planning authority has first taken some other enforcement action in relation to the breach of planning control which is constituted by the activity.

(6) In subsection (5) enforcement action includes obtaining the grant of an injunction under section 187B.

171G Temporary stop notice: offences

(1) A person commits 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 accordance with section 171E(5).

(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this section may be charged by reference to a day or a longer period of time.

(4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.

(5) A person does not commit an offence under this section if he proves–

(a) that the temporary stop notice was not served on him, and

(b) that 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 £20,000;

(b) on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

171H Temporary stop notice: compensation

(1) This section applies if and only if a temporary stop notice is issued and at least one of the following paragraphs applies–

(a) the activity which is specified in the notice is authorised by planning permission or a development order or local development order;

(b) a certificate in respect of the activity is issued under section 191 or granted under that section by virtue of section 195;

(c) the authority withdraws the notice.

(2) Subsection (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in subsection (2).

(4) A person who at the time the notice is served has an interest in the land to which the notice relates is entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(5) Subsections (3) to (7) of section 186 apply to compensation payable under this section as they apply to compensation payable under that section; and for that purpose references in those subsections to a stop notice must be taken to be references to a temporary stop notice."

Commencement

Pt 4 s. 52: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; March 7, 2005 in relation to England; June 22, 2015 in relation to Wales otherwise (SI 2004/2097 art. 2; SI 2005/204 art. 2; SI 2015/340 art. 2(c))

Extent

Pt 4 s. 52-: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England

Partially Repealed With Amendments Pending

Wales

53 Fees and charges

(1) Section 303 (fees for planning applications, etc) of the principal Act is amended as follows.

(2) The following subsections are substituted for subsections (1) and (2)–

> "(1) The appropriate authority may by regulations make provision for the payment of a charge or fee to a local planning authority in respect of–
>
> (a) the performance by the local planning authority of any function they have;
>
> (b) anything done by them which is calculated to facilitate or is conducive or incidental to the performance of any such function.
>
> (2) The regulations may prescribe–
>
> (a) the person by whom the charge or fee is payable;
>
> (b) provision as to the calculation of the charge or fee (including the person by whom it is to be calculated);
>
> (c) circumstances in which no charge or fee is to be paid;
>
> (d) circumstances in which a charge or fee is to be transferred from one local planning authority to another.
>
> (2A) The appropriate authority is–
>
> (a) the Secretary of State in relation to England;
>
> (b) the National Assembly for Wales in relation to Wales,
>
> and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored."

(3) In subsection (4) after the first "prescribed" there is inserted "charge or".

(4) After subsection (5) there are inserted the following subsections–

> "(5A) If the local planning authority calculate the amount of fees or charges in pursuance of provision made by regulations under subsection (1) the authority must secure that, taking one financial year with another, the income from the fees or charges does not exceed the cost of the performance of the function or doing of the thing (as the case may be).
>
> (5B) A financial year is the period of 12 months beginning with 1 April."

(5) Subsection (6) is omitted.

England

[…][1]

Notes

[1] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2009 as SI 2009/400)

Amendments Pending

Pt 4 s. 53: repealed by Planning Act 2008 c. 29, Sch. 13 para. 1 (date to be appointed)

Commencement

Pt 4 s. 53(1)-(5): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; March 7, 2005 in relation to England; April 1, 2006 otherwise (SI 2004/2097 art. 2; SI 2005/204 art. 2; SI 2006/931 art. 2)

Extent

Pt 4 s. 53-(5): England, Wales

Law In Force

54 Duty to respond to consultation

(1) This section applies to a prescribed requirement to consult any person or body (the consultee) which exercises functions for the purposes of any enactment.

(2) A prescribed requirement to consult is a requirement–

(a) with which the appropriate authority or a local planning authority must comply before granting any permission, approval or consent under or by virtue of the planning Acts;

(b) which is prescribed for the purposes of this subsection.

(3) At any time before an application is made for any permission, approval or consent mentioned in subsection (2) any person may in relation to a proposed development consult the consultee on any matter in respect of which the appropriate authority is or the local planning authority are required to consult the consultee.

(4) The consultee must give a substantive response to any consultation mentioned in subsection (2) or by virtue of subsection (3) before the end of–

(a) the period prescribed for the purposes of this subsection, or

(b) such other period as is agreed in writing between the consultee and the appropriate authority or the local planning authority (as the case may be).

(5) The appropriate authority may also prescribe–

(a) the procedure to be followed for the purposes of this section;

(b) the information to be provided to the consultee for the purposes of the consultation;

(c) the requirements of a substantive response.

(6) Anything prescribed for the purposes of subsections (1) to (5) must be prescribed by development order.

(7) A development order may–

(a) require consultees to give the appropriate authority a report as to their compliance with subsection (4);

(b) prescribe the form and content of the report;

(c) prescribe the times at which the report is to be made.

(8) The appropriate authority is–

(a) the Secretary of State in relation to England;

(b) the National Assembly for Wales in relation to Wales.

Commencement

Pt 4 s. 54(1)-(8)(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; August 24, 2005 in relation to England subject to savings specified in SI 2005/2081 art.4(3); June 22, 2015 in relation to Wales subject to savings specified in SI 2015/340 art.4 otherwise (SI 2004/2097 art. 2; SI 2005/2081 art. 2(d)(i), art. 4(3); SI 2015/340 art. 2(d), art. 4)

Extent

Pt 4 s. 54-(8)(b): England, Wales

Partially In Force

55 Time in which Secretary of State to take decisions

(1) Schedule 2 contains provisions about the time in which the Secretary of State must take certain decisions.

(2) But Schedule 2 does not apply in relation to any decision taken in the exercise of a function in relation to Wales if the function is exercisable in relation to Wales by the National Assembly for Wales by virtue of an order under section 22 of the Government of Wales Act 1998 (c. 38).

Commencement

Pt 4 s. 55(1)-(2): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2 for provisions specified in SI 2004/2097 art.2; April 1, 2005 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2005/204 art. 3, art. 4)

Extent

Pt 4 s. 55-(2): England, Wales

PART 5

CORRECTION OF ERRORS

Law In Force

56 Correction of errors in decisions

(1) This section applies if the Secretary of State or an inspector issues a decision document which contains a correctable error.

(2) The Secretary of State or the inspector (as the case may be) may correct the error–

(a) if he is requested to do so in writing by any person;

(b) if he sends a statement in writing to the applicant which explains the error and states that he is considering making the correction.

(3) But the Secretary of State or inspector must not correct the error unless–

(a) not later than the end of the relevant period he receives a request mentioned in subsection (2)(a) or sends a statement mentioned in subsection (2)(b), **[** and **]** [1]

(b) he informs the local planning authority of that fact **[** . **]** [2]

(c) **[…]**[2]

(4) The relevant period–

(a) is the period within which an application or appeal may be made to the High Court in respect of the decision recorded in the decision document;

(b) does not include any time by which such a period may be extended by the High Court.

(5) It is immaterial whether any such application or appeal is made.

(6)-(7) **[…]**[3]

Notes

[1] Word inserted by Town and Country Planning (Non-Material Changes and Correction of Errors) (Wales) Order 2014/1770 art.3(2)(a) (September 1, 2014)

[2] Repealed by Town and Country Planning (Non-Material Changes and Correction of Errors) (Wales) Order 2014/1770 art.3(2)(b) (September 1, 2014)

[3] Repealed by Town and Country Planning (Non-Material Changes and Correction of Errors) (Wales) Order 2014/1770 art.3(3) (September 1, 2014)

Commencement

Pt 5 s. 56(1)-(7): September 28, 2004 (SI 2004/2202 art. 3(a))

Extent

Pt 5 s. 56(1)-(7): England, Wales

Law In Force

57 Correction notice

(1) If paragraph (a) or (b) of section 56(2) applies the Secretary of State or the inspector must as soon as practicable after making any correction or deciding not to make any correction issue a notice in writing (a correction notice) which–

(a) specifies the correction of the error, or

(b) gives notice of his decision not to correct such an error.

(2) The Secretary of State or the inspector (as the case may be) must give the correction notice to–

(a) the applicant;

(b) if the applicant is not the owner of the land in respect of which the original decision was made, the owner;

(c) the local planning authority for the area in which the land in respect of which the decision was made is situated;
(d) if the correction was requested by any other person, that person.

(3) The Secretary of State may by order specify any other person or description of persons to whom the correction notice must be given.

Commencement

Pt 5 s. 57(1)-(3): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(a))

Extent

Pt 5 s. 57-(3): England, Wales

Law In Force

58 Effect of correction

(1) If a correction is made in pursuance of section 56–
(a) the original decision is taken not to have been made;
(b) the decision is taken for all purposes to have been made on the date the correction notice is issued.

(2) If a correction is not made–
(a) the original decision continues to have full force and effect;
(b) nothing in this Part affects anything done in pursuance of or in respect of the decision.

(3) Section 288 of the principal Act (proceedings for questioning the validity of certain decisions) applies to the correction notice as if it were an action on the part of the Secretary of State to which that section applies, if the decision document in respect of which the correction notice is given records a decision mentioned in–
(a) paragraph (a) of section 59(4) below, or
(b) paragraph (b) of that section, if it is a decision mentioned in section 177 of the principal Act (grant or modification of planning permission on appeal against enforcement notice).

(4) Section 289 of the principal Act (appeals to the High Court relating to enforcement notices and notices under section 207 of that Act) applies to the correction notice as if it were a decision of the Secretary of State mentioned in–
(a) subsection (1) of that section, if the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (b) of section 59(4) below (not being a decision mentioned in section 177 of the principal Act), or
(b) subsection (2) of that section, if the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (c) of section 59(4) below.

(5) Section 63 of the listed buildings Act (proceedings for questioning the validity of certain decisions) applies to the correction notice as if it were a decision of the Secretary of State to which that section applies, if the decision document in respect of which the correction notice is given records a decision mentioned in any of paragraphs (d) to (f) of section 59(4) below.

(6) Section 22 of the hazardous substances Act (proceedings for questioning the validity of certain decisions) applies to the correction notice as if it were a decision of the Secretary of State under section 20 or 21 of that Act, if the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (g) of section 59(4) below.

(7) If the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (h) of section 59(4) the Secretary of State must by order make provision for questioning the validity of the notice which corresponds to the provisions of the planning Acts mentioned in subsections (3) to (6) above.

(8) Except to the extent provided for by virtue of this section a correction notice must not be questioned in any legal proceedings.

Commencement

Pt 5 s. 58(1)-(8): September 28, 2004 (SI 2004/2202 art. 3(a))

Extent

Pt 5 s. 58(1)-(8): England, Wales

Law In Force

59 Supplementary

(1) This section applies for the purposes of this Part.

(2) An inspector is a person appointed under any of the planning Acts to determine appeals instead of the Secretary of State **[** or appointed under section 76D of the principal Act to determine applications instead of the Secretary of State **]** [1] .

[(2A) An inspector is also a person appointed under Schedule 4D of the principal Act to determine an application instead of the Welsh Ministers. **]** [2]

(3) In the case of a decision document issued by an inspector any other inspector may act under this Part.

(4) A decision document is a document which records any of the following decisions–

(a) a decision of any description which constitutes action on the part of the Secretary of State under section 284(3) of the principal Act (decisions which are not to be questioned in legal proceedings);

(b) a decision in proceedings on an appeal under Part 7 of that Act (enforcement notices);

(c) a decision in proceedings on an appeal under section 208 of that Act (appeals against enforcement notices relating to trees);

(d) a decision mentioned in section 62(2) of the listed buildings Act (decisions which are not to be questioned in legal proceedings);

(e) a decision on an appeal under section 39 of that Act (appeals against listed building enforcement notices);

(f) a decision relating to conservation area consent within the meaning of section 74(1) of that Act (consent required for demolition of certain buildings);

(g) a decision under section 20 or 21 of the hazardous substances Act (certain applications referred to and appeals determined by the Secretary of State);

(h) a decision under any of the planning Acts which is of a description specified by the Secretary of State by order.

(5) A correctable error is an error–

(a) which is contained in any part of the decision document which records the decision, but

(b) which is not part of any reasons given for the decision.

(6) The applicant is–

(a) in the case of a decision made on an application under any of the planning Acts, the person who made the application;

(b) in the case of a decision made on an appeal under any of those Acts, the appellant.

(7) The owner in relation to land is a person who–

(a) is the estate owner in respect of the fee simple;

(b) is entitled to a tenancy granted or extended for a term of years simple of which not less than seven years remain unexpired;

(c) is entitled to an interest in any mineral prescribed by a development order, in the case of such applications under the principal Act as are so prescribed.

(8) Error includes omission.

(9) For the purposes of the exercise of any function under this Part in relation to Wales references to the Secretary of State must be construed as references to the National Assembly for Wales.

Notes

[1] Words inserted by Growth and Infrastructure Act 2013 c. 27 Sch.1 para.12 (October 1, 2013 except as specified in SI 2013/2143 art.2(1)(a); October 1, 2014 otherwise)

[2] Added by Planning (Wales) Act 2015 anaw. 4 Sch.3 para.2 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)

Commencement

Pt 5 s. 59(1)-(9): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(a))

Extent

Pt 5 s. 59-(9): England, Wales

PART 6

WALES

[National Development Framework] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.3 (April 1, 2016 as SI 2015/1987 arts 3 and 7)

Law In Force

[60 National Development Framework for Wales

(1) There must be a plan, prepared and published by the Welsh Ministers, to be known as the National Development Framework for Wales.

(2) The Framework must set out such of the policies of the Welsh Ministers in relation to the development and use of land in Wales as the Welsh Ministers consider appropriate.

(3) The Framework may specify that development of a particular description, in a particular area or location, is to constitute development of national significance for the purposes of section 62D of the principal Act (development of national significance: applications to be made to Welsh Ministers).

(4) The Framework must give reasons for—

(a) the policies that it sets out, and

(b) any provision that it makes as mentioned in subsection (3).

(5) The Framework must explain how, in preparing the Framework, the Welsh Ministers have taken into account relevant policies set out in—

[(za) the national natural resources policy published under section 9 of the Environment (Wales) Act 2016, **]** [2]

(a) any marine plan adopted and published by them under Part 3 of the Marine and Coastal Access Act 2009, and

(b) the Wales Transport Strategy published under section 2 of the Transport (Wales) Act 2006.

(6) The Framework must specify the period for which it is to have effect.

(7) A plan ceases to be the National Development Framework for Wales on the expiry of the period specified under subsection (6).

] [1]

Notes

[1] Substituted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.3 (April 1, 2016: substitution has effect subject to transitional and saving provisions specified in SI 2015/1987 arts 6 and 7)

[2] Added by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.8(2) (May 21, 2016: insertion came into force on March 21, 2016 but could not take effect until the commencement of 2015 anaw 4 s.3 on April 1, 2016)

Commencement

Pt 6 s. 60(1)-(7): July 14, 2004 in relation to Wales (SI 2004/1814 art. 2, art. 3)

Extent

Pt 6 s. 60-(7): England, Wales

Law In Force

[60A Preparation of Framework: statement of public participation

(1) The Welsh Ministers must prepare and publish a statement of public participation setting out their policies relating to the consultation to be carried out in preparing the National Development Framework for Wales.

(2) In particular, the statement must include provision about—

(a) the form that the consultation will take,

(b) when the consultation will take place, and

(c) the steps that will be taken to involve members of the public in the preparation of the Framework.

(3) The statement must provide that, as part of the consultation, the Welsh Ministers will—

(a) publish a draft of the Framework, and

(b) allow a period of 12 weeks beginning with the publication of the draft Framework during which any person may make representations with regard to the draft.

(4) The Welsh Ministers may revise the statement, and must publish the statement as revised.
] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.3 (April 1, 2016 as SI 2015/1987 arts 3 and 7)

Extent

Pt 6 s. 60A(1)-(4): England, Wales

Law In Force

[60B Procedure for preparation and publication of Framework

(1) Before publishing the National Development Framework for Wales, the Welsh Ministers must—

(a) prepare a draft of the Framework,

(b) carry out an appraisal of the sustainability of the policies set out in the draft, and

(c) carry out consultation in accordance with the statement of public participation.

(2) The appraisal under subsection (1)(b) must include an assessment of the likely effects of the policies in the draft Framework on the use of the Welsh language.

(3) If, after complying with subsection (1), the Welsh Ministers wish to proceed with the draft of the Framework (with or without changes), they must lay before the National Assembly for Wales—

(a) the draft, and

(b) a report which—

(i) summarises the representations they received during the consultation carried out under subsection (1)(c), and

(ii) explains how they have taken the representations into account.

(4) The Welsh Ministers must have regard to—

(a) any resolution passed by the National Assembly for Wales with regard to the draft Framework during the Assembly consideration period, and

(b) any recommendation made by a committee of the National Assembly with regard to the draft during that period.

(5) After the expiry of the Assembly consideration period, the Welsh Ministers—

(a) may publish the National Development Framework for Wales in the terms of the draft laid under subsection (3), or

(b) if they propose to make changes to that draft, may—

(i) lay before the National Assembly for Wales an amended draft of the Framework, and

(ii) publish the National Development Framework for Wales in the terms of the amended draft.

(6) If any resolution was passed or any recommendation was made as mentioned in subsection (4), the Welsh Ministers must also, not later than the day on which the Framework is published, lay before the National Assembly for Wales a statement explaining how they have had regard to the resolution or recommendation.

(7) In this section, "the Assembly consideration period" means the period of 60 days beginning with the day on which a draft of the Framework is laid before the National Assembly for Wales under subsection (3), disregarding any time when the National Assembly is dissolved or is in recess for more than four days.

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.3 (April 1, 2016 as SI 2015/1987 arts 3 and 7)

Extent

Pt 6 s. 60B(1)-(7): England, Wales

Not Yet In Force

[60C Review and revision of Framework

(1) The Welsh Ministers must keep the National Development Framework for Wales under review.

(2) The Welsh Ministers may revise the Framework at any time, and must publish the Framework as revised.

(3) Sections 60A and 60B apply for the purposes of the revision of the Framework, as if references to the Framework (or a draft of the Framework) were references to the Framework as revised (or a draft of the Framework as revised).

(4) Subsection (5) applies if the Welsh Ministers, having published a draft of a revised Framework in accordance with the statement of public participation, decide not to proceed with the revision of the Framework.

(5) The Welsh Ministers must—

(a) publish notice of their decision and the reasons for it, and

(b) if a draft of a revised Framework has been laid before the National Assembly for Wales under section 60B(3), lay a copy of the notice before the National Assembly.

(6) Subsection (7) applies if—

(a) a review period ends, and

(b) the Welsh Ministers have not, within that period—

(i) published a revised Framework, or

(ii) laid a draft revised Framework before the National Assembly for Wales under section 60B(3).

(7) As soon as reasonably practicable after the end of the review period, the Welsh Ministers must publish and lay before the National Assembly for Wales a statement—

(a) setting out their assessment of whether the Framework should be revised and giving reasons for that assessment, and

(b) if they consider that the Framework should be revised, setting out a timetable for its revision.

(8) For the purposes of subsections (6) and (7)—

(a) the first review period—

(i) begins with the day on which the Framework is first published, and

(ii) ends with the fifth anniversary of the day on which the Framework is first published or, if earlier, with the day on which a revised Framework is published;

(b) each subsequent review period—

(i) begins with the day after the last day of the preceding review period, and

(ii) ends with the fifth anniversary of the last day of the preceding review period or, if earlier, with the day on which a revised Framework is published.

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.3 (date to be appointed)

Extent

Pt 6 s. 60C(1)-(8)(b)(ii): England, Wales

[…][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60D […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60E […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60F […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60G […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60H […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60I […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

Repealed

60J [...][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.3 (January 21, 2021)

[Strategic planning by corporate joint committees] [1]

Notes

[1] Added by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.4 (January 21, 2021)

Law In Force

[60K Corporate joint committees to which this Part applies

In this Part, references to a corporate joint committee are to a corporate joint committee to which this Part applies by virtue of regulations under Part 5 of the Local Government and Elections (Wales) Act 2021.] [1]

Notes

[1] Added by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.4 (January 21, 2021)

Extent

Pt 6 s. 60K: Wales

Law In Force

[60L Corporate joint committees: area survey

(1) A corporate joint committee must keep under review the matters which may be expected to affect the development, or the planning of the development, of its area.

(2) Subsections (2) to (5) of section 61 apply in relation to a corporate joint committee as they apply in relation to a local planning authority.

(3) In subsections (2) to (5) of section 61 as they apply by virtue of subsection (2)—

(a) references to a local planning authority are to be construed as references to a corporate joint committee;

(b) references to a neighbouring area are to be construed as references to a neighbouring area which is the area of another corporate joint committee.

] [1]

Notes

[1] Added by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.4 (January 21, 2021)

Extent

Pt 6 s. 60L(1)-(3)(b): Wales

Law In Force

[60M Corporate joint committee areas: strategic development plans

(1) A corporate joint committee must prepare a plan for its area to be known as a strategic development plan.

(2) The plan must set out—

(a) the committee's objectives in relation to the development and use of land in its area;

(b) the committee's policies for the implementation of those objectives.

(3) The plan must be in general conformity with the National Development Framework for Wales.

(4) The plan must specify the period for which it is to have effect.

(5) The Welsh Ministers may by regulations make provision about—

(a) the period that may be specified under subsection (4);

(b) the form and content of the plan.

(6) In preparing its plan the committee must have regard to—

(a) current national policies;

(b) the National Development Framework for Wales;

(c) any strategic development plan for an area that adjoins the committee's area;

(d) the local development plan for each area all or part of which is included in the committee's area;

(e) the resources likely to be available for implementing the plan;

(f) any other matters prescribed by the Welsh Ministers in regulations.

(7) The committee must also—

(a) carry out an appraisal of the sustainability of the plan;

(b) prepare a report of the findings of the appraisal.

(8) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the area.

(9) A plan is a strategic development plan only in so far as it is—

(a) adopted by resolution of the corporate joint committee as its strategic development plan, or

(b) approved by the Welsh Ministers under section 65 or 71 (as they apply by virtue of section 60N).

(10) The plan ceases to be a strategic development plan on the expiry of the period specified under subsection (4).

] [1]

Notes

[1] Added by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.4 (January 21, 2021)

Extent

Pt 6 s. 60M(1)-(10): Wales

Law In Force

[60N Strategic development plans: application of provisions of this Part

(1) The provisions specified in subsection (3) apply in relation to a strategic development plan as they apply in relation to a local development plan.

(2) Accordingly, where a provision specified in subsection (3) confers power for the Welsh Ministers to make provision by regulations in respect of a local development plan, that power is also exercisable so as to make provision in respect of a strategic development plan prepared by a corporate joint committee.

(3) The provisions are sections 63 to 68, 68A(1), 69 to 71, 73 and 75 to 77.

(4) In those provisions as they apply by virtue of subsection (1)—

(a) references to a local planning authority are to be construed as references to a corporate joint committee;

(b) references to a local development plan are to be construed as references to a strategic development plan.

(5) In section 64(5)(a) as it applies by virtue of this section, the reference to section 62 is to be construed as a reference to section 60M.

(6) In section 77(2)(a) as it applies by virtue of this section, the reference to section 62(6) is to be construed as a reference to section 60M(7).
] [1]

Notes

[1] Added by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.4 (January 21, 2021)

Extent

Pt 6 s. 60N(1)-(6): Wales

Survey

Law In Force

61 Survey

(1) The local planning authority must keep under review the matters which may be expected to affect the development of their area or the planning of its development.

(2) These matters include–

(a) the principal physical, economic, social and environmental characteristics of the area of the authority **[** (including the extent to which the Welsh language is used in the area) **]**[1] ;
(b) the principal purposes for which land is used in the area;
(c) the size, composition and distribution of the population of the area;
(d) the communications, transport system and traffic of the area;
(e) any other considerations which may be expected to affect those matters;
(f) such other matters as may be prescribed or as the Assembly in a particular case may direct.

(3) These matters also include–
(a) any changes which the authority think may occur in relation to any other matter;
(b) the effect such changes are likely to have on the development of the authority's area or on the planning of such development.

(4) The local planning authority may also keep under review and examine the matters mentioned in subsections (2) and (3) in relation to any neighbouring area to the extent that those matters may be expected to affect the area of the authority.

(5) In exercising a function under subsection (4) a local planning authority must consult the local planning authority for the neighbouring area in question.

(6) If a neighbouring area is in England references to the local planning authority for that area must be construed in accordance with Part 2.

Notes

[1] Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.11(2) (January 4, 2016)

Commencement

Pt 6 s. 61(1)-(6): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(a))

Extent

Pt 6 s. 61-(6): England, Wales

Plans

Law In Force With Amendments Pending

62 Local development plan

(1) The local planning authority must prepare a plan for their area to be known as a local development plan.

(2) The plan must set out–
(a) the authority's objectives in relation to the development and use of land in their area;
(b) their general policies for the implementation of those objectives.

(3) The plan may also set out specific policies in relation to any part of the area of the authority.

[(3A) The plan must be in general conformity with—

(a) the National Development Framework for Wales, and

(b) the strategic development plan for any **[…]**[2] area that includes all or part of the area of the authority.

] [1]

[(3B) The plan must specify the period for which it is to have effect. **]** [3]

[(4) Regulations under this section may—

(a) make provision about the period that may be specified under subsection (3B);

(b) prescribe the form and content of the plan.

] [4]

(5) In preparing a local development plan the authority must have regard to–

(a) current national policies;

[(b) the National Development Framework for Wales;

(ba) the strategic development plan for any **[…]**[6] area that—

(i) includes all or part of the area of the authority, or

(ii) adjoins that area;

] [5]

[(bb) any area statement published under section 11 of the Environment (Wales) Act 2016 for an area that includes all or part of the area of the authority; **]** [7]

(c) the RSS for any region which adjoins the area of the authority;

[(d) any relevant **[** local well-being plan **]** [9] ; **]** [8]

(f) the resources likely to be available for implementing the plan;

(g) such other matters as the Assembly prescribes.

(6) The authority must also–

(a) carry out an appraisal of the sustainability of the plan;

(b) prepare a report of the findings of the appraisal.

[(6A) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the area of the authority. **]** [10]

[(7) A local well-being plan is relevant if it has been published under **[** section 39, 44(5) or 47(6) or (11) of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) **]** [12] by—

(a) in the case of an authority which is a county council or county borough council, the public services board of which that authority is a member;

(b) in the case of an authority which is a National Park Authority, the public services board for an area that includes any part of that authority's area.

] [11]

(8) A plan is a local development plan only in so far as it–

(a) is adopted by resolution of the local planning authority as a local development plan;

(b) is approved by the Assembly under section 65 or 71.

[(9) A plan ceases to be a local development plan on the expiry of the period specified under subsection (3B). **]** [13]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.7(1) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; December 4, 2020 otherwise)

[2] Words repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.5(a) (January 21, 2021)

[3] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.12(2) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[4] Existing text renumbered as s.62(4)(a), words are inserted and s.62(4)(b) is added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.12(3) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[5] S.62(5)(b)-(ba) substituted for s.62(5)(b) by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.25 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; December 4, 2020 otherwise)

[6] Words repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.5(b) (January 21, 2021)

[7] Added by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.8(3) (May 21, 2016)

[8] S.62(5)(d) substituted for s.62(5)(d) and (e) by Local Government (Wales) Measure 2009 c. 02 Sch.2 para.5 (January 1, 2010: substitution has effect as SI 2009/3272 subject to savings and transitional provisions specified in 2009 nawm 2 Sch.3 paras 3-7)

[9] Words substituted by Well-being of Future Generations (Wales) Act 2015 anaw. 2 Sch.4 para.9 (April 1, 2016)

[10] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.11(3) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 subject to transitional provisons specified in SI 2015/1987 art.6 otherwise)

[11] Substituted by Well-being of Future Generations (Wales) Act 2015 anaw. 2 Sch.4 para.10 (April 1, 2016)

[12] Words substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.14 para.4 (March 20, 2021)

[13] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.12(4) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

Amendments Pending

Pt 6 s. 62(5)(c): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Commencement

Pt 6 s. 62(1)-(3), (5)(a)-(5)(f), (6)-(8)(b): April 30, 2005 subject to transitional provisions specified in SI 2005/1229 art.4 (SI 2005/1229 art. 2(a), art. 4)

Pt 6 s. 62(4)-(5), (5)(g): August 1, 2004 (SI 2004/1813 art. 2(a))

Extent

Pt 6 s. 62(1)-(9): England, Wales

Law In Force

63 Preparation requirements

(1) A local development plan must be prepared in accordance with–

(a) the local planning authority's community involvement scheme;
(b) the timetable for the preparation and adoption of the authority's local development plan.

(2) The authority's community involvement scheme is a statement of the authority's policy as to the involvement in the exercise of the authority's functions under this Part of the persons to which subsection (3) applies.

(3) The persons mentioned in subsection (2)–
(a) must include such persons as the Assembly prescribes;
(b) may include such other persons as appear to the authority to have an interest in matters relating to development in the area of the authority.

(4) The authority and the Assembly must attempt to agree the terms of the documents mentioned in paragraphs (a) and (b) of subsection (1).

(5) But to the extent that the Assembly and the authority cannot agree the terms the Assembly may direct that the documents must be in the terms specified in the direction.

(6) The authority must comply with the direction.

(7) The Assembly may prescribe–
(a) the procedure in respect of the preparation of the documents mentioned in paragraphs (a) and (b) of subsection (1);
(b) the form and content of the documents;
(c) the time at which any step in the preparation of the documents must be taken;
(d) publicity about the documents;
(e) making the documents available for inspection by the public;
(f) circumstances in which the requirements of the documents need not be complied with.

Commencement

Pt 6 s. 63(1)-(2), (3)(b)-(6): April 30, 2005 subject to transitional provisions specified in SI 2005/1229 art.4 (SI 2005/1229 art. 2(b), art. 4)

Pt 6 s. 63(3)-(3)(a), (7)-(7)(f): August 1, 2004

Extent

Pt 6 s. 63(1)-(7)(f): England, Wales

Law In Force

64 Independent examination

(1) The local planning authority must submit their local development plan to the Assembly for independent examination.

(2) But the authority must not submit a plan unless–
(a) they have complied with any relevant requirements contained in regulations under this Part, and
(b) they think the plan is ready for independent examination.

(3) The authority must also send to the Assembly (in addition to the local development plan) such other documents (or copies of documents) and such information as is prescribed.

(4) The examination must be carried out by a person appointed by the Assembly.

(5) The purpose of the independent examination is to determine in respect of a local development plan–

(a) whether it satisfies the requirements of sections 62 and 63 and of regulations under section 77;

(b) whether it is sound.

(6) Any person who makes representations seeking to change a local development plan must (if he so requests) be given the opportunity to appear before and be heard by the person carrying out the examination.

(7) The person appointed to carry out the examination must–

(a) make recommendations;

(b) give reasons for the recommendations.

(8) The local planning authority must publish the recommendations and the reasons.

Commencement

Pt 6 s. 64(1)-(8): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(b))

Extent

Pt 6 s. 64-(8): England, Wales

Law In Force

65 Intervention by Assembly

(1) If the Assembly thinks that a local development plan is unsatisfactory–

(a) it may at any time before the plan is adopted by the local planning authority direct them to modify the plan in accordance with the direction;

(b) if it gives such a direction it must state its reasons for doing so.

(2) The authority–

(a) must comply with the direction;

(b) must not adopt the plan unless the Assembly gives notice that it is satisfied that they have complied with the direction.

(3) But subsection (2) does not apply if the Assembly withdraws the direction.

(4) At any time before a local development plan is adopted by a local planning authority the Assembly may direct that the plan is submitted to it for its approval.

(5) The following paragraphs apply if the Assembly gives a direction under subsection (4)–

(a) the authority must not take any step in connection with the adoption of the plan until the Assembly gives its decision;

(b) if the direction is given before the authority have submitted the plan under section 64(1) the Assembly must hold an independent examination and section 64(4) to (7) applies accordingly;

(c) if the direction is given after the authority have submitted the plan the person appointed to carry out the examination must make his recommendations to the Assembly;
(d) the plan has no effect unless it has been approved by the Assembly.

(6) The Assembly must publish the recommendations made to it by virtue of subsection (5)(b) or (c) and the reasons of the person making the recommendations.

(7) In considering a plan submitted under subsection (4) the Assembly may take account of any matter which it thinks is relevant.

(8) It is immaterial whether any such matter was taken account of by the authority.

(9) The Assembly–
(a) may approve, approve subject to specified modifications or reject a plan submitted to it under subsection (4);
(b) must give reasons for its decision under paragraph (a).

(10) In the exercise of any function under this section the Assembly must have regard to the documents mentioned in paragraphs (a) and (b) of section 63(1).

Commencement

Pt 6 s. 65(1)-(10): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(c))

Extent

Pt 6 s. 65-(10): England, Wales

Law In Force

[66 Withdrawal of local development plan in accordance with direction

(1) The Welsh Ministers may, at any time before a local development plan is adopted under section 67, direct the local planning authority to withdraw the plan.

(2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.

(3) The authority must withdraw the plan in accordance with the direction.
] [1]

Notes

[1] S.66 and s.66A substituted for s.66 by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.13 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

Commencement

Pt 6 s. 66(1)-(2)(b): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(d))

Extent

Pt 6 s. 66-(3): England, Wales

Law In Force

[66A Withdrawal of local development plan in absence of direction

(1) This section applies where a local planning authority are not required to withdraw their local development plan under section 66.

(2) Subject to the provisions of this section, the authority may withdraw the plan at any time before adopting it under section 67.

(3) A local planning authority may not withdraw their local development plan when the Welsh Ministers have—

(a) directed the authority to submit the plan for approval under section 65(4), or

(b) taken any step under section 71 in connection with the plan.

(4) A local planning authority may withdraw a local development plan that has been submitted for independent examination under section 64 only if—

(a) the person carrying out the independent examination recommends that the plan is withdrawn, and

(b) the recommendation is not overruled by a direction given by the Welsh Ministers.

(5) A local planning authority may withdraw a local development plan to which subsection (6) applies only if—

(a) the authority have given notice to the Welsh Ministers of their intention to withdraw the plan, and

(b) the notice period has expired.

(6) This subsection applies to a local development plan if the local planning authority—

(a) have not yet submitted the plan for independent examination under section 64, but

(b) have taken steps in connection with the preparation of the plan that are specified in regulations made by the Welsh Ministers.

(7) Where a local planning authority have given notice under subsection (5)(a), the Welsh Ministers may, by direction to the authority, do either or both of the following—

(a) require the authority to provide further information;

(b) extend the notice period.

(8) The Welsh Ministers may by regulations make provision about the giving of notices and directions under this section (including provision about their form and content and how they are to be given).

(9) Subject to any direction given under subsection (7)(b) in a particular case, the "notice period" means whatever period, beginning with the giving of notice under subsection (5)(a), is specified in regulations made by the Welsh Ministers.

] [1]

Notes

[1] S.66 and s.66A substituted for s.66 by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.13 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

Extent

Pt 6 s. 66A(1)-(9): England, Wales

Law In Force

67 Adoption of local development plan

(1) The local planning authority may adopt a local development plan as originally prepared if the person appointed to carry out the independent examination of the plan recommends that the plan as originally prepared is adopted.

(2) The authority may adopt a local development plan with modifications if the person appointed to carry out the independent examination of the plan recommends the modifications.

(3) A plan is adopted for the purposes of this section if it is adopted by resolution of the authority.

(4) But the authority must not adopt a local development plan if the Assembly directs them not to do so.

Commencement

Pt 6 s. 67(1)-(4): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(e))

Extent

Pt 6 s. 67-(4): England, Wales

Law In Force

68 Revocation of local development plan

The Assembly may at any time revoke a local development plan at the request of the local planning authority.

Commencement

Pt 6 s. 68: October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(f))

Extent

Pt 6 s. 68: England, Wales

Law In Force

[68A Duty to consider whether to review local development plan

(1) Following the publication of the National Development Framework for Wales or a revised Framework, a local planning authority must consider whether to carry out a review of their local development plan.

(2) Following the adoption or approval of a strategic development plan or revised strategic development plan for **[** all or part of their area, a local planning authority **]** [2] must consider whether to carry out a review of their local development plan.
] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.8(1) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; December 4, 2020 otherwise)

[2] Words substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.6 (January 21, 2021)

Extent

Pt 6 s. 68A(1)-(2): England, Wales

Law In Force

69 Review of local development plan

(1) A local planning authority must carry out a review of their local development plan **[—]** [1]
[(a) if, after consideration under section 68A, they think that the plan should be reviewed, and
(b) at such other times as the Welsh Ministers prescribe. **]** [1]

(2) The authority must report to the Assembly on the findings of their review.

(3) A review must–
(a) be in such form as is prescribed;
(b) be published in accordance with such requirements as are prescribed.

Notes

[1] S69(1)(a) and (b) substituted for existing text by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.8(2) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; December 4, 2020 otherwise)

Commencement

Pt 6 s. 69(1)-(3)(b): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(g))

Extent

Pt 6 s. 69-(3)(b): England, Wales

Law In Force

70 Revision of local development plan

(1) The local planning authority may at any time prepare a revision of a local development plan.

(2) The authority must prepare a revision of a local development plan–

(a) if the Assembly directs them to do so;

(b) if, following a review under section 69, they think that the plan should be revised.

(3) This Part applies to the revision of a local development plan as it applies to the preparation of the plan.

Commencement

Pt 6 s. 70(1)-(3): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(h))

Extent

Pt 6 s. 70-(3): England, Wales

Law In Force

71 Assembly's default power

(1) This section applies if the Assembly thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a local development plan.

(2) The Assembly must hold an independent examination and section 64(4) to (7) applies accordingly.

(3) The Assembly must publish the recommendations and reasons of the person appointed to hold the examination.

(4) The Assembly may–

(a) prepare or revise (as the case may be) the plan, and

(b) approve the plan as a local development plan.

(5) The Assembly must give reasons for anything it does in pursuance of subsection (4).

(6) The authority must reimburse the Assembly for any expenditure it incurs in connection with anything–

(a) which is done by it under subsection (4), and

(b) which the authority failed or omitted to do as mentioned in subsection (1).

Commencement

Pt 6 s. 71(1)-(6)(b): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(i))

Extent

Pt 6 s. 71-(6)(b): England, Wales

Law In Force

72 Joint local development plans

[(A1) The Welsh Ministers may direct two or more local planning authorities to prepare a joint local development plan.

(A2) But a direction under subsection (A1) may not be given to a National Park authority. **]** [1]

(1) Two or more local planning authorities may **[**, in the absence of a direction to any of them under subsection (A1), **]** [2] agree to prepare a joint local development plan.

[(1A) If the Welsh Ministers give a direction under subsection (A1), they must state their reasons for doing so.

(1B) The authorities to which a direction is given must, subject to any withdrawal or variation of the direction, act jointly in exercising their functions under this Part relating to local development plans. **]** [3]

(2) This Part applies for the purposes of the preparation, revision, adoption, withdrawal and revocation of a joint local development plan as it applies for the purposes of the preparation, revision, adoption, withdrawal and revocation of a local development plan.

(3) For the purposes of subsection (2) anything which must be done by or in relation to a local planning authority in connection with a local development plan must be done by or in relation to each of the authorities mentioned in subsection **[** (A1) or **]** [4] (1) in connection with a joint local development plan.

(4) **[** Subsections (5) to (7) apply if—

(a) the Welsh Ministers withdraw a direction under subsection (A1) or vary such a direction so that it ceases to apply to a local planning authority, or

(b) a local planning authority withdraw from an agreement mentioned in subsection (1). **]** [5]

(5) Any step taken in relation to the plan must be treated as a step taken by–

(a) an authority **[** to which the direction was given or **]** [6] which was a party to the agreement for the purposes of any corresponding plan prepared by them;

(b) two or more other authorities **[** to which the direction was given or which **]** [7] were parties to the agreement for the purposes of any corresponding joint local development plan.

(6) Any independent examination of a local development plan to which the **[** direction or **]** [8] agreement relates must be suspended.

(7) If before the end of the period prescribed for the purposes of this subsection an authority **[** to which the direction was given or **]** [9] which was a party to the agreement requests the Assembly to do so it may direct that–

(a) the examination is resumed in relation to the corresponding plan;

(b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

[(7A) The Welsh Ministers may by regulations—

(a) specify circumstances in which subsections (5) and (7) are not to apply in relation to an authority;

(b) make provision as to what is a corresponding plan or corresponding joint local development plan.

] [10]

(8) A joint local development plan is a local development plan prepared jointly by two or more local planning authorities.

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(2) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[2] Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(3) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[3] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(4) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[4] Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(5) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[5] Existing text renumbered as s.72(4)(a), words are inserted and s.72(4)(b) is added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(6) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[6] Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(7)(a) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[7] Word substituted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(7)(b) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[8] Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(8) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[9] Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(9) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

[10] Added by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.14(10) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; January 4, 2016 otherwise)

Commencement

Pt 6 s. 72(1)-(8): April 30, 2005 subject to transitional provisions specified in SI 2005/1229 art.4 (SI 2005/1229 art. 2(c), art. 4)

Extent

Pt 6 s. 72-(8): England, Wales

Miscellaneous

Law In Force

73 Exclusion of certain representations

(1) This section applies to any representation or objection in respect of anything which is done or is proposed to be done in pursuance of–

(a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the Highways Act 1980 (c. 66);

(b) an order or scheme under section 7, 9, 11, 13 or 20 of the Highways Act 1959 (c. 25), section 3 of the Highways (Miscellaneous Provisions) Act 1961 (c. 63) or section 1 or 10 of the Highways Act 1971 (c. 41) (which provisions were replaced by the provisions mentioned in paragraph (a));

(c) an order under section 1 of the New Towns Act 1981 (c. 64).

(2) If the Assembly or a local planning authority thinks that a representation made in relation to a local development plan is in substance a representation or objection to which this section applies it or they (as the case may be) may disregard it.

Commencement

Pt 6 s. 73(1)-(2): April 30, 2005 subject to transitional provisions specified in SI 2005/1229 art.4 (SI 2005/1229 art. 2(d), art. 4)

Extent

Pt 6 s. 73-(2): England, Wales

Law In Force

74 Urban development corporations

The Assembly may direct that this Part (except **[** sections 60 to 60C **]** [1]) does not apply to the area of an urban development corporation.

Notes

[1] Words substituted by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.26 (December 4, 2020)

Commencement

Pt 6 s. 74: October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(j))

Extent

Pt 6 s. 74: England, Wales

Law In Force

75 Guidance

In the exercise of any function conferred under or by virtue of this Part the local planning authority must have regard to any guidance issued by the Assembly.

Commencement

Pt 6 s. 75: August 1, 2004 (SI 2004/1813 art. 2(c))

Extent

Pt 6 s. 75: England, Wales

Law In Force

76 Annual monitoring report

(1) Every local planning authority must make an annual report to the Assembly.

(2) The annual report must contain such information as is prescribed as to the extent to which the objectives set out in the local development plan are being achieved.

(3) The annual report must–

(a) be made at such time as is prescribed;
(b) be in such form as is prescribed;
(c) contain such other matter as is prescribed.

Commencement

Pt 6 s. 76(1): October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2005/2722 art. 2(1), art. 2(1)(k))

Pt 6 s. 76(2)-(3)(c): August 1, 2004 for the purpose of empowering the National Assembly to make regulations; October 5, 2005 for the purpose of making regulations; October 15, 2005 otherwise (SI 2004/1813 art. 2(d); SI 2005/2722 art. 2(1), art. 2(1)(k))

Extent

Pt 6 s. 76(1)-(3)(c): England, Wales

General

Law In Force

77 Regulations

(1) The Assembly may by regulations make provision in connection with the exercise of functions conferred by this Part on any person.

(2) The regulations may in particular make provision as to–

(a) the procedure to be followed by the local planning authority in carrying out the appraisal under section 62(6);
(b) the procedure to be followed in the preparation of local development plans;
(c) requirements about the giving of notice and publicity;

(d) requirements about inspection by the public of a plan or any other document;
(e) the nature and extent of consultation with and participation by the public in anything done under this Part;
(f) the making of representations about any matter to be included in a local development plan;
(g) consideration of any such representations;
(h) the remuneration and allowances payable to the person appointed to carry out an independent examination under section 64;
(i) the time at which anything must be done for the purposes of this Part;
(j) the manner of publication of any draft, report or other document published under this Part;
(k) monitoring the exercise by local planning authorities of their functions under this Part.

Commencement

Pt 6 s. 77(1)-(2)(k): August 1, 2004 (SI 2004/1813 art. 2(e))

Extent

Pt 6 s. 77(1)-(2)(k): England, Wales

Law In Force With Amendments Pending

78 Interpretation

(1) Local development plan must be construed in accordance with section 62.

(2) Local planning authorities are–
(a) county councils in Wales;
(b) county borough councils.

[(3) But—
(a) a National Park authority is the local planning authority for the whole of its area;
(b) a joint planning board is the local planning authority for the whole of its united district (and references to the area of a local planning authority are, in relation to such a board, to be construed as references to its united district).
] [1]

(4) The Assembly is the National Assembly for Wales.

(5) RSS must be construed in accordance with Part 1.

(6) This section applies for the purposes of this Part.

Notes

[1] Substituted by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.15(2) (March 16, 2016)

Amendments Pending

Pt 6 s. 78(5): repealed by Localism Act 2011 c. 20, Sch. 25(16) para. 1 (date to be appointed)

Commencement

Pt 6 s. 78(1)-(6): August 1, 2004 (SI 2004/1813 art. 2(f))

Extent

Pt 6 s. 78(1)-(6): England, Wales

PART 7

CROWN APPLICATION OF PLANNING ACTS

CHAPTER 1

ENGLAND AND WALES

Crown application

Law In Force

79 Crown application of planning Acts

(1) In Part 13 of the principal Act before section 293 (preliminary definitions for Part 13) there is inserted the following section–

"292A Application to the Crown

(1) This Act binds the Crown.

(2) But subsection (1) is subject to express provision made by this Part."

(2) In the listed buildings Act after section 82 there is inserted the following section–

"82A Application to the Crown

(1) This Act (except the provisions specified in subsection (2)) binds the Crown.

(2) These are the provisions–

(a) section 9;
(b) section 11(6);
(c) section 21(7);
(d) section 42(1), (5) and (6);
(e) section 43;
(f) section 44A;
(g) section 54;

(h) section 55;
(i) section 59;
(j) section 88A.

(3) But subsection (2)(a) does not have effect to prohibit the doing of anything by or on behalf of the Crown which falls within the circumstances described in section 9(3)(a) to (d) and the doing of that thing does not contravene section 7."

(3) In the hazardous substances Act after section 30 there are inserted the following sections–

"30A Application to the Crown

(1) This Act (except the provisions specified in subsection (2)) binds the Crown.

(2) The provisions are–
(a) section 8(6);
(b) section 23;
(c) section 26AA;
(d) section 36A;
(e) section 36B(2)."

30B Crown application: transitional

(1) This section applies if at any time during the establishment period a hazardous substance was present on, over or under Crown land.

(2) The appropriate authority must make a claim in the prescribed form before the end of the transitional period.

(3) The claim must contain the prescribed information as to–
(a) the presence of the substance during the establishment period;
(b) how and where the substance was kept and used.

(4) Unless subsection (5) or (7) applies, the hazardous substances authority is deemed to have granted the hazardous substances consent claimed in pursuance of subsection (2).

(5) This subsection applies if the hazardous substances authority think that a claim does not comply with subsection (3).

(6) If subsection (5) applies, the hazardous substances authority must, before the end of the period of two weeks starting with the date they received the claim–
(a) notify the claimant that they think the claim is invalid;
(b) give their reasons.

(7) This subsection applies if at no time during the establishment period was the aggregate quantity of the substance equal to or greater than the controlled quantity.

(8) Hazardous substances consent which is deemed to be granted under this section is subject–
(a) to the condition that the maximum aggregate quantity of the substance that may be present for the purposes of this subsection at any one time must not exceed the established quantity;

(b) to such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of the consent.

(9) A substance is present for the purposes of subsection (8)(a) if–

(a) it is on, over or under land to which the claim for consent relates,

(b) it is on, over or under other land which is within 500 metres of it and is controlled by the Crown, or

(c) it is in or on a structure controlled by the Crown any part of which is within 500 metres of it,

and in calculating whether the established quantity is exceeded a quantity of a substance which falls within more than one of paragraphs (a) to (c) must be counted only once.

(10) The establishment period is the period of 12 months ending on the day before the date of commencement of section 79(3) of the Planning and Compulsory Purchase Act 2004.

(11) The transitional period is the period of six months starting on the date of commencement of that section.

(12) The established quantity in relation to any land is the maximum quantity which was present on, over or under the land at any one time within the establishment period."

(4) Schedule 3 amends the planning Acts in relation to the application of those Acts to the Crown.

Commencement

Pt 7 c. 1 s. 79(1)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 79-(4): England, Wales

National security

Law In Force

80 Special provision relating to national security

(1) In section 321 of the principal Act (planning inquiries to be held in public subject to certain exceptions) after subsection (4) there are inserted the following subsections–

"(5) If the Secretary of State is considering giving a direction under subsection (3) the Attorney General may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.

(6) If before the Secretary of State gives a direction under subsection (3) no person is appointed under subsection (5), the Attorney General may at any time appoint a person as mentioned in subsection (5) for the purposes of the inquiry.

(7) The Lord Chancellor may by rules make provision–

(a) as to the procedure to be followed by the Secretary of State before he gives a direction under subsection (3) in a case where a person has been appointed under subsection (5);
(b) as to the functions of a person appointed under subsection (5) or (6).

(8) Rules made under subsection (7) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(9) If a person is appointed under subsection (5) or (6) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in subsection (4) (the responsible person) to pay the fees and expenses of the appointed representative.

(10) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.

(11) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.

(12) An amount so certified is recoverable from the responsible person as a civil debt."

(2) After section 321 of the principal Act (planning inquiries to be held in public subject to certain exceptions) there is inserted the following section–

"321A Appointed representative: no inquiry

(1) This section applies if–
(a) a person is appointed under subsection (5) or (6) of section 321, but
(b) no inquiry is held as mentioned in subsection (1) of that section.

(2) Subsections (9) to (12) of section 321 apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.

(3) For the purposes of subsection (2) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under section 321(9) if an inquiry had been held.

(4) This section does not affect section 322A."

(3) In Schedule 3 to the listed buildings Act (determination of certain appeals by person appointed by the Secretary of State) after paragraph 6 there is inserted the following paragraph–

"6A

(1) If the Secretary of State is considering giving a direction under paragraph 6(6) the Attorney General may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.

(2) If before the Secretary of State gives a direction under paragraph 6(6) no person is appointed under sub-paragraph (1), the Attorney General may at any time appoint a person as mentioned in sub-paragraph (1) for the purposes of the inquiry.

(3) The Lord Chancellor may by rules make provision–

(a) as to the procedure to be followed by the Secretary of State before he gives a direction under paragraph 6(6) in a case where a person has been appointed under sub-paragraph (1);
(b) as to the functions of a person appointed under sub-paragraph (1) or (2).

(4) If a person is appointed under sub-paragraph (1) or (2) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in paragraph 6(7) (the responsible person) to pay the fees and expenses of the appointed representative.

(5) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.

(6) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.

(7) An amount so certified is recoverable from the responsible person as a civil debt.

(8) Rules made under sub-paragraph (3) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(9) Sub-paragraph (10) applies if–
(a) a person is appointed under sub-paragraph (1) or (2), but
(b) no inquiry is held as mentioned in paragraph 6(1).

(10) Sub-paragraphs (4) to (7) above apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.

(11) For the purposes of sub-paragraph (10) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under sub-paragraph (4) if an inquiry had been held.

(12) Sub-paragraphs (9) to (11) do not affect paragraph 6(8).”

(4) In the Schedule to the hazardous substances Act (determination of certain appeals by person appointed by the Secretary of State) after paragraph 6 there is inserted the following paragraph–

“6A

(1) If the Secretary of State is considering giving a direction under paragraph 6(6) the Attorney General may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.

(2) If before the Secretary of State gives a direction under paragraph 6(6) no person is appointed under sub-paragraph (1), the Attorney General may at any time appoint a person as mentioned in sub-paragraph (1) for the purposes of the inquiry.

(3) The Lord Chancellor may by rules make provision–
(a) as to the procedure to be followed by the Secretary of State before he gives a direction under paragraph 6(6) in a case where a person has been appointed under sub-paragraph (1);
(b) as to the functions of a person appointed under sub-paragraph (1) or (2).

(4) If a person is appointed under sub-paragraph (1) or (2) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in paragraph 6(7) (the responsible person) to pay the fees and expenses of the appointed representative.

(5) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.

(6) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.

(7) An amount so certified is recoverable from the responsible person as a civil debt.

(8) Rules made under sub-paragraph (3) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(9) Sub-paragraph (10) applies if–

(a) a person is appointed under sub-paragraph (1) or (2), but

(b) no inquiry is held as mentioned in paragraph 6(1).

(10) Sub-paragraphs (4) to (7) above apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.

(11) For the purposes of sub-paragraph (10) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under sub-paragraph (4) if an inquiry had been held.

(12) Sub-paragraphs (9) to (11) do not affect paragraph 6(8).”

Commencement

Pt 7 c. 1 s. 80(1)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 80-(4): England, Wales

Law In Force

81 Special provision relating to national security: Wales

(1) After section 321A of the principal Act (inserted by section 80 above) there is inserted the following section–

“321B Special provision in relation to planning inquiries: Wales

(1) This section applies if the matter in respect of which a local inquiry to which section 321 applies is to be held relates to Wales.

(2) The references in section 321(5) and (6) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.

(3) The Assembly may by regulations make provision as mentioned in section 321(7) in connection with a local inquiry to which this section applies.

(4) If the Assembly acts under subsection (3) rules made by the Lord Chancellor under section 321(7) do not have effect in relation to the inquiry.

(5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).

(6) Section 333(3) does not apply to regulations made under subsection (4)."

(2) In Schedule 3 to the listed buildings Act (determination of certain appeals by person appointed by the Secretary of State), after paragraph 7 there is inserted the following paragraph–

"8 Local inquiries: Wales

(1) This paragraph applies in relation to a local inquiry held in pursuance of this Schedule if the matter in respect of which the inquiry is to be held relates to Wales.

(2) The references in paragraph 6A(1) and (2) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.

(3) The Assembly may by regulations make provision as mentioned in paragraph 6A(3) in connection with a local inquiry to which this section applies.

(4) If the Assembly acts under sub-paragraph (3) rules made by the Lord Chancellor under paragraph 6A(3) do not have effect in relation to the inquiry.

(5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).

(6) Section 93(3) does not apply to regulations made under this paragraph."

(3) In the Schedule to the hazardous substances Act, after paragraph 7 there is inserted the following paragraph–

"8 Local inquiries: Wales

(1) This paragraph applies in relation to a local inquiry held in pursuance of this Schedule if the matter in respect of which the inquiry is to be held relates to Wales.

(2) The references in paragraph 6A(1) and (2) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.

(3) The Assembly may by regulations make provision as mentioned in paragraph 6A(3) in connection with a local inquiry to which this section applies.

(4) If the Assembly acts under sub-paragraph (3) rules made by the Lord Chancellor under paragraph 6A(3) do not have effect in relation to the inquiry.

(5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).

(6) Section 40(3) does not apply to regulations made under this paragraph."

Commencement

Pt 7 c. 1 s. 81(1)-(3): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 81-(3): England, Wales

Urgent development and works

Law In Force

82 Urgent Crown development

(1) Before section 294 of the principal Act (special enforcement notices in relation to development on Crown land) there is inserted the following section–

"293A Urgent Crown development: application

(1) This section applies to a development if the appropriate authority certifies–

(a) that the development is of national importance, and

(b) that it is necessary that the development is carried out as a matter of urgency.

(2) The appropriate authority may, instead of making an application for planning permission to the local planning authority in accordance with Part 3, make an application for planning permission to the Secretary of State under this section.

(3) If the appropriate authority proposes to make the application to the Secretary of State it must publish in one or more newspapers circulating in the locality of the proposed development a notice–

(a) describing the proposed development, and

(b) stating that the authority proposes to make the application to the Secretary of State.

(4) For the purposes of an application under this section the appropriate authority must provide to the Secretary of State–

(a) any matter required to be provided by an applicant for planning permission in pursuance of regulations made under section 71A;

(b) a statement of the authority's grounds for making the application.

(5) If the appropriate authority makes an application under this section subsections (6) to (9) below apply.

(6) The Secretary of State may require the authority to provide him with such further information as he thinks necessary to enable him to determine the application.

(7) As soon as practicable after he is provided with any document or other matter in pursuance of subsection (4) or (6) the Secretary of State must make a copy of the document

or other matter available for inspection by the public in the locality of the proposed development.

(8) The Secretary of State must in accordance with such requirements as are contained in a development order publish notice of the application and of the fact that such documents and other material are available for inspection.

(9) The Secretary of State must consult–

(a) the local planning authority for the area to which the proposed development relates, and

(b) such other persons as are specified or described in a development order,

about the application.

(10) Subsection (7) does not apply to the extent that the document or other matter is subject to a direction under section 321(3) (matters related to national security).

(11) Subsections (4) to (7) of section 77 apply to an application under this section as they apply to an application in respect of which a direction under section 77 has effect."

(2) In section 284 of the principal Act (validity of certain matters) in subsection (3) at the end there is inserted the following paragraph–

"(i) any decision on an application for planning permission under section 293A."

Commencement

Pt 7 c. 1 s. 82(1)-(2): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 82-(2): England, Wales

Law In Force

83 Urgent works relating to Crown land

(1) After section 82A of the listed buildings Act (inserted by section 79(2)) there is inserted the following section–

"82B Urgent works relating to Crown land: application

(1) This section applies to any works proposed to be executed in connection with any building which is on Crown land if the appropriate authority certifies–

(a) that the works are of national importance, and

(b) that it is necessary that the works are carried out as a matter of urgency.

(2) The appropriate authority may, instead of making an application for consent to the local planning authority in accordance with this Act, make an application for consent to the Secretary of State under this section.

(3) If the appropriate authority proposes to make the application to the Secretary of State it must publish in one or more newspapers circulating in the locality of the building a notice–

(a) describing the proposed works, and

(b) stating that the authority proposes to make the application to the Secretary of State.

(4) For the purposes of an application under this section the appropriate authority must provide to the Secretary of State a statement of the authority's grounds for making the application.

(5) If the appropriate authority makes an application under this section subsections (6) to (9) below apply.

(6) The Secretary of State may require the authority to provide him with such further information as he thinks necessary to enable him to determine the application.

(7) As soon as practicable after he is provided with any document or other matter in pursuance of subsection (4) or (6) the Secretary of State must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.

(8) The Secretary of State must in accordance with such requirements as may be prescribed publish notice of the application and of the fact that such documents and other material are available for inspection.

(9) The Secretary of State must consult–

(a) the local planning authority for the area to which the proposed development relates, and

(b) such other persons as may be prescribed, about the application.

(10) Subsection (7) does not apply to the extent that the document or other matter is subject to a direction under paragraph 6(6) of Schedule 3 (matters related to national security).

(11) Subsections (4) and (5) of section 12 apply to an application under this section as they apply to an application in respect of which a direction under section 12 has effect."

(2) In section 62 of the listed buildings Act (validity of certain matters) in subsection (2) at the end there is inserted the following paragraph

"(d) any decision on an application for listed building consent under section 82B."

Commencement

Pt 7 c. 1 s. 83(1)-(2): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 83-(2): England, Wales

Enforcement

Law In Force

84 Enforcement in relation to Crown land

(1) Section 296 of the principal Act (exercise of powers in relation to Crown land) is omitted.

(2) After section 296 there are inserted the following sections–

"296A Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.

(2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes–

(a) entering land;
(b) bringing proceedings;
(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include–

(a) service of a notice;
(b) the making of an order (other than by a court).

296B References to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land."

(3) After section 82C of the listed buildings Act (inserted by Schedule 3) there are inserted the following sections–

"82D Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.

(2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes–

(a) entering land;
(b) bringing proceedings;
(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include–

(a) service of a notice;
(b) the making of an order (other than by a court).

82E References to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land."

(4) After section 30B of the hazardous substances Act (inserted by section 79(3)) there are inserted the following sections–

"30C Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.

(2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes–

(a) entering land;
(b) bringing proceedings;
(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include–

(a) service of a notice;
(b) the making of an order (other than by a court).

30D References to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land."

Commencement

Pt 7 c. 1 s. 84(1)-(4): June 7, 2006 (SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 84(1)-(4): England, Wales

Trees

Law In Force

85 Tree preservation orders: Forestry Commissioners

For section 200 of the principal Act (Orders affecting land where Forestry Commissioners interested) there is substituted the following section–

"200 Tree preservation orders: Forestry Commissioners

(1) A tree preservation order does not have effect in respect of anything done–

(a) by or on behalf of the Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;

(b) by or on behalf of any other person in accordance with a relevant plan which is for the time being in force.

(2) A relevant plan is a plan of operations or other working plan approved by the Forestry Commissioners under–

(a) a forestry dedication covenant within the meaning of section 5 of the Forestry Act 1967, or

(b) conditions of a grant or loan made under section 1 of the Forestry Act 1979.

(3) A reference to a provision of the Forestry Act 1967 or the Forestry Act 1979 includes a reference to a corresponding provision replaced by that provision or any earlier corresponding provision."

Commencement

Pt 7 c. 1 s. 85: June 7, 2006 (SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 85: England, Wales

Law In Force

86 Trees in conservation areas: acts of Crown

After section 211(4) of the principal Act (preservation of trees in conservation areas) there are inserted the following subsections–

"(5) An emanation of the Crown must not, in relation to a tree to which this section applies, do an act mentioned in subsection (1) above unless–

(a) the first condition is satisfied, and

(b) either the second or third condition is satisfied.

(6) The first condition is that the emanation serves notice of an intention to do the act (with sufficient particulars to identify the tree) on the local planning authority in whose area the tree is situated.

(7) The second condition is that the act is done with the consent of the authority.

(8) The third condition is that the act is done–

(a) after the end of the period of six weeks starting with the date of the notice, and

(b) before the end of the period of two years starting with that date."

Commencement

Pt 7 c. 1 s. 86: June 7, 2006 (SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 86: England, Wales

Miscellaneous

Law In Force

87 Old mining permissions

(1) Subsection (2) applies if–

(a) an old mining permission relates to land which is Crown land, and

(b) the permission has not been registered in pursuance of Schedule 2 to the Planning and Compensation Act 1991.

(2) Section 22 of and Schedule 2 to that Act apply to the old mining permission subject to the following modifications–

(a) in section 22(3) for "May 1, 1991" there is substituted "the date of commencement of section 87(2) of the Planning and Compulsory Purchase Act 2004";

(b) in paragraph 1(3) of Schedule 2 for "the day on which this Schedule comes into force" there is substituted "the date of commencement of section 87(2) of the Planning and Compulsory Purchase Act 2004".

(3) Old mining permission must be construed in accordance with section 22 of the Planning and Compensation Act 1991.

(4) Crown land must be construed in accordance with Part 13 of the principal Act.

Commencement

Pt 7 c. 1 s. 87(1)-(4): June 7, 2006 (SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 87(1)-(4): England, Wales

Law In Force

88 Subordinate legislation

(1) The Secretary of State may by order provide that relevant subordinate legislation applies to the Crown.

(2) The order may modify such subordinate legislation to the extent that the Secretary of State thinks appropriate for the purposes of its application to the Crown.

(3) Relevant subordinate legislation is an instrument which–

(a) is made under or (wholly or in part) for the purposes of any of the planning Acts,
(b) is made before the commencement of section 79 of this Act, and
(c) is specified in the order.

Commencement

Pt 7 c. 1 s. 88(1)-(3)(c): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 88-(3)(c): England, Wales

Law In Force

89 Crown application: transitional

Schedule 4 (which makes transitional provisions in consequence of the application to the Crown of the planning Acts) has effect.

Commencement

Pt 7 c. 1 s. 89: June 7, 2006 (SI 2006/1281 art. 2(a))

Extent

Pt 7 c. 1 s. 89: England, Wales

CHAPTER 2

SCOTLAND

Crown application

Law In Force

90 Crown application of Scottish planning Acts

(1) In Part 12 of the Town and Country Planning (Scotland) Act 1997, before section 242 (preliminary definitions for Part 12) there is inserted the following section–

"241A Application to the Crown

(1) This Act binds the Crown.

(2) But subsection (1) is subject to express provision made by this Part."

(2) In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, after section 73 (application of Act to land and works of planning authorities) there is inserted the following section–

"73A Application to the Crown

(1) This Act (except the provisions specified in subsection (2)) binds the Crown.

(2) These are the provisions–

(a) section 8,
(b) section 10(3),
(c) section 19(7),
(d) section 38(1) and (8),
(e) section 39,
(f) section 49,
(g) section 50,
(h) section 53,
(i) section 77.

(3) But subsection (2)(a) does not have effect to prohibit the doing of anything by or on behalf of the Crown which falls within the circumstances described in section 8(3)(a) to (d) and the doing of that thing does not contravene section 6."

(3) In the Planning (Hazardous Substances) (Scotland) Act 1997, after section 30 (application of Act to planning authorities) there is inserted the following section–

"30A Application to the Crown

(1) This Act (except the provisions specified in subsection (2)) binds the Crown.

(2) The provisions are–

(a) section 6(3),

(b) section 21,

(c) section 25,

(d) section 34,

(e) section 35(2).”

(4) Schedule 5 amends the Scottish planning Acts in relation to the application of those Acts to the Crown.

Commencement

Pt 7 c. 2 s. 90(1)-(3): June 12, 2006 (SSI 2006/268 art. 3(a))

Pt 7 c. 2 s. 90(4): March 20, 2006 in relation to provisions specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(a))

Extent

Pt 7 c. 2 s. 90(1)-(4): Scotland

National security

Law In Force

91 Special provision for certain circumstances where disclosure of information as to national security may occur: Scotland

(1) In the Town and Country Planning (Scotland) Act 1997 (c. 8), there is inserted after section 265 (local inquiries) the following section–

“265A Planning inquiries to be held in public subject to certain exceptions

(1) This section applies in relation to the holding of inquiries under section 265(1), paragraph 6 of Schedule 4, paragraph 5 of Schedule 6 or paragraph 8 of Schedule 7.

(2) Subject to subsection (3), at any such inquiry oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(3) If the Secretary of State is, or after consultation with the Secretary of State the Scottish Ministers are, satisfied in the case of any such inquiry–

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in subsection (4), and

(b) that the public disclosure of that information would be contrary to the national interest,

he or as the case may be they may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry by such persons, or persons of such descriptions, as may be specified in the direction.

(4) The matters referred to in subsection (3)(a) are–

(a) national security, and

(b) the measures taken, or to be taken, to ensure the security of any premises or property.

(5) The Lord Advocate may appoint a person to represent the interests of any person who–

(a) if a direction is given under subsection (3), will be prevented from hearing or inspecting any evidence at any such inquiry; or

(b) is so prevented by such a direction given before any appointment is made by virtue of paragraph (a).

(6) By rules–

(a) the Secretary of State may make provision as to the procedure to be followed by him before he gives a direction under subsection (3) in a case where a person has been appointed under subsection (5) and as to the functions of a person appointed under subsection (5),

(b) the Scottish Ministers may make provision as to the procedure to be followed by them before they give such a direction in such a case and as to such functions.

(7) If a person (the representative) is appointed–

(a) under paragraph (a) of subsection (5) and either no direction in relation to the evidence in question has been given under subsection (3) or any such direction so given has been given by the Secretary of State, the Secretary of State may direct any person who he thinks,

(b) under paragraph (a) of subsection (5) and such a direction has been given under subsection (3) by the Scottish Ministers, the Scottish Ministers may direct any person who they think,

(c) under paragraph (b) of subsection (5) and the direction referred to in that paragraph was given by the Secretary of State, the Secretary of State may direct any person who he thinks,

(d) under paragraph (b) of that subsection and the direction so referred to was given by the Scottish Ministers, the Scottish Ministers may direct any person who they think,

is interested in the inquiry, or prospective inquiry, in relation to a matter mentioned in subsection (4) (the responsible person) to pay remuneration or allowances to, and to reimburse any expenses incurred by, the representative.

(8) If the representative and the responsible person are unable to agree an amount payable by virtue of–

(a) paragraph (a) or (c) of subsection (7), the amount must be determined by the Secretary of State,

(b) paragraph (b) or (d) of that subsection, the amount must be determined by the Scottish Ministers.

(9) The Secretary of State must cause an amount payable by virtue of paragraph (a) or (c) of subsection (7) (whether determined under subsection (8) or agreed between the representative and the responsible person) to be certified.

(10) The Scottish Ministers must cause an amount payable by virtue of paragraph (b) or (d) of subsection (7) (whether so determined or so agreed) to be certified.

(11) An amount certified under subsection (9) or (10) is recoverable from the responsible person as a debt.

(12) Subsections (7) to (11) apply even if the inquiry does not take place.

(13) The power to make rules under–

(a) paragraph (a) of subsection (6) must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament,

(b) paragraph (b) of that subsection must be exercised by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament."

(2) In Schedule 3 to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (determination of certain appeals by person appointed by the Scottish Ministers), in paragraph 6, after sub-paragraph (6) there is inserted the following sub-paragraph–

"(7) Subsections (2) to (13) of section 265A of the principal Act apply to the holding of an inquiry under this paragraph as they apply to the holding of an inquiry under section 265 of that Act."

(3) In the Schedule to the Planning (Hazardous Substances) (Scotland) Act 1997 (determination of certain appeals by person appointed by Scottish Ministers), in paragraph 6, after sub-paragraph (6) there is inserted the following sub-paragraph–

"(7) Subsections (2) to (13) of section 265A of the principal Act apply to the holding of an inquiry under this paragraph as they apply to the holding of an inquiry under section 265 of that Act."

Commencement

Pt 7 c. 2 s. 91(1)-(3): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 4)

Extent

Pt 7 c. 2 s. 91-(3): Scotland

Urgent development and works

Law In Force

92 Urgent Crown development: Scotland

(1) In the Town and Country Planning (Scotland) Act 1997 (c. 8), before section 243 (control of development on Crown land: special enforcement notices) there is inserted the following section–

"242A Urgent Crown development: application

(1) This section applies to a development if the appropriate authority certifies–

(a) that the development is of national importance, and

(b) that it is necessary that the development is carried out as a matter of urgency.

(2) The appropriate authority may, instead of making an application for planning permission to the planning authority in accordance with Part 3, make an application for planning permission to the Scottish Ministers under this section.

(3) If the appropriate authority proposes to make the application to the Scottish Ministers, it must publish in one or more newspapers circulating in the locality of the proposed development a notice–

(a) describing the proposed development, and

(b) stating that the authority proposes to make the application to the Scottish Ministers.

(4) For the purposes of an application under this section the appropriate authority must provide to the Scottish Ministers–

(a) any matter required to be provided by an applicant for planning permission in pursuance of regulations made under section 40,

(b) a statement of the authority's grounds for making the application.

(5) If the appropriate authority makes an application under this section subsections (6) to (11) below apply.

(6) The Scottish Ministers may require the authority to provide them with such further information as they think necessary to enable them to determine the application.

(7) As soon as practicable after they are provided with any document or other matter in pursuance of subsection (4) or (6) the Scottish Ministers must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.

(8) The Scottish Ministers must in accordance with such requirements as they may specify in a development order publish notice of the application and of the fact that such documents and other material are available for inspection.

(9) The Scottish Ministers must consult–

(a) the planning authority, and

(b) such other persons as may be so specified,

about the application.

(10) Subsection (7) above does not apply to the extent that the document or other matter is subject to any direction given under section 265A(3) of this Act.

(11) Subsections (4) to (7) of section 46 apply to an application under this section as they apply to an application in respect of which a direction under section 46 has effect."

(2) In section 237 of that Act, (validity of certain matters) in subsection (3) at the end there is added the following paragraph–

"(i) any decision on an application for planning permission under section 242A."

Commencement

Pt 7 c. 2 s. 92(1): March 20, 2006 for the purpose of enabling provision to be made by development order; May 11, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/243 art. 3)

Pt 7 c. 2 s. 92(2): May 11, 2006 (SSI 2006/243 art. 3)

Extent

Pt 7 c. 2 s. 92(1)-(2): Scotland

Law In Force

93 Urgent works relating to Crown land: Scotland

(1) In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9), after section 73A (inserted by section 90(2)) there is inserted the following section–

"73B Urgent works relating to Crown land: application

(1) This section applies to any works proposed to be executed in connection with any building which is on Crown land if the appropriate authority certifies–

(a) that the works are of national importance, and

(b) that it is necessary that the works are carried out as a matter of urgency.

(2) The appropriate authority may, instead of making an application for consent to the planning authority in accordance with this Act, make an application for consent to the Scottish Ministers under this section.

(3) If the appropriate authority proposes to make the application to the Scottish Ministers it must publish in one or more newspapers circulating in the locality of the building a notice–

(a) describing the proposed works, and

(b) stating that the authority proposes to make the application to the Scottish Ministers.

(4) For the purposes of an application under this section the appropriate authority must provide to the Scottish Ministers a statement of the authority's grounds for making the application.

(5) If the appropriate authority makes an application under this section subsections (6) to (11) below apply.

(6) The Scottish Ministers may require the authority to provide them with such further information as they think necessary to enable them to determine the application.

(7) As soon as practicable after they are provided with any document or other matter in pursuance of subsection (4) or (6) the Scottish Ministers must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.

(8) The Scottish Ministers must in accordance with such requirements as may be prescribed publish notice of the application and of the fact that such documents and other material are available for inspection.

(9) Subsection (7) above does not apply to the extent that the document or other matter is subject to any direction given under section 265A(3) of the principal Act.

(10) The Scottish Ministers must consult–

(a) the planning authority, and

(b) such other persons as may be prescribed,

about the application.

(11) Subsections (4) and (5) of section 11 apply to an application under this section as they apply to an application in respect of which a direction under section 11 has effect."

(2) In section 57 of that Act (validity of certain matters), in subsection (2) at the end there is added the following paragraph–

"(d) any decision on an application for listed building consent under section 73B."

Commencement

Pt 7 c. 2 s. 93(1): March 20, 2006 for the purpose of making regulations; May 11, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/243 art. 3)

Pt 7 c. 2 s. 93(2): May 11, 2006 (SSI 2006/243 art. 3)

Extent

Pt 7 c. 2 s. 93(1)-(2): Scotland

Enforcement

Law In Force

94 Enforcement in relation to Crown land: Scotland

(1) In the Town and Country Planning (Scotland) Act 1997 (c. 8), section 245 (exercise of powers in relation to Crown land) is omitted.

(2) After section 245 there is inserted the following section–

"245A Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may, on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.

(2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes–

(a) entering land,
(b) initiating proceedings,
(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include–

(a) service of a notice,
(b) the making of an order (other than a court order)."

(3) In the Town and Country Planning (Scotland) Act 1997 (c. 8), after section 245A (inserted by subsection (2) above) there is inserted the following section–

"245B References to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land."

(4) In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) after section 73C (inserted by Schedule 5) there are inserted the following sections–

"73D Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.

(2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes–

(a) entering land,
(b) initiating proceedings,
(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include–

(a) service of a notice,
(b) the making of an order (other than a court order).

73E Reference to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land."

(5) In the Planning (Hazardous Substances) (Scotland) Act 1997, after section 30A (inserted by section 90(3)) there are inserted the following sections–

"30B Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may, on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.

(2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes–

(a) entering land,
(b) initiating proceedings,
(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include–

(a) service of a notice,
(b) the making of an order (other than a court order).

30C Reference to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land."

Commencement

Pt 7 c. 2 s. 94(1)-(3), (5): June 12, 2006 (SSI 2006/268 art. 3(b))

Pt 7 c. 2 s. 94(4): May 11, 2006 (SSI 2006/243 art. 3)

Extent

Pt 7 c. 2 s. 94(1)-(5): Scotland

Trees

Law In Force

95 Tree preservation orders: Scotland

For section 162 of the Town and Country Planning (Scotland) Act 1997 (Orders affecting land where Forestry Commissioners interested) there is substituted the following section–

“:162 Tree preservation: Forestry Commissioners

(1) A tree preservation order does not have effect in respect of anything done–

(a) by or on behalf of the Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;

(b) by or on behalf of any other person in accordance with a relevant plan which is for the time being in force.

(2) A relevant plan is a plan of operations or other working plan approved by the Forestry Commissioners under–

(a) a forestry dedication agreement within the meaning of section 5 of the Forestry Act 1967, or

(b) conditions of a grant or loan made under section 1 of the Forestry Act 1979.

(3) A reference to a provision of the Forestry Act 1967 or the Forestry Act 1979 includes a reference to a corresponding provision replaced by that provision or any earlier corresponding provision.”

Commencement

Pt 7 c. 2 s. 95: June 12, 2006 (SSI 2006/268 art. 3(b))

Extent

Pt 7 c. 2 s. 95: Scotland

Law In Force

96 Trees in conservation areas in Scotland: acts of Crown

In the Town and Country Planning (Scotland) Act 1997 (c. 8), after section 172(4) (preservation of trees in conservation areas) there are inserted the following subsections–

“(5) An emanation of the Crown must not, in relation to a tree to which this section applies, do an act mentioned in subsection (1) above unless–

(a) the first condition is satisfied, and

(b) either the second or third condition is satisfied.

(6) The first condition is that the emanation serves notice of an intention to do the act (with sufficient particulars to identify the tree) on the planning authority in whose area the tree is situated.

(7) The second condition is that the act is done with the consent of the authority.

(8) The third condition is that the act is done–

(a) after the end of the period of six weeks starting with the date of the notice, and

(b) before the end of the period of two years starting with that date."

Commencement

Pt 7 c. 2 s. 96: June 12, 2006 (SSI 2006/268 art. 3(b))

Extent

Pt 7 c. 2 s. 96: Scotland

Miscellaneous

Law In Force

97 Old mining permissions: Scotland

(1) Subsection (2) applies if–

(a) an old mining permission relates to land which is Crown land, and

(b) the permission has not been registered in pursuance of Part 2 of Schedule 8 to the Town and Country Planning (Scotland) Act 1997.

(2) Paragraph 10 of that Schedule and that Part apply to the old mining permission subject to the following modifications–

(a) in sub-paragraph (3) of that paragraph, for "16th May 1991" there is substituted "the date of commencement of section 97(2) of the Planning and Compulsory Purchase Act 2004",

(b) in paragraph 13(3) of that Part, for "24 January 1992" there is substituted "the date of commencement of section 97(2) of the Planning and Compulsory Purchase Act 2004".

(3) "Old mining permission" must be construed in accordance with paragraph 10 and Part 2 of that Schedule.

(4) "Crown land" must be construed in accordance with Part 12 of the Town and Country Planning (Scotland) Act 1997.

Commencement

Pt 7 c. 2 s. 97(1)-(4): June 12, 2006 (SSI 2006/268 art. 3(b))

Extent

Pt 7 c. 2 s. 97(1)-(4): Scotland

Law In Force

98 Subordinate legislation: Scotland

(1) The Scottish Ministers may by order provide that relevant subordinate legislation applies to the Crown.

(2) The order may modify such subordinate legislation to the extent that the Scottish Ministers think appropriate for the purposes of its application to the Crown.

(3) Relevant subordinate legislation is an instrument which–

(a) is made under or (wholly or in part) for the purposes of any of the Scottish planning Acts,

(b) is made before the commencement of section 90 of this Act, and

(c) is specified in the order.

(4) In subsection (3), "instrument" includes an instrument made under an Act of the Scottish Parliament.

Commencement

Pt 7 c. 2 s. 98(1)-(4): March 20, 2006 (SSI 2006/101 art. 2, Sch. 1 para. 1)

Extent

Pt 7 c. 2 s. 98-(4): Scotland

PART 8

COMPULSORY PURCHASE

Acquisition of land for development

Law In Force

99 Compulsory acquisition of land for development etc

(1) Section 226 of the principal Act (compulsory acquisition of land for development and other planning purposes) is amended as follows.

(2) In subsection (1)–

(a) the first "which" is omitted;

(b) for paragraph (a) there is substituted the following paragraph–

"(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,";

(c) in paragraph (b) at the beginning there is inserted "which".

(3) After subsection (1) there is inserted the following subsection–

"(1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects–

(a) the promotion or improvement of the economic well-being of their area;
(b) the promotion or improvement of the social well-being of their area;
(c) the promotion or improvement of the environmental well-being of their area."

(4) Subsection (2) is omitted.

(5) Nothing in this section affects a compulsory purchase order made before the commencement of this section.

Commencement

Pt 8 s. 99(1)-(5): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 99(1)-(5): England, Wales

Authorisation of compulsory acquisition

Law In Force

100 Procedure for authorisation by authority other than a Minister

(1) The Acquisition of Land Act 1981 (c. 67) (the "1981 Act") is amended as follows.

(2) In section 6 (service of documents), in subsection (4)–

(a) after "lessee" in each place there is inserted ", tenant";
(b) after ""lessee" there is inserted ", "tenant"".

(3) In section 7 (interpretation), after subsection (2) there is added–

"(3) But an instrument containing regulations made for the purposes of section 13A or paragraph 4A of Schedule 1 is subject to annulment in pursuance of a resolution of either House of Parliament."

(4) In section 11 (notices in newspapers), after subsection (2) there is added–

"(3) In addition, the acquiring authority shall affix a notice in the prescribed form to a conspicuous object or objects on or near the land comprised in the order.

(4) The notice under subsection (3) must–

(a) be addressed to persons occupying or having an interest in the land, and
(b) set out each of the matters mentioned in subsection (2) (but reading the reference there to first publication of the notice as a reference to the day when the notice under subsection (3) is first affixed)."

(5) In section 12 (notices to owners, lessees and occupiers)–
(a) in subsection (1), for the words from "owner" to "order" (where it first appears) there is substituted "qualifying person";
(b) for subsection (2) there is substituted–

"(2) A person is a qualifying person, in relation to land comprised in an order, if–
(a) he is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land, or
(b) he falls within subsection (2A).

(2A) A person falls within this subsection if he is–
(a) a person to whom the acquiring authority would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat, or
(b) a person the acquiring authority thinks is likely to be entitled to make a relevant claim if the order is confirmed and the compulsory purchase takes place, so far as he is known to the acquiring authority after making diligent inquiry.

(2B) A relevant claim is a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection)."

(6) For section 13 (confirmation of compulsory purchase order) there are substituted the following sections–

"13 Confirmation of order: no objections

(1) The confirming authority may confirm a compulsory purchase order with or without modifications if it is satisfied–
(a) that the notice requirements have been complied with, and
(b) that one of the conditions in subsection (2) is satisfied.

(2) The conditions are–
(a) no relevant objection is made;
(b) every relevant objection made is either withdrawn or disregarded.

(3) The confirming authority may require every person who makes a relevant objection to state the grounds of the objection in writing.

(4) If the confirming authority is satisfied that an objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed it may disregard the objection.

(5) The notice requirements are the requirements under sections 11 and 12 to publish, affix and serve notices in connection with the compulsory purchase order.

(6) A relevant objection is an objection by a person who is a qualifying person for the purposes of section 12(2), but if such a person qualifies only by virtue of section 12(2A)(b) and the confirming authority thinks that he is not likely to be entitled to make a relevant claim his objection is not a relevant objection.

(7) Disregarded means disregarded under subsection (4) or under any other power to disregard a relevant objection contained in the enactment providing for the compulsory purchase.

13A Confirmation of order: remaining objections

(1) This section applies to the confirmation of a compulsory purchase order if a relevant objection is made which is neither–

(a) withdrawn, nor

(b) disregarded,

(a remaining objection).

(2) The confirming authority may proceed under the written representations procedure–

(a) if the order is not subject to special parliamentary procedure,

(b) in the case of an order to which section 16 applies, if a certificate has been given under subsection (2) of that section, and

(c) if every person who has made a remaining objection consents in the prescribed manner.

(3) If subsection (2) does not apply or if the confirming authority decides not to proceed under that subsection, it must either–

(a) cause a public local inquiry to be held, or

(b) give every person who has made a remaining objection an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose.

(4) If a person who has made a remaining objection takes the opportunity to appear before a person appointed under subsection (3)(b) the confirming authority must give the acquiring authority and any other person it thinks appropriate the opportunity to be heard at the same time.

(5) The confirming authority may confirm the order with or without modifications if it has considered the objection and either–

(a) it has followed the written representations procedure, or

(b) in a case which falls within subsection (3), if an inquiry was held or a person was appointed under subsection (3)(b), it has considered the report of the person who held the inquiry or who was so appointed.

(6) The written representations procedure is such procedure as is prescribed for the purposes of this section including provision affording an opportunity to–

(a) every person who has made a remaining objection,

(b) the acquiring authority, and

(c) any other person the confirming authority thinks appropriate,

to make written representations as to whether the order should be confirmed.

(7) Relevant objection and disregarded must be construed in accordance with section 13.

13B Written representations procedure: supplementary

(1) This section applies where the confirming authority decides under section 13A to follow the written representations procedure.

(2) The confirming authority may make orders as to the costs of the parties to the written representations procedure, and as to which party must pay the costs.

(3) An order under subsection (2) may be made a rule of the High Court on the application of any party named in the order.

(4) The costs incurred by the confirming authority in connection with the written representations procedure must be paid by the acquiring authority, if the confirming authority so directs.

(5) The confirming authority may certify the amount of its costs, and any amount so certified and directed to be paid by the acquiring authority is recoverable summarily by the confirming authority as a civil debt.

(6) Section 42(2) of the Housing and Planning Act 1986 (recovery of Minister's costs in connection with inquiries) applies to the written representations procedure as if the procedure is an inquiry specified in section 42(1) of that Act.

(7) Regulations under section 13A(6) may make provision as to the giving of reasons for decisions taken in cases where the written representations procedure is followed.

13C Confirmation in stages

(1) The confirming authority may confirm an order (with or without modifications) so far as it relates to part of the land comprised in the order (the “relevant part”) if each of the conditions in subsection (2) is met.

(2) The conditions are–

(a) the confirming authority is satisfied that the order ought to be confirmed so far as it relates to the relevant part but has not for the time being determined whether the order ought to be confirmed so far as it relates to the remaining part;

(b) the confirming authority is satisfied that the notice requirements have been complied with.

(3) If there is a remaining objection in respect of the order, the confirming authority may only act under subsection (1) after complying with section 13A(2) or (3) (as the case may be).

(4) But it may act under subsection (1) without complying with those provisions if it is satisfied that all remaining objections relate solely to the remaining part of the land.

(5) If the confirming authority acts under subsection (1)–

(a) it must give a direction postponing consideration of the order, so far as it relates to the remaining part, until such time as may be specified by or under the direction;

(b) the order so far as it relates to each part of the land must be treated as a separate order.

(6) The notices to be published, affixed and served under section 15 must include a statement as to the effect of the direction given under subsection (5)(a).

(7) Notice requirements must be construed in accordance with section 13.

(8) Remaining objection must be construed in accordance with section 13A."

(7) For section 15 there is substituted–

"15 Notices after confirmation of order

(1) After the order has been confirmed, the acquiring authority must–

(a) serve a confirmation notice and a copy of the order as confirmed on each person on whom a notice was required to be served under section 12, and

(b) affix a confirmation notice to a conspicuous object or objects on or near the land comprised in the order.

(2) The notice under subsection (1)(b) must–

(a) be addressed to persons occupying or having an interest in the land;

(b) so far as practicable, be kept in place by the acquiring authority until the expiry of a period of six weeks beginning with the date when the order becomes operative.

(3) The acquiring authority must also publish a confirmation notice in one or more local newspapers circulating in the locality in which the land comprised in the order is situated.

(4) A confirmation notice is a notice–

(a) describing the land;

(b) stating that the order has been confirmed;

(c) (except in the case of a notice under subsection (1)(a)) naming a place where a copy of the order as confirmed and of the map referred to there may be inspected at all reasonable hours;

(d) that a person aggrieved by the order may apply to the High Court as mentioned in section 23.

(5) A confirmation notice must be in the prescribed form."

(8) The amendments made by this section do not apply to orders of which notice under section 11 of the 1981 Act has been published before commencement of this section.

Commencement

Pt 8 s. 100(1)-(8): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; October 21, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 100-(8): England, Wales

Law In Force

101 Procedure for authorisation by a Minister

(1) Schedule 1 to the Acquisition of Land Act 1981 (c. 67) (the "1981 Act") is amended as follows.

(2) In paragraph 2 (notices in newspapers), after sub-paragraph (2) there is added–

"(3) In addition, the Minister shall affix a notice in the prescribed form to a conspicuous object or objects on or near the land comprised in the draft order.

(4) The notice under sub-paragraph (3) must–

(a) be addressed to persons occupying or having an interest in the land, and

(b) set out each of the matters mentioned in sub-paragraph (2) (but reading the reference there to first publication of the notice as a reference to the day when the notice under sub-paragraph (3) is first affixed)."

(3) In paragraph 3 (notices to owners, lessees and occupiers)–

(a) in sub-paragraph (1), for the words from "owner" to "order" (where it first appears) there is substituted "qualifying person";

(b) for sub-paragraph (2) there is substituted–

"(2) A person is a qualifying person, in relation to land comprised in a draft order, if–

(a) he is an owner, lessee, tenant (whatever the tenancy period) or occupier of any such land, or

(b) he falls within sub-paragraph (2A).

(2A) A person falls within this sub-paragraph if he is–

(a) a person to whom the Minister would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat, or

(b) a person the Minister thinks is likely to be entitled to make a relevant claim if the order is made and the compulsory purchase takes place, so far as he is known to the Minister after making diligent inquiry.

(2B) A relevant claim is a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection)."

(4) For paragraph 4 there are substituted the following paragraphs–

"4

(1) The Minister may make a compulsory purchase order with or without modifications if he is satisfied–

(a) that the notice requirements have been complied with, and

(b) that one of the conditions in sub-paragraph (2) is satisfied.

(2) The conditions are–

(a) no relevant objection is made;

(b) every relevant objection made is either withdrawn or disregarded.

(3) The appropriate authority may require every person who makes a relevant objection to state the grounds of the objection in writing.

(4) If the appropriate authority is satisfied that an objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed it may disregard the objection.

(5) The notice requirements are the requirements under paragraphs 2 and 3 to publish, affix and serve notices in connection with the compulsory purchase order.

(6) A relevant objection is an objection by a person who is a qualifying person for the purposes of paragraph 3(2), but if such a person qualifies only by virtue of paragraph 3(2A)(b) and the Minister thinks that he is not likely to be entitled to make a relevant claim his objection is not a relevant objection.

(7) Disregarded means disregarded under sub-paragraph (4) or under any other power to disregard a relevant objection contained in the enactment providing for the compulsory purchase.

(8) The appropriate authority is–

(a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, the Minister and the planning Minister acting jointly,

(b) in any other case, the Minister.

(9) Highway land acquisition powers must be construed in accordance with the Highways Act 1980.

(10) The planning Minister is the Secretary of State for the time being having general responsibility in planning matters.

4A

(1) This paragraph applies to the making of a compulsory purchase order if a relevant objection is made which is neither–

(a) withdrawn, nor

(b) disregarded,

(a remaining objection).

(2) The appropriate authority may proceed under the written representations procedure–

(a) if the order is not subject to special parliamentary procedure;

(b) in the case of an order to which section 16 applies, if a certificate has been given under subsection (2) of that section, and

(c) if every person who has made a remaining objection consents in the prescribed manner.

(3) If sub-paragraph (2) does not apply or if the appropriate authority decides not to proceed under that sub-paragraph, it must either–

(a) cause a public local inquiry to be held, or

(b) give every person who has made a remaining objection an opportunity of appearing before and being heard by a person appointed by the appropriate authority for the purpose.

(4) If a person who has made a remaining objection takes the opportunity to appear before a person appointed under sub-paragraph (3)(b) the appropriate authority must give any other person it thinks appropriate the opportunity to be heard at the same time.

(5) The Minister may make the order with or without modifications if–

(a) the appropriate authority has considered the objection, and

(b) one of the conditions in sub-paragraph (6) is satisfied.

(6) The conditions are–

(a) the appropriate authority has followed the written representations procedure;

(b) in a case which falls within sub-paragraph (3), if an inquiry was held or a person was appointed under sub-paragraph (3)(b), the appropriate authority has considered the report of the person who held the inquiry or who was so appointed.

(7) The written representations procedure is such procedure as is prescribed for the purposes of this paragraph including provision affording an opportunity to–

(a) every person who has made a remaining objection, and

(b) any other person the appropriate authority thinks appropriate,

to make written representations as to whether the order should be made.

(8) Regulations under sub-paragraph (7) may make provision as to the giving of reasons for decisions taken in cases where the written representations procedure is followed.

(9) Expressions used in this paragraph and in paragraph 4 must be construed in accordance with paragraph 4.

4B

(1) The Minister may make an order (with or without modifications) so far as it relates to part of the land comprised in the draft order (the "relevant part") if each of the conditions in sub-paragraph (2) is met.

(2) The conditions are–

(a) the Minister or, if there is a remaining objection in respect of the order, the appropriate authority is satisfied that the order ought to be made so far as it relates to the relevant part but has not for the time being determined whether the order ought to be made so far as it relates to the remaining part;

(b) the Minister is satisfied that the notice requirements have been complied with.

(3) If there is a remaining objection in respect of the order, the Minister may only act under sub-paragraph (1) after the appropriate authority has complied with paragraph 4A(2) or (3) (as the case may be).

(4) But he may act under sub-paragraph (1) without the appropriate authority having complied with those provisions if he is satisfied that all remaining objections relate solely to the remaining part of the land.

(5) If the Minister acts under sub-paragraph (1)–

(a) he must give a direction postponing consideration of the order, so far as it relates to the remaining part, until such time as may be specified by or under the direction;

(b) the order so far as it relates to each part of the land must be teated as a separate order.

(6) The notices to be published, affixed and served under paragraph 6 must include a statement as to the effect of the direction given under sub-paragraph (5)(a).

(7) Expressions used in this paragraph and in paragraph 4 or 4A must be construed in accordance with paragraph 4 or 4A (as the case may be)."

(5) For paragraph 6 there is substituted–

"6

(1) After the order has been made, the Minister must–

(a) serve a making notice, and a copy of the order as made, on each person on whom a notice was required to be served under paragraph 3, and

(b) affix a making notice to a conspicuous object or objects on or near the land comprised in the order.

(2) The notice under sub-paragraph (1)(b) must–

(a) be addressed to persons occupying or having an interest in the land;

(b) so far as practicable, be kept in place by the acquiring authority until the expiry of a period of six weeks beginning with the date when the order becomes operative.

(3) The Minister must also publish a making notice in one or more local newspapers circulating in the locality in which the land comprised in the order is situated.

(4) A making notice is a notice–

(a) describing the land;

(b) stating that the order has been made;

(c) (except in the case of a notice under sub-paragraph (1)(a)) naming a place where a copy of the order as made and of the map referred to there may be inspected at all reasonable hours;

(d) that a person aggrieved by the order may apply to the High Court as mentioned in section 23.

(5) A making notice must be in the prescribed form."

(6) The amendments made by this section do not apply to orders of which notice under paragraph 2 of Schedule 1 to the 1981 Act has been published before commencement of this section.

Commencement

Pt 8 s. 101(1)-(6): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; October 31, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 101-(6): England, Wales

Law In Force

102 Confirmation by acquiring authority

(1) The Acquisition of Land Act 1981 (c. 67) (the "1981 Act") is amended as follows.

(2) After section 14 there is inserted–

"14A Confirmation by acquiring authority

(1) The power to confirm an order may be exercised by the acquiring authority (instead of the confirming authority) if–

(a) the confirming authority has notified the acquiring authority to that effect, and

(b) the notice has not been revoked.

(2) But this section does not apply to an order in respect of land–

(a) falling within section 16(1) or paragraph 3(1) of Schedule 3, or

(b) forming part of a common, open space or fuel or field garden allotment for the purposes of section 19.

(3) The confirming authority may give notice under subsection (1) if it is satisfied–

(a) that the notice requirements have been complied with,

(b) that no objection has been made in relation to the proposed confirmation or that all objections have been withdrawn, and

(c) that the order is capable of being confirmed without modification.

(4) An objection is an objection made by any person (whether or not a person mentioned in section 12(2)), including an objection which is disregarded.

(5) The power to confirm an order under subsection (1) does not include any power–

(a) to confirm the order with modifications, or

(b) to confirm only a part of the order.

(6) The acquiring authority must notify the confirming authority as soon as reasonably practicable after it has determined whether or not to confirm the order.

(7) The confirming authority may revoke a notice given by it under subsection (1).

(8) But a notice may not be revoked if the determination has already been made and notified by the acquiring authority under subsection (6).

(9) An order confirmed by the acquiring authority under subsection (1) is to have the same effect as if it were confirmed by the confirming authority.

(10) Notices under this section must be in writing.

(11) Notice requirements and disregarded must be construed in accordance with section 13."

(3) The amendments made by this section do not apply to orders of which notice has been published under section 11 of the 1981 Act before commencement of this section.

Commencement

Pt 8 s. 102(1)-(3): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 102(1)-(3): England, Wales

Valuation date

Law In Force

103 Assessment of compensation: valuation date

(1) The Land Compensation Act 1961 (c. 33) is amended as follows.

(2) After section 5 there is inserted–

"5A Relevant valuation date

(1) If the value of land is to be assessed in accordance with rule (2) in section 5, the valuation must be made as at the relevant valuation date.

(2) No adjustment is to be made to the valuation in respect of anything which happens after the relevant valuation date.

(3) If the land is the subject of a notice to treat, the relevant valuation date is the earlier of–

(a) the date when the acquiring authority enters on and takes possession of the land, and

(b) the date when the assessment is made.

(4) If the land is the subject of a general vesting declaration, the relevant valuation date is the earlier of–

(a) the vesting date, and

(b) the date when the assessment is made,

and "general vesting declaration" and "vesting date" have the meanings given in section 2 of the Compulsory Purchase (Vesting Declarations) Act 1981.

(5) If the acquiring authority enters on and takes possession of part of the land–

(a) specified in a notice of entry, or

(b) in respect of which a payment into court has been made,

the authority is deemed, for the purposes of subsection (3)(a), to have entered on and taken possession of the whole of that land on that date.

(6) Subsection (5) also applies for the purposes of calculating interest under the following enactments–

(a) section 11(1) of the Compulsory Purchase Act 1965;

(b) paragraph 3 of Schedule 3 to that Act;

(c) section 85 of the Lands Clauses Consolidation Act 1845;

(d) section 52A of the Land Compensation Act 1973,

and references there to the date or time of entry are to be construed accordingly.

(7) An assessment by the Lands Tribunal is treated as being made on the date certified by the Tribunal as–

(a) the last hearing date before it makes its determination, or

(b) in a case to be determined without an oral hearing, the last date for making written submissions before it makes its determination.

(8) Nothing in this section affects–

(a) any express provision in any other enactment which requires the valuation of land subject to compulsory acquisition to be made at a particular date;

(b) the valuation of land for purposes other than the compulsory acquisition of that land (even if the valuation is to be made in accordance with the rules in section 5).

(9) In this section–

(a) a notice of entry is a notice under section 11(1) of the Compulsory Purchase Act 1965;

(b) a payment into court is a payment into court under Schedule 3 to that Act or under section 85 of the Lands Clauses Consolidation Act 1845."

Commencement

Pt 8 s. 103(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 103(1)-(2): England, Wales

Advance payments

Law In Force

104 Compensation: advance payments to mortgagees

(1) The Land Compensation Act 1973 is amended as follows.

(2) In section 52 (right to advance payment of compensation)–

(a) after subsection (1) there are inserted the following subsections–

"(1A) If the acquiring authority have taken possession of part of the land–

(a) specified in a notice of entry, or

(b) in respect of which a payment into court has been made,

the compensation mentioned in subsection (1) is the compensation payable for the compulsory acquisition of the interest in the whole of the land.

(1B) Notice of entry and payment into court must be construed in accordance with section 5A of the Land Compensation Act 1961.",

(b) for subsection (6) there is substituted the following subsection–

"(6) If the land is subject to a mortgage sections 52ZA and 52ZB apply."

(3) After section 52 of that Act there are inserted the following sections–

"52ZA Advance payments: land subject to mortgage

(1) This section applies if–

(a) an acquiring authority take possession of land,

(b) a request is made in accordance with section 52(2) for an advance payment, and

(c) the land is subject to a mortgage the principal of which does not exceed 90% of the relevant amount.

(2) The advance payment made to the claimant must be reduced by the amount the acquiring authority think will be required by them to secure the release of the interest of the mortgagee (or all the mortgagees if there is more than one).

(3) The acquiring authority must pay to the mortgagee the amount the acquiring authority think will be required by them to secure the release of the mortgagee's interest, if–

(a) the claimant so requests, and

(b) the mortgagee consents to the making of the payment.

(4) If there is more than one mortgagee–

(a) subsection (3) applies to each mortgagee individually, but

(b) payment must not be made to a mortgagee before the interest of each mortgagee whose interest has priority to his interest is released.

(5) The amount of the advance payment made to the claimant under section 52 and the amount of the payments made to mortgagees under this section must not in aggregate exceed 90% of the relevant amount.

(6) Subsection (7) applies if–

(a) the acquiring authority estimated the compensation,

(b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and

(c) a request is made by the claimant in accordance with section 52(2).

(7) The provisions of subsections (2) to (5) must be re-applied on the basis of the revised estimate.

52ZB Advance payments: land subject to mortgage exceeding 90% threshold

(1) This section applies if–

(a) an acquiring authority take possession of land,

(b) a request is made in accordance with section 52(2) for an advance payment, and

(c) the land is subject to a mortgage the principal of which exceeds 90% of the relevant amount.

(2) No advance payment is to be made to the claimant.

(3) But the acquiring authority must pay to the mortgagee the amount found under subsection (4), if–

(a) the claimant so requests, and

(b) the mortgagee consents to the making of the payment.

(4) The amount is whichever is the lesser of–

(a) 90% of the value of the land;

(b) the principal of the mortgagee's mortgage.

(5) The value of the land is the value–

(a) agreed by the claimant and the acquiring authority, or (failing such agreement)

(b) estimated by the acquiring authority.

(6) For the purposes of subsection (5) the value of the land is to be calculated in accordance with rule 2 of section 5 of the Land Compensation Act 1961 (market value), whether or not

compensation is or is likely to be assessed in due course in accordance with rule 5 of that section (equivalent re-instatement).

(7) If there is more than one mortgagee, payment must not be made to a mortgagee until the interest of each mortgagee whose interest has priority to his interest is released.

(8) But the total payments under subsection (3) must not in any event exceed 90% of the value of the land.

(9) Subsection (10) applies if–

(a) the acquiring authority estimated the compensation,

(b) it appears to the acquiring authority that their estimate was too low and they revise the estimate,

(c) the condition in section 52ZA(1)(b) would have been satisfied if the revised estimate had been used instead of their estimate, and

(d) a request is made by the claimant in accordance with section 52(2).

(10) The provisions of section 52ZA(2) to (5) must be applied on the basis of the revised estimate.

(11) If–

(a) the acquiring authority estimated the value of the land,

(b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and

(c) a request is made by the claimant in writing,

any balance found to be due to a mortgagee on the basis of the revised estimate is payable in accordance with this section.

52ZC Land subject to mortgage: supplementary

(1) This section applies for the purposes of sections 52ZA and 52ZB.

(2) The claimant must provide the acquiring authority with such information as they may require to enable them to give effect to those sections.

(3) A request under section 52ZA(3) or 52ZB(3) must be made in writing and must be accompanied by the written consent of the mortgagee.

(4) Subsections (4) and (8) to (9) of section 52 apply to a payment which may be or is made under section 52ZA or 52ZB as they apply to a payment which may be or is made under section 52.

(5) The relevant amount is the amount of the compensation agreed or estimated as mentioned in section 52(3).

(6) If the land is subject to more than one mortgage, the reference in sections 52ZA(1)(c) and 52ZB(1)(c) to the principal is to the aggregate of the principals of all of the mortgagees.

(7) A payment made to a mortgagee under section 52ZA or 52ZB–

(a) must be applied by the mortgagee in or towards the discharge of the principal, interest and costs and any other money due under the mortgage;

(b) must be taken to be a payment on account of compensation and treated for the purposes of section 52(10) as if it were an advance payment made under section 52;

(c) must be taken, with effect from the date of the payment, to reduce by the amount of the payment the amount in respect of which interest accrues for the purposes of section 11(1) of the Compulsory Purchase Act 1965, any bond under Schedule 3 to that Act or section 85 of the Lands Clauses Compensation Act 1845;

(d) must be taken into account for the purposes of determining any payments (or payments into court) which may be made for the purposes of sections 14 to 16 of the Compulsory Purchase Act 1965.

(8) If the amount, or aggregate amount, of any payments under–

(a) sections 52 and 52ZA, or

(b) section 52ZB, on the basis of the acquiring authority's estimate of the compensation exceed the compensation as finally determined or agreed, the excess must be repaid by the claimant.

(9) No payment must be made to a mortgagee–

(a) if any of the circumstances mentioned in subsection (10) applies, or

(b) if the compulsory acquisition is only of a right over land.

(10) The circumstances are–

(a) payment has been made under section 14(2) of the Compulsory Purchase Act 1965;

(b) a notice under section 14(3) of that Act has been given;

(c) there is an agreement under section 15(1) or 16(1) of that Act or the matter has been referred to the Lands Tribunal under that section.

(11) The claimant in relation to settled land for the purposes of the Settled Land Act 1925 is the persons entitled to give a discharge for capital money."

(4) In section 52A (right to interest where advance payment made) for subsection (2) there is substituted–

"(2) If the authority make a payment under section 52(1) to any person on account of the compensation–

(a) they must at the same time make a payment to that person of accrued interest, for the period beginning with the date of entry, on the amount of the compensation agreed or estimated under section 52(3) (the total amount), and

(b) the difference between the paid amount and the total amount is an unpaid balance for the purposes of this section.

(2A) The paid amount is–

(a) the amount of the payment under section 52(1), or

(b) if the land is subject to a mortgage, the aggregate of that amount and the amount of any payment made under section 52ZA(3)."

Commencement

Pt 8 s. 104(1)-(4): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 104(1)-(4): England, Wales

Information

Law In Force

105 Power to require information

(1) The Acquisition of Land Act 1981 (c. 67) is amended as follows.

(2) After section 5 (local inquiries) there is inserted–

"5A Power to require information

(1) This section applies to information about land in relation to which an acquiring authority is entitled to exercise a power of compulsory purchase.

(2) The acquiring authority may serve a notice on a person mentioned in subsection (4) requiring him to give to the authority in writing the following information–

(a) the name and address of any person he believes to be an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;

(b) the name and address of any person he believes to have an interest in the land.

(3) The power in subsection (2) is exercisable for the purpose of enabling the acquiring authority to acquire the land.

(4) The persons are–

(a) the occupier of the land;

(b) any person who has an interest in the land either as freeholder, mortgagee or lessee;

(c) any person who directly or indirectly receives rent for the land;

(d) any person who, in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it.

(5) The notice must specify the period within which the information must be given to the acquiring authority (being a period of not less than 14 days beginning with the day on which the notice is served).

(6) The notice must also specify or describe–

(a) the land,

(b) the compulsory purchase power, and

(c) the enactment which confers the power.

(7) The notice must be in writing.

(8) Section 6(4) does not apply to notices to be served under this section.

5B Offences relating to information

(1) A person commits an offence if he fails without reasonable excuse to comply with a notice served on him under section 5A.

(2) A person commits an offence if, in response to a notice served on him under section 5A–

(a) he gives information which is false in a material particular, and

(b) when he does so, he knows or ought reasonably to know that the information is false.

(3) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of–

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in any such capacity,

he, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

(4) The reference in subsection (3) to a director must be construed in accordance with section 331(2) of the Town and Country Planning Act 1990.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale."

Commencement

Pt 8 s. 105(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 105(1)-(2): England, Wales

Loss payments

Law In Force

106 Basic loss payment

(1) After section 33 of the Land Compensation Act 1973 (c. 26) (home loss payments for certain caravan dwellers) there is inserted the following section–

"Other loss payments

33A Basic loss payment

(1) This section applies to a person–

(a) if he has a qualifying interest in land,

(b) if the interest is acquired compulsorily, and

(c) to the extent that he is not entitled to a home loss payment in respect of any part of the interest.

(2) A person to whom this section applies is entitled to payment of whichever is the lower of the following amounts–

(a) 7.5% of the value of his interest;

(b) £75,000.

(3) A payment under this section must be made by the acquiring authority.

(4) An interest in land is a qualifying interest if it is a freehold interest or an interest as tenant and (in either case) it subsists for a period of not less than one year ending with whichever is the earliest of–

(a) the date on which the acquiring authority takes possession of the land under section 11 of the Compulsory Purchase Act 1965 (entry to take possession of land);

(b) the date on which the acquiring authority enters the land if it proceeds under Schedule 3 to that Act;

(c) the vesting date (within the meaning of the Compulsory Purchase (Vesting Declarations) Act 1981) if a declaration is made under section 4 of that Act (general vesting declaration);

(d) the date on which compensation is agreed between the person and the acquiring authority;

(e) the date on which the amount of compensation is determined by the Lands Tribunal.

(5) The compulsory acquisition of an interest in land includes acquisition of the interest in consequence of the service of–

(a) a purchase notice under section 137 of the Town and Country Planning Act 1990 (right to require purchase of certain interests);

(b) a notice under section 150 of that Act (purchase of blighted land).

(6) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (7) and (8).

(7) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(8) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil."

(2) Section 33A of the Land Compensation Act 1973 (c. 26) (as inserted by subsection (1) above) does not apply in relation to a pre-commencement acquisition of an interest in land.

(3) A pre-commencement acquisition of an interest in land is any of the following–

(a) acquisition by means of a compulsory purchase order if the order is made or made in draft before the commencement of this section;

(b) acquisition by means of an order made under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders relating to certain transport works) if the application for the order was made to the Secretary of State before the commencement of this section;

(c) acquisition by means of an order under section 1 or 3 of that Act if the order is made in pursuance of section 7 of that Act (orders made without application) and the order is made in draft before the commencement of this section;

(d) acquisition by means of a power contained in an enactment (including a private or local Act) to acquire compulsorily specified land or a specified interest in land if the Bill providing for the power is introduced into Parliament before the commencement of this section.

Commencement

Pt 8 s. 106(1)-(3)(d): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 106(1)-(3)(d): England, Wales

Law In Force

107 Occupier's loss payment

(1) After section 33A of the Land Compensation Act 1973 (inserted by section 106 of this Act) there are inserted the following sections–

"33B Occupier's loss payment: agricultural land

(1) This section applies to a person if–

(a) he has a qualifying interest in land for the purposes of section 33A,
(b) the land is agricultural land,
(c) the interest is acquired compulsorily, and
(d) he occupied the land for the period specified in section 33A(4).

(2) A person to whom this section applies is entitled to a payment of whichever is the greatest of the following amounts–

(a) 2.5% of the value of his interest;
(b) the land amount;
(c) the buildings amount.

(3) But the maximum amount which may be paid to a person under this section in respect of an interest in land is £25,000.

(4) A payment under this section must be made by the acquiring authority.

(5) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (6) and (7).

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.

(8) The land amount is the greater of £300 and the amount found in accordance with the following Table–

Area of the land	***Amount per hectare***
Not exceeding 100 hectares	£100 per hectare or part of a hectare
Exceeding 100 hectares	(a) £100 per hectare for the first 100 hectares; (b) £50 per hectare for the next 300 hectares or part of a hectare.

(9) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.

(10) The gross floor space must be measured externally.

33C Occupier's loss payment: other land

(1) This section applies to a person if–

(a) he has a qualifying interest in land for the purposes of section 33A,
(b) the land is not agricultural land,
(c) the interest is acquired compulsorily, and
(d) he occupied the land for the period specified in section 33A(4).

(2) A person to whom this section applies is entitled to a payment of whichever is the greatest of the following amounts–

(a) 2.5% of the value of his interest;
(b) the land amount;
(c) the buildings amount.

(3) But the maximum amount which may be paid to a person under this section in respect of an interest in land is £25,000.

(4) A payment under this section must be made by the acquiring authority.

(5) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (6) and (7).

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.

(8) The land amount is the greater of–

(a) £2,500;
(b) £2.50 per square metre (or part of a square metre) of the area of the land.

(9) But if only part of land in which a person has an interest is acquired, for the figure specified in subsection (8)(a) there is substituted £300.

(10) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.

(11) The gross floor space must be measured externally."

(2) Sections 33B and 33C of the Land Compensation Act 1973 (c. 26) (as inserted by subsection (1) above) do not apply in relation to a pre-commencement acquisition of an interest in land.

(3) A pre-commencement acquisition of an interest in land is any of the following–

(a) acquisition by means of a compulsory purchase order if the order is made or made in draft before the commencement of this section;

(b) acquisition by means of an order made under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders relating to certain transport works) if the application for the order was made to the Secretary of State before the commencement of this section;

(c) acquisition by means of an order under section 1 or 3 of that Act if the order is made in pursuance of section 7 of that Act (orders made without application) and the order is made in draft before the commencement of this section;

(d) acquisition by means of a power contained in an enactment (including a private or local Act) to acquire compulsorily specified land or a specified interest in land if the Bill providing for the power is introduced into Parliament before the commencement of this section.

Commencement

Pt 8 s. 107(1)-(3)(d): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 107(1)-(3)(d): England, Wales

Law In Force

108 Loss payments: exclusions

(1) After section 33C of the Land Compensation Act 1973 (inserted by section 107 of this Act) there is inserted the following section–

"33D Loss payments: exclusions

(1) This section applies to a person if–

(a) he is a person to whom section 33A, 33B or 33C applies,

(b) a notice falling within subsection (4) has been served on him in relation to the land mentioned in that section,

(c) at the relevant time the notice has effect or is operative, and

(d) he has failed to comply with any requirement of the notice.

(2) This section also applies to a person if–

(a) he is a person to whom section 33A, 33B or 33C applies,

(b) a copy of an order falling within subsection (5) has been served on him in relation to the land mentioned in that section, and

(c) the order has not been quashed on appeal.

(3) No payment may be made under section 33A, 33B or 33C to a person to whom this section applies.

(4) These are the notices–

(a) notice under section 215 of the Town and Country Planning Act 1990 (power to require proper maintenance of land);

(b) notice under section 189 of the Housing Act 1985 (requirement to repair dwelling etc. unfit for human habitation);

(c) notice under section 190 of that Act (requirement to repair dwelling etc. in state of disrepair);

(d) notice under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (repairs notice prior to compulsory notice of acquisition of listed building).

(5) These are the orders–

(a) an order under section 264 of the Housing Act 1985 (closure of dwelling etc. unfit for human habitation);

(b) an order under section 265 of that Act (demolition of dwelling etc. unfit for human habitation).

(6) The relevant time is the time at which the compulsory purchase order in relation to the person's interest in the land–

(a) is confirmed, in the case of an order falling within section 2(2) of the Acquisition of Land Act 1981 (procedure for authorisation);

(b) is made, in the case of an order falling within section 2(3) of that Act.

(7) The Secretary of State may by regulations amend subsections (4) and (5).”

(2) Section 33D of the Land Compensation Act 1973 (c. 26) (as inserted by subsection (1) above) does not apply in relation to a notice or order specified in subsection (4) or (5) of that section if the notice or copy of the order was served on a person to whom that section applies before the commencement of this section.

Commencement

Pt 8 s. 108(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 108(1)-(2): England, Wales

Law In Force

109 Loss payments: supplementary

After section 33D of the Land Compensation Act 1973 (inserted by section 108 of this Act) there are inserted the following sections–

“33E Claims

(1) This section applies for the purposes of sections 33A to 33C.

(2) A claim for payment must be made in writing to the acquiring authority.

(3) The claim must give such particulars as the authority may reasonably require for the purpose of deciding–

(a) whether a payment is to be made;

(b) the amount of any such payment.

(4) For the purposes of the Limitation Act 1980 a person's right of action to recover a payment must be taken to have accrued–

(a) in the case of a claim under section 33A on the last day of the period specified in subsection (4) of that section;

(b) in the case of a claim under section 33B or 33C on the date of his displacement from the land.

33F Insolvency

(1) This section applies if a person is entitled to a payment under section 33A, 33B or 33C but before a claim is made under section 33E insolvency proceedings are started in relation to the person.

(2) Any of the following may make a claim instead of the person mentioned in subsection (1)–

(a) a receiver, trustee in bankruptcy or the official receiver in the case of an individual;

(b) an administrator, administrative receiver, liquidator or provisional liquidator or the official receiver in the case of a company or a partnership.

(3) Insolvency proceedings are–

(a) proceedings in bankruptcy;

(b) proceedings under the Insolvency Act 1986 for the winding up of a company or an unregistered company (including voluntary winding up of a company under Part 4 of that Act);

(c) proceedings for the winding up of a partnership.

33G Death

(1) This section applies if a person is entitled to a payment under section 33A, 33B or 33C but before a claim is made under section 33E the person dies (the deceased).

(2) A claim may be made by a person who–

(a) occupied the land for a period of not less than one year ending with the date on which the deceased is displaced from the land, and

(b) is entitled to benefit on the death of the deceased by virtue of a ground mentioned in subsection (3).

(3) The grounds are–

(a) a testamentary disposition;

(b) the law of intestate succession;

(c) the right of survivorship between joint tenants.

33H Agricultural land: dual entitlement

(1) This section applies if a person is entitled in respect of the same interest in agricultural land to a payment both–

(a) under section 33B of this Act, and

(b) by virtue of section 12(1) of the Agriculture (Miscellaneous Provisions) Act 1968 (additional payments in consequence of compulsory acquisition of agricultural holding).

(2) Payment may be made in respect of only one entitlement.

(3) If the person makes a claim under both provisions he must be paid in respect of the entitlement which produces the greater amount.

33I Payment

(1) Any dispute as to the amount of a payment to be made under section 33A, 33B or 33C must be determined by the Lands Tribunal.

(2) The acquiring authority must make any payment required by section 33A not later than whichever is the latest of the following dates–

(a) the last day of the period specified in section 33A(4);

(b) the last day of the period of three months beginning with the day the claim is made;

(c) the day on which the amount of the payment is determined.

(3) The authority must make any payment required by section 33B or 33C not later than whichever is the latest of the following dates–

(a) the date the person is displaced from the land;

(b) the last day of the period of three months beginning with the day the claim is made;

(c) the day on which the amount of the payment is determined.

(4) If paragraph (c) of subsection (2) or (3) applies the authority may at any time make a payment in advance to the person entitled to a payment (the claimant).

(5) If when the value of the interest is agreed or determined the amount of a payment made under subsection (4) differs from the payment required by section 33A, 33B or 33C–

(a) the amount by which the advance payment exceeds the payment required must be repaid by the claimant to the authority;

(b) the amount by which the payment required exceeds the advance payment must be paid by the authority to the claimant.

(6) The acquiring authority must pay interest on the amount required to be paid at the rate prescribed by regulations under section 32 of the Land Compensation Act 1961.

(7) Interest accrues from the date specified in paragraph (a) of subsection (2) or (3) (as the case may be).

(8) The authority may, at the request of the person entitled to the payment, make a payment on account of the interest mentioned in subsection (6).

33J Acquisition by agreement

(1) This section applies if–

(a) an interest in land which is a qualifying interest for the purpose of section 33A is acquired by agreement by an authority which has power to acquire the interest compulsorily, and

(b) the interest is acquired from a person who would be entitled to a payment under section 33A, 33B or 33C if the interest is acquired compulsorily.

(2) The authority may make a payment to the person of an amount equal to the amount they would be required to pay if the interest is acquired compulsorily.

33K Regulations

(1) This section applies for the purposes of sections 33A to 33I.

(2) The Secretary of State may by regulations substitute for any amount or percentage figure specified in these sections such other amount or percentage figure (as the case may be) as he thinks fit.

(3) Except as provided in the following provisions of this section, a power to make regulations must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) This subsection applies to regulations under subsection (2) which substitute–

(a) a percentage figure, or

(b) an amount, in a case where the change in value condition is not satisfied.

(5) A statutory instrument containing regulations to which subsection (4) applies must not be made unless a draft of the regulations has been laid before and approved by resolution of each House of Parliament.

(6) The change in value condition is satisfied if the Secretary of State thinks that in the case of the substitution of an amount it is expedient to make the substitution in consequence of changes in the value of money or land.

(7) Regulations under subsection (2) may make different provision for different purposes."

Commencement

Pt 8 s. 109: October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 109: England, Wales

Corresponding amendments of other enactments

Law In Force

110 Corresponding amendments of other enactments

(1) This section applies to any enactment passed or made before or in the same session as the passing of this Act (other than an enactment amended by this Part) which makes provision–

(a) in connection with the compulsory acquisition of an interest in land,

(b) creating a power which permits the interference with or affectation of any right in relation to land, or

(c) for the payment of any sum in connection with the acquisition, interference or affectation.

(2) The Secretary of State may by order amend an enactment to which this section applies for the purpose of making provision which–

(a) corresponds to provision made by this Part, or

(b) applies any such provision or corresponding provision.

Commencement

Pt 8 s. 110(1)-(2)(b): October 31, 2004 (SI 2004/2593 art. 2(a))

Extent

Pt 8 s. 110(1)-(2)(b): England, Wales

PART 9

MISCELLANEOUS AND GENERAL

Crown

Law In Force

111 Crown

(1) This Act (except Part 8) binds the Crown.

(2) The amendment of an enactment by or by virtue of Part 8 applies to the Crown to the extent that the enactment amended so applies.

Commencement

Pt 9 s. 111(1): June 7, 2006 (SI 2006/1281 art. 3)

Pt 9 s. 111(2): October 31, 2004 (SI 2004/2593 art. 2(b))

Extent

Pt 9 s. 111(1): England, Wales, Scotland

Pt 9 s. 111(2): England, Wales

Parliament

Law In Force

112 Parliament

The planning Acts and this Act have effect despite any rule of law relating to Parliament or the law and practice of Parliament.

Commencement

Pt 9 s. 112: June 7, 2006 (SI 2006/1281 art. 2(b))

Extent

Pt 9 s. 112: England, Wales

Miscellaneous

Law In Force With Amendments Pending

113 Validity of strategies, plans and documents

(1) This section applies to–

(a) a revision of **[** the regional strategy **]** [1] ;

[(b) the National Development Framework for Wales;

(ba) a strategic development plan; **]** [2]

(c) a development plan document;

(d) a local development plan;

(e) a revision of a document mentioned in paragraph (b), **[** (ba), **]** [3] (c) or (d);

(f) the Mayor of London's spatial development strategy;

(g) an alteration or replacement of the spatial development strategy,

and anything falling within paragraphs (a) to (g) is referred to in this section as a relevant document.

(2) A relevant document must not be questioned in any legal proceedings except in so far as is provided by the following provisions of this section.

(3) A person aggrieved by a relevant document may make an application to the High Court on the ground that–

(a) the document is not within the appropriate power;

(b) a procedural requirement has not been complied with.

[(3A) An application may not be made under subsection (3) without the leave of the High Court.

(3B) An application for leave for the purposes of subsection (3A) must be made before the end of the period of six weeks beginning with the day after the relevant date. **]** [4]

(4) **[…]**[5]

(5) The High Court may make an interim order suspending the operation of the relevant document–

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

[(5A) An interim order has effect—

(a) if made on an application for leave, until the final determination of—

(i) the question of whether leave should be granted, or

(ii) where leave is granted, the proceedings on any application under this section made with such leave;

(b) in any other case, until the proceedings are finally determined.

] [6]

(6) Subsection (7) applies if the High Court is satisfied–

(a) that a relevant document is to any extent outside the appropriate power;

(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

[(7) The High Court may—

(a) quash the relevant document;

(b) remit the relevant document to a person or body with a function relating to its preparation, publication, adoption or approval.

(7A) If the High Court remits the relevant document under subsection (7)(b) it may give directions as to the action to be taken in relation to the document.

(7B) Directions under subsection (7A) may in particular—

(a) require the relevant document to be treated (generally or for specified purposes) as not having been approved or adopted;

(b) require specified steps in the process that has resulted in the approval or adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;

(c) require action to be taken by a person or body with a function relating to the preparation, publication, adoption or approval of the document (whether or not the person or body to which the document is remitted);

(d) require action to be taken by one person or body to depend on what action has been taken by another person or body.

(7C) The High Court's powers under subsections (7) and (7A) are exercisable in relation to the relevant document—

(a) wholly or in part;
(b) generally or as it affects the property of the applicant.
] [7]

(8) **[…]**[8]

(9) The appropriate power is–
[(a) Part 5 of the Local Democracy, Economic Development and Construction Act 2009 in the case of a revision of the regional strategy; **]** [9]
[(b) sections 60 to 60C above in the case of the National Development Framework for Wales or a revised Framework;
(ba) in the case of a strategic development plan or any revision of it—
(i) **[** section 60M **]** [11] above, and
(ii) sections 63 to 68, 68A(1), 69 to 71 and 73 to 78 above, as they apply in relation to strategic development plans (see **[** section 60N **]** [12]);
] [10]
(c) Part 2 of this Act in the case of a development plan document or any revision of it;
(d) sections 62 to 78 above in the case of a local development plan or any revision of it;
(e) sections 334 to 343 of the Greater London Authority Act 1999 (c. 29) in the case of the spatial development strategy or any alteration or replacement of it.

(10) A procedural requirement is a requirement under the appropriate power or contained in regulations or an order made under that power which relates to the adoption, publication or approval of a relevant document.

(11) References to the relevant date must be construed as follows–
[(a) for the purposes of a revision of the regional strategy, the date when the revision is published by the Secretary of State under Part 5 of Local Democracy, Economic Development and Construction Act 2009; **]** [13]
[(b) for the purposes of the National Development Framework for Wales (or a revised Framework), the date when it is published by the Welsh Ministers;
(ba) for the purposes of a strategic development plan (or a revision of it), the date when it is adopted by the **[** corporate joint committee **]** [15] or approved by the Welsh Ministers (as the case may be); **]** [14]
(c) for the purposes of a development plan document (or a revision of it), the date when it is adopted by the local planning authority or approved by the Secretary of State (as the case may be);
(d) for the purposes of a local development plan (or a revision of it), the date when it is adopted by a local planning authority in Wales or approved by the National Assembly for Wales (as the case may be);
(e) for the purposes of the spatial development strategy (or an alteration or replacement of it), the date when the Mayor of London publishes it.

[(12) In this section references to a revision of the regional strategy include a revised strategy under section 79 of the Local Democracy, Economic Development and Construction Act 2009. **]** [16]

Notes

[1] Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.19(2) (April 1, 2010)

[2] S.113(1)(b) and (ba) substituted for s.113(1)(b) by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.27(2)(a) (December 4, 2020)

[3] Word inserted by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.27(2)(b) (December 4, 2020)

[4] Added by Criminal Justice and Courts Act 2015 c. 2 Sch.16 para.8(2) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(c))

[5] Repealed by Criminal Justice and Courts Act 2015 c. 2 Sch.16 para.8(3) (October 26, 2015: repeal has effect subject to transitional provisions specified in SI 2015/1778 art.4(c))

[6] Added by Criminal Justice and Courts Act 2015 c. 2 Sch.16 para.8(4) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(c))

[7] S.113(7)-(7C) substituted for s.113(7) by Planning Act 2008 c. 29 Pt 9 c.2 s.185 (August 8, 2014 as SI 2014/1769)

[8] Repealed by Criminal Justice and Courts Act 2015 c. 2 Sch.16 para.8(5) (October 26, 2015: repeal has effect subject to transitional provisions specified in SI 2015/1778 art.4(c))

[9] Substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.19(3) (April 1, 2010)

[10] S.113(9)(b) and (ba) substituted for s.113(9)(b) by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.27(3) (December 4, 2020)

[11] Word substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.7(a)(i) (January 21, 2021)

[12] Word substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.7(a)(ii) (January 21, 2021)

[13] Substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.19(4) (April 1, 2010)

[14] S.113(11)(b) and (ba) substituted for s.113(11)(b) by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.27(4) (December 4, 2020)

[15] Words substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.7(b) (January 21, 2021)

[16] Added by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.5 para.19(5) (April 1, 2010)

Amendments Pending

Pt 9 s. 113(1): word substituted by Localism Act 2011 c. 20 Sch. 8 para. 17(2)(b) (Not yet in force)

Pt 9 s. 113(1)(a): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 9 s. 113(9)(a): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 9 s. 113(11)(a): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Pt 9 s. 113(12): repealed by Localism Act 2011 c. 20 Sch. 25(16) para. 1 (Not yet in force)

Commencement

Pt 9 s. 113(1)-(11)(e): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(e); SI 2005/2847 art. 2(c))

Extent

Pt 9 s. 113-(12): England, Wales

Law In Force

114 Examinations

An examination of any document or plan for the purposes of Part 2 or Part 6 of this Act is a statutory inquiry within the meaning of the Tribunals and Inquiries Act 1992 (c. 53).

Commencement

Pt 9 s. 114: September 28, 2004 in relation to England for provisions specified in SI 2004/2202 art.2(f); October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(f); SI 2005/2847 art. 2(d))

Extent

Pt 9 s. 114: England, Wales

Law In Force

115 Grants for advice and assistance

In the principal Act after section 304 (grants for research and education) there is inserted the following section–

"304A Grants for advice and assistance

(1) The appropriate authority may make grants for the purpose of assisting any person to provide advice and assistance in connection with any matter which is related to–

(a) the planning Acts;
(b) the Planning and Compulsory Purchase Act 2004;
(c) the enactments mentioned in subsection (2).

(2) The enactments are enactments which relate to planning contained in the following Acts–

(a) the Planning and Compensation Act 1991;
(b) the Transport and Works Act 1992;
(c) the Environment Act 1995.

(3) The appropriate authority may make a grant subject to such terms and conditions as it thinks appropriate.

(4) Person includes a body whether or not incorporated.

(5) The appropriate authority is–

(a) the Secretary of State in relation to England;
(b) the National Assembly for Wales in relation to Wales."

Commencement

Pt 9 s. 115: May 13, 2004

Extent

Pt 9 s. 115: England, Wales

Law In Force

116 Isles of Scilly

(1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.

(2) An order may in particular provide for–

(a) the Council of the Isles of Scilly to enter into arrangements in pursuance of section 4;

(b) the exercise by the Council of the Isles of Scilly of any function exercisable by a local planning authority under Part 2 **[** or 3 **]** [1].

(3) But an order must not be made under this section unless the Secretary of State has consulted the Council of the Isles of Scilly.

Notes

[1] Words inserted by Localism Act 2011 c. 20 Sch.12 para.30 (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

Commencement

Pt 9 s. 116(1)-(3): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; August 24, 2005 otherwise (SI 2004/2097 art. 2; SI 2005/2081 art. 3)

Extent

Pt 9 s. 116-(3): England, Wales

Law In Force

117 Interpretation

(1) Expressions used in this Act and in the principal Act have the same meaning in this Act as in that Act.

(2) Expressions used in this Act and in the listed buildings Act have the same meaning in this Act as in that Act.

(3) Expressions used in this Act and in the hazardous substances Act have the same meaning in this Act as in that Act.

(4) The planning Acts are–

(a) the principal Act;

(b) the listed buildings Act;

(c) the hazardous substances Act;

(d) the Planning (Consequential Provisions) Act 1990 (c. 11).

(5) The principal Act is the Town and Country Planning Act 1990 (c. 8).

(6) The listed buildings Act is the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).

(7) The hazardous substances Act is the Planning (Hazardous Substances) Act 1990 (c. 10).

(8) The Scottish planning Acts are–

(a) the Town and Country Planning (Scotland) Act 1997 (c. 8);
(b) the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9);
(c) the Planning (Hazardous Substances) (Scotland) Act 1997 (c. 10); and
(d) the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11).

Commencement

Pt 9 s. 117(1)-(7): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(a))

Pt 9 s. 117(8)-(8)(d): June 12, 2006 (SSI 2006/268 art. 3(c))

Extent

Pt 9 s. 117(1)-(7): England, Wales

Pt 9 s. 117(8)-(8)(d): Scotland

General

Partially In Force

118 Amendments

(1) Schedule 6 contains amendments of the planning Acts.

(2) Schedule 7 contains amendments of other enactments.

(3) A reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 to an enactment amended by this Act must be taken to be a reference to the enactment as so amended.

(4) But subsection (3) does not affect such an enactment to the extent that the amendment makes express provision in connection with the exercise of a function in relation to Wales.

Commencement

Pt 9 s. 118(1)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2 except in relation to 1997 c.8 as specified in SI 2004/2097 art.2; September 28, 2004 except in relation to 1997 c.8 as specified in SI 2004/2202 art.3(c); June 12, 2006 in relation to Scotland for provisions specified in SSI 2006/268 art.3(d); not yet in force otherwise (SSI 2006/268 art. 3(d); SI 2004/2097 art. 2; SI 2004/2202 art. 3)

Extent

Pt 9 s. 118-, (2): England, Wales, Scotland

Pt 9 s. 118(1), (3)-(4): England, Wales

Partially In Force

119 Transitionals

(1) Schedule 8 contains transitional provisions relating to Parts 1 and 2.

(2) The Scottish Ministers may by order make such transitional provision for Scotland, corresponding to the provisions of Schedule 4 and to section 30B of the hazardous substances Act (inserted by section 79(3)), as they consider necessary or expedient.

Commencement

Pt 9 s. 119(1): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England for provisions specified in SI 2004/2202 art.2(f); not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(g))

Pt 9 s. 119(2): March 20, 2006 (SSI 2006/101 art. 2, Sch. 1 para. 1)

Extent

Pt 9 s. 119(1)-(1): England, Wales

Pt 9 s. 119(2)-(2): Scotland

Law In Force

120 Repeals

Schedule 9 contains repeals.

Commencement

Pt 9 s. 120: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2 except in relation to 1997 c.8, 1997 c.9 and 1997 c.10 as specified in SI 2004/2097 art.2; September 28, 2004 except in relation to 1997 c.8, 1997 c.9 and 1997 c.10 as specified in SI 2004/2202 art.3(d); June 12, 2006 otherwise (SSI 2006/268 art. 3(e); SI 2004/2097 art. 2; SI 2004/2202 art. 2(k), art. 3(d))

Extent

Pt 9 s. 120-: England, Wales, Scotland

Law In Force

121 Commencement

(1) The preceding provisions of this Act (except section 115 and the provisions specified in subsections (4), (5) and (6)) come into force on such day as the Secretary of State may by order appoint.

(2) But the Secretary of State must not make an order which relates to any of the following provisions unless he first consults the National Assembly for Wales–

(a) Part 3;
(b) Part 4, except sections 44 and 55;
(c) Part 5;

(d) in Part 7, Chapter 1;
(e) Part 8;
(f) in this Part sections 113, 114, 117, 118 and 120;
(g) Schedules 3, 4, 6, 7 and 9.

(3) And the Secretary of State must not make an order which relates to section 91 unless he first consults and has the agreement of the Scottish Ministers.

[(3A) Subsections (1) and (2) are subject to subsection (3B).

(3B) Section 43 (power to decline to determine applications) (so far as not in force on the day on which paragraph 7 of Schedule 7 of the Planning Act 2008 comes into force) comes into force on such day as may be appointed by order made by—
(a) the Secretary of State in relation to England;
(b) the Welsh Ministers in relation to Wales.
] [1]

(4) The following provisions come into force on such day as the Scottish Ministers may by order appoint–
(a) sections 90 and 92 to 98;
(b) Schedule 5;
(c) section 117(8);
(d) in so far as relating to the Town and Country Planning (Scotland) Act 1997, section 118(2) and Schedule 7;
(e) section 119(2); and
(f) in so far as relating to that Act, to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or to the Planning (Hazardous Substances) (Scotland) Act 1997, section 120 and Schedule 9.

(5) Part 6 comes into force in accordance with provision made by the National Assembly for Wales by order.

(6) In Schedule 7, paragraph 10(7) comes into force at the end of the period of two months starting on the day this Act is passed.

Notes

[1] Added by Planning Act 2008 c. 29 Sch.7 para.7 (January 26, 2009)

Commencement

Pt 9 s. 121(1)-(6): May 13, 2004

Extent

Pt 9 s. 121(1)-(6): England, Wales, Scotland

Law In Force

122 Regulations and orders

(1) A power to prescribe is (unless express provision is made to the contrary) a power to prescribe by regulations exercisable–

(a) by the Secretary of State in relation to England;
(b) by the **[** Welsh Ministers **]** [1] in relation to Wales.

(2) References in this section to subordinate legislation are to any order or regulations under this Act.

(3) Subordinate legislation–
(a) may make different provision for different purposes;
(b) may include such supplementary, incidental, consequential, saving or transitional provisions (including provision amending, repealing or revoking enactments) as the person making the subordinate legislation thinks necessary or expedient.

(4) A power to make subordinate legislation must be exercised by statutory instrument.

(5) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament unless it contains–
(a) **[…]**[2]
(b) an order under section 98, 116(1) or 119(2);
(c) an order under section 110(2);
(d) an order under section 121(1) to which subsection (8) applies;
(e) an order under section 121(4);
(f) provision amending or repealing an enactment contained in an Act;
(g) subordinate legislation made by the **[** Welsh Ministers **]** [3] .

(6) A statutory instrument mentioned in subsection (5) **[…]**[2] (c) or (f) must not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.

[(6A) Subsection (6) does not apply in relation to a statutory instrument containing subordinate legislation made by the Welsh Ministers.

(6B) The Welsh Ministers must not make a statutory instrument containing subordinate legislation which includes provision amending or repealing an enactment contained in primary legislation unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.

(6C) A statutory instrument containing subordinate legislation made by the Welsh Ministers to which subsection (6B) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales. **]** [4]

(7) A statutory instrument containing an order under section 98 or 119(2) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(8) This subsection applies to an order which does not contain provision amending or repealing an enactment contained in an Act.

(9) A statutory instrument containing an order under section 121(4), if it includes provision amending or repealing an enactment contained in an Act, must not be made unless a draft of the instrument has been laid before and approved by resolution of the Scottish Parliament.

(10) In subsection (3), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament and in subsections (8) and (9), “Act” includes such an Act and “enactment” includes an enactment comprised in such an Act.

[(11) In subsection (6B), “primary legislation” means—
(a) an Act of Parliament;

(b) an Act or Measure of the National Assembly for Wales.

][5]

Notes

[1] Words substituted by Planning (Wales) Act 2015 anaw. 4 Sch.7 para.1(2) (September 6, 2015)

[2] Amended by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2010 as SI 2010/566)

[3] Words substituted by Planning (Wales) Act 2015 anaw. 4 Sch.7 para.1(3) (September 6, 2015)

[4] Added by Planning (Wales) Act 2015 anaw. 4 Sch.7 para.1(4) (September 6, 2015)

[5] Added by Planning (Wales) Act 2015 anaw. 4 Sch.7 para.1(5) (September 6, 2015)

Commencement

Pt 9 s. 122(1)-(10): May 13, 2004

Extent

Pt 9 s. 122(1)-(11)(b): England, Wales, Scotland

Law In Force

123 Finance

(1) There is to be paid out of money provided by Parliament–

(a) any expenses of the Secretary of State in making grants in connection with the provision of advice and assistance in relation to the planning Acts;

(b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) There is to be paid into the Consolidated Fund any increase attributable to this Act in the sums so payable under any other enactment.

Commencement

Pt 9 s. 123(1)-(2): May 13, 2004

Extent

Pt 9 s. 123(1)-(2): England, Wales

Law In Force

124 Extent

(1) Except as otherwise provided in this section, this Act extends to England and Wales only.

(2) Sections 111(1), 118(2), 120 to 122, this section and section 125 extend also to Scotland.

(3) Sections 90 to 98, 117(8) and 119(2) extend to Scotland only.

(4) The extent of any amendment, repeal or revocation made by this Act is the same as that of the enactment amended, repealed or revoked.

Commencement

Pt 9 s. 124(1)-(4): May 13, 2004

Extent

Pt 9 s. 124(1)-(4): England, Wales, Scotland

Law In Force

125 Short Title

This Act may be cited as the Planning and Compulsory Purchase Act 2004.

Commencement

Pt 9 s. 125: May 13, 2004

Extent

Pt 9 s. 125: England, Wales, Scotland

[SCHEDULE A1

DEFAULT POWERS EXERCISABLE BY MAYOR OF LONDON [, COMBINED AUTHORITY OR COUNTY COUNCIL][2]

Section 27A

] [1]

Notes

1 Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

2 Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.3 (January 16, 2018)

[Default powers exercisable by Mayor of London] [1]

Notes

1 Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Law In Force

[1

If the Secretary of State—

(a) thinks that a London borough council, in their capacity as local planning authority, are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and

(b) invites the Mayor of London to prepare or revise the document,

the Mayor of London may prepare or revise (as the case may be) the development plan document. **]** [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 1(a)-(b): England, Wales

Law In Force

[2

(1) This paragraph applies where a development plan document is prepared or revised by the Mayor of London under paragraph 1.

(2) The Mayor of London must hold an independent examination.

(3) The Mayor of London—

(a) must publish the recommendations and reasons of the person appointed to hold the examination, and

(b) may also give directions to the council in relation to publication of those recommendations and reasons.

(4) The Mayor of London may—

(a) approve the document, or approve it subject to specified modifications, as a local development document, or

(b) direct the council to consider adopting the document by resolution of the council as a local development document.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 2(1)-(4)(b): England, Wales

Law In Force

[3

(1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 2(2)—

(a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Mayor of London, and
(b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).

(2) The Mayor of London must give reasons for anything he does in pursuance of paragraph 1 or 2(4).

(3) The council must reimburse the Mayor of London—
(a) for any expenditure that the Mayor incurs in connection with anything which is done by him under paragraph 1 and which the council failed or omitted to do as mentioned in that paragraph;
(b) for any expenditure that the Mayor incurs in connection with anything which is done by him under paragraph 2(2).

[(4) In the case of a joint local development document or a joint development plan document, the Mayor may apportion liability for the expenditure on such basis as the Mayor thinks just between the councils for whom the document has been prepared. **]** [2]
] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

[2] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(10) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Extent

Sch. A1 para. 3(1)-(3)(b): England, Wales

Sch. A1 para. 3(4): (extent not available)

[Default powers exercisable by combined authority] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Law In Force

[4
In this Schedule—
"combined authority" means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
"constituent planning authority", in relation to a combined authority, means—
(a) a county council, metropolitan district council or non-metropolitan district council which is the local planning authority for an area within the area of the combined authority, or
(b) a joint committee established under section 29 whose area is within, or the same as, the area of the combined authority.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 4 definition of "combined authority"- definition of "constituent planning authority" (b): England, Wales

Law In Force

[5

If the Secretary of State—

(a) thinks that a constituent planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and

(b) invites the combined authority to prepare or revise the document,

the combined authority may prepare or revise (as the case may be) the development plan document.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 5(a)-(b): England, Wales

Law In Force

[6

(1) This paragraph applies where a development plan document is prepared or revised by a combined authority under paragraph 5.

(2) The combined authority must hold an independent examination.

(3) The combined authority—

(a) must publish the recommendations and reasons of the person appointed to hold the examination, and

(b) may also give directions to the constituent planning authority in relation to publication of those recommendations and reasons.

(4) The combined authority may—

(a) approve the document, or approve it subject to specified modifications, as a local development document, or

(b) direct the constituent planning authority to consider adopting the document by resolution of the authority as a local development document.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 6(1)-(4)(b): England, Wales

Law In Force

[7

(1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 6(2)—

(a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the combined authority, and

(b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).

(2) The combined authority must give reasons for anything they do in pursuance of paragraph 5 or 6(4).

(3) The constituent planning authority must reimburse the combined authority—

(a) for any expenditure that the combined authority incur in connection with anything which is done by them under paragraph 5 and which the constituent planning authority failed or omitted to do as mentioned in that paragraph;

(b) for any expenditure that the combined authority incur in connection with anything which is done by them under paragraph 6(2).

[(4) In the case of a joint local development document or a joint development plan document, the combined authority may apportion liability for the expenditure on such basis as the authority considers just between the authorities for whom the document has been prepared. **]** [2]
] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

[2] Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.9(11) (January 16, 2018: 2017 c.20 s.9 came into force on April 27, 2017 for the limited purpose of making regulations; January 16, 2018 oherwise)

Extent

Sch. A1 para. 7(1)-(3)(b): England, Wales

Sch. A1 para. 7(4): (extent not available)

[Default powers exercisable by county council] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.4 (January 16, 2018)

Law In Force

[7A

In this Schedule—

"upper-tier county council" means a county council for an area for which there is also a district council;

"lower-tier planning authority", in relation to an upper-tier county council, means a district council which is the local planning authority for an area within the area of the upper-tier county council.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.4 (January 16, 2018)

Extent

Sch. A1 para. 7A definition of "upper tier county council"- definition of "lower tier planning authority": England, Wales

Law In Force

[7B

If the Secretary of State—

(a) thinks that a lower-tier planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and

(b) invites the upper-tier county council to prepare or revise the document,

the upper-tier county council may prepare or revise (as the case may be) the development plan document.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.4 (January 16, 2018)

Extent

Sch. A1 para. 7B(a)-(b): England, Wales

Law In Force

[7C

(1) This paragraph applies where a development plan document is prepared or revised by an upper-tier county council under paragraph 7B.

(2) The upper-tier county council must hold an independent examination.

(3) The upper-tier county council—

(a) must publish the recommendations and reasons of the person appointed to hold the examination, and

(b) may also give directions to the lower-tier planning authority in relation to publication of those recommendations and reasons.

(4) The upper-tier county council may—

(a) approve the document, or approve it subject to specified modifications, as a local development document, or

(b) direct the lower-tier planning authority to consider adopting the document by resolution of the authority as a local development document.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.4 (January 16, 2018)

Extent

Sch. A1 para. 7C(1)-(4)(b): England, Wales

Law In Force

[7D

(1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 7C(2)—

(a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the upper-tier county council, and

(b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).

(2) The upper-tier county council must give reasons for anything they do in pursuance of paragraph 7B or 7C(4).

(3) The lower-tier planning authority must reimburse the upper-tier county council—

(a) for any expenditure that the upper-tier county council incur in connection with anything which is done by them under paragraph 7B and which the lower-tier planning authority failed or omitted to do as mentioned in that paragraph;

(b) for any expenditure that the upper-tier county council incur in connection with anything which is done by them under paragraph 7C(2).

(4) In the case of a joint local development document or a joint development plan document, the upper-tier council may apportion liability for the expenditure on such basis as the council considers just between the authorities for whom the document has been prepared.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.4 (January 16, 2018)

Extent

Sch. A1 para. 7D(1)-(4): England, Wales

[Intervention by Secretary of State] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Law In Force

[8

(1) This paragraph applies to a development plan document that has been prepared or revised—

(a) under paragraph 1 by the Mayor of London, **[…]**[2]

(b) under paragraph 5 by a combined authority **[** , or **]** [3]

[(c) under paragraph 7B by an upper-tier county council. **]** [3]

(2) If the Secretary of State thinks that a development plan document to which this paragraph applies is unsatisfactory—

(a) he may at any time before the document is adopted under section 23, or approved under **[** paragraph 2(4)(a) or 6(4)(a) or 7C(4)(a) **]** [4] , direct the Mayor of London **[** , the combined authority or the upper-tier county council **]** [5] to modify the document in accordance with the direction;

(b) if he gives such a direction he must state his reasons for doing so.

(3) Where a direction is given under sub-paragraph (2)—

(a) the Mayor of London **[** , the combined authority or the upper-tier county council **]** [6] must comply with the direction;

(b) the document must not be adopted or approved unless the Secretary of State gives notice that the direction has been complied with.

(4) Sub-paragraph (3) does not apply if or to the extent that the direction under sub-paragraph (2) is withdrawn by the Secretary of State.

(5) At any time before a development plan document to which this paragraph applies is adopted under section 23, or approved under **[** paragraph 2(4)(a) or 6(4)(a) or 7C(4)(a) **]** [7] , the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval.

(6) In relation to a document or part of a document submitted to him under sub-paragraph (5) the Secretary of State—

(a) may approve the document or part;

(b) may approve it subject to specified modifications;

(c) may reject it.

The Secretary of State must give reasons for his decision under this sub-paragraph.

(7) The Secretary of State may at any time-

(a) after a development plan document to which this paragraph applies has been submitted for independent examination, but

(b) before it is adopted under section 23 or approved under **[** paragraph 2(4)(a) or 6(4)(a) or 7C(4)(a) **]** [8] ,

direct the Mayor of London **[** , the combined authority or the upper-tier county council **]** [9] to withdraw the document.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)
[2] Word repealed by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(2)(a) (January 16, 2018)
[3] Added by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(2)(b) (January 16, 2018)
[4] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(3)(a) (January 16, 2018)
[5] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(3)(b) (January 16, 2018)
[6] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(4) (January 16, 2018)
[7] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(5) (January 16, 2018)
[8] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(6)(a) (January 16, 2018)
[9] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.5(6)(b) (January 16, 2018)

Extent

Sch. A1 para. 8(1)-(7)(b): England, Wales

Law In Force

[9

(1) This paragraph applies if the Secretary of State gives a direction under paragraph 8(5).

(2) No steps are to be taken in connection with the adoption or approval of the document until the Secretary of State gives his decision, or withdraws the direction.

(3) If the direction is given, and not withdrawn, before the document has been submitted for independent examination, the Secretary of State must hold an independent examination.

(4) If the direction—

(a) is given after the document has been submitted for independent examination but before the person appointed to carry out the examination has made his recommendations, and

(b) is not withdrawn before those recommendations are made, the person must make his recommendations to the Secretary of State.

(5) The document has no effect unless the document or (as the case may be) the relevant part of it has been approved by the Secretary of State, or the direction is withdrawn.
The "relevant part" is the part of the document that—

(a) is covered by a direction under paragraph 8(5) which refers to only part of the document, or

(b) continues to be covered by a direction under paragraph 8(5) following the partial withdrawal of the direction.

(6) The Secretary of State must publish the recommendations made to him by virtue of sub-paragraph (3) or (4) and the reasons of the person making the recommendations.

(7) In considering a document or part of a document submitted under paragraph 8(5) the Secretary of State may take account of any matter which he thinks is relevant.

(8) It is immaterial whether any such matter was taken account of by the Mayor of London **[** , the combined authority or the upper-tier county council **]** [2] .
] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

[2] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.6 (January 16, 2018)

Extent

Sch. A1 para. 9(1)-(8): England, Wales

Law In Force

[10

Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 9(3)—

(a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State, and

(b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 10(a)-(b): England, Wales

Law In Force

[11

In the exercise of any function under paragraph 8 or 9 the Secretary of State must have regard to the local development scheme.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Extent

Sch. A1 para. 11: England, Wales

Law In Force

[12

The Mayor of London **[** , the combined authority or the upper-tier county council **]** [2] must reimburse the Secretary of State for any expenditure incurred by the Secretary of State under paragraph 8 or 9 that is specified in a notice given by him to the Mayor **[** , the authority or the council **]** [3] .

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

[2] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.7(a) (January 16, 2018)

[3] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.7(b) (January 16, 2018)

Extent

Sch. A1 para. 12: England, Wales

[Temporary direction pending possible use of intervention powers] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

Law In Force

[13

(1) If the Secretary of State is considering whether to give a direction to the Mayor of London **[** , a combined authority or an upper-tier county council **]** [2] under paragraph 8 in relation to a development plan document, he may direct the Mayor **[** , the authority or the council **]** [3] not to take any step in connection with the adoption or approval of the document—

(a) until the time (if any) specified in the direction, or

(b) until the direction is withdrawn.

(2) A document to which a direction under this paragraph relates has no effect while the direction is in force.

(3) A direction given under this paragraph in relation to a document ceases to have effect if a direction is given under paragraph 8 in relation to that document.

] [1]

Notes

[1] Added by Housing and Planning Act 2016 c. 22 Sch.11 para.1 (October 1, 2016)

[2] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.8(a) (January 16, 2018)

[3] Words substituted by Neighbourhood Planning Act 2017 c. 20 Sch.2 para.8(b) (January 16, 2018)

Extent

Sch. A1 para. 13(1)-(3): England, Wales

[SCHEDULE A2

MODIFICATION OF NEIGHBOURHOOD DEVELOPMENT PLANS

Section 38A(11A)

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

[Proposals for modification of neighbourhood development plan] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[1

(1) This Schedule applies if a neighbourhood development plan has effect for a neighbourhood area within the area of a local planning authority.

(2) A qualifying body is entitled to submit a proposal to the local planning authority for the modification of the neighbourhood development plan.

(3) The proposal must be accompanied by—

(a) a draft of the neighbourhood development plan as proposed to be modified (the "draft plan"), and

(b) a statement which contains a summary of the proposals and sets out the reasons why the plan should be modified as proposed.

(4) The proposal must—

(a) be made in the prescribed form, and

(b) be accompanied by other documents and information of a prescribed description.

(5) The qualifying body must send to prescribed persons a copy of—

(a) the proposal,

(b) the draft plan, and

(c) such of the other documents and information accompanying the proposal as may be prescribed.

(6) The Secretary of State may publish a document setting standards for—

(a) the preparation of a draft of a neighbourhood development plan as proposed to be modified and other documents accompanying the proposal,

(b) the coverage in any document accompanying the proposal of a matter falling to be dealt with in it, and

(c) all or any of the collection, sources, verification, processing and presentation of information accompanying the proposal.

(7) The documents and information accompanying the proposal (including the draft plan) must comply with those standards.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 1(1)-(7): England, Wales

Law In Force

[2

(1) A qualifying body may withdraw a proposal at any time before the local planning authority act in relation to the proposal under paragraph 14.

(2) If—

(a) a proposal by a qualifying body is made by an organisation or body designated as a neighbourhood forum, and

(b) the designation is withdrawn at any time before the proposal is submitted for independent examination under paragraph 9,

the proposal is to be treated as withdrawn by the qualifying body at that time.

(3) If the withdrawal of the designation occurs after the proposal is submitted for independent examination under that paragraph, the withdrawal is not to affect the validity of the proposal.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 2(1)-(3): England, Wales

[Advice and assistance in connection with proposals] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[3

(1) A local planning authority must give such advice or assistance to a qualifying body as, in all the circumstance, they consider appropriate for the purpose of, or in connection with, facilitating the making of a proposal for the modification of a neighbourhood development plan for a neighbourhood area within their area.

(2) Nothing in this paragraph is to be read as requiring the giving of financial assistance.
] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 3(1)-(2): England, Wales

[Requirements to be complied with before proposals made or considered] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[4

(1) The Secretary of State may by regulations make provision as to requirements that must be complied with before proposals for the modification of a neighbourhood development plan may be submitted to a local planning authority or fall to be considered by a local planning authority.

(2) The regulations may in particular make provision—

(a) as to the giving of notice and publicity,

(b) as to the information and documents that are to be made available to the public,

(c) as to the making of reasonable charges for anything provided as a result of the regulations,

(d) as to consultation with and participation by the public,
(e) as to the making and consideration of representations (including the time by which they must be made),
(f) requiring prescribed steps to be taken before a proposal of a prescribed description falls to be considered by a local planning authority, and
(g) conferring powers or imposing duties on local planning authorities, the Secretary of State or other public authorities.

(3) The power to make regulations under this paragraph must be exercised to secure that—
(a) prescribed requirements as to consultation with and participation by the public must be complied with before a proposal for the modification of a neighbourhood development plan may be submitted to a local planning authority, and
(b) a statement containing the following information in relation to that consultation and participation must accompany the proposal submitted to the authority—
(i) details of those consulted,
(ii) a summary of the main issues raised, and
(iii) any other information of a prescribed description.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 4(1)-(3)(b)(iii): England, Wales

[Consideration of proposals by authority] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[5

(1) A local planning authority may decline to consider a proposal submitted to them if they consider that it is a repeat proposal.

(2) A proposal ("the proposal in question") is a "repeat" proposal for the purposes of this paragraph if it meets conditions A and B.

(3) Condition A is that—
(a) in the period of two years ending with the date on which the proposal in question is received, the authority received a proposal under this Schedule ("the earlier proposal"),

(b) the authority did not make a neighbourhood development plan in response to the earlier proposal as a result of paragraph 8(4) or 14(4) or (8), and

(c) the earlier proposal was the same as or similar to the proposal in question.

(4) Condition B is that the local planning authority consider that there has been no significant change in circumstances since the earlier proposal was dealt with as mentioned in sub-paragraph (3)(b).

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 5(1)-(4): England, Wales

Law In Force

[6

If a local planning authority decline to consider a proposal under paragraph 5 they must notify the qualifying body of that fact and of their reasons for declining to consider it.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 6: England, Wales

Law In Force

[7

(1) This paragraph applies if—

(a) a proposal has been made to a local planning authority,

(b) the authority have not exercised their powers under paragraph 5 to decline to consider it, and

(c) the authority consider that the modifications contained in the draft plan to which it relates are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace.

(2) The local planning authority must instead consider the proposal under paragraph 6 of Schedule 4B to the principal Act (as applied by sections 38A(3) and 38C(5) of this Act).

(3) That Schedule is to apply in relation to the proposal as if the proposal had been submitted to the local planning authority under that Schedule.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 7(1)-(3): England, Wales

Law In Force

[8

(1) This paragraph applies if—

(a) a proposal has been made to a local planning authority,

(b) the authority have not exercised their power under paragraph 5 to decline to consider it, and

(c) paragraph 7 does not apply.

(2) The authority must consider—

(a) whether the qualifying body is authorised for the purposes of a neighbourhood development plan to act in relation to the neighbourhood area concerned as a result of section 61F of the principal Act (as applied by section 38C(2)(a) of this Act),

(b) whether the proposal by the body complies with provision made by or under that section,

(c) whether the proposal and the documents and information accompanying it (including the draft plan) comply with provision made by or under paragraph 1, and

(d) whether the body has complied with the requirements of regulations made under paragraph 4 imposed on it in relation to the proposal.

(3) The authority must also consider whether the draft plan complies with the provision made by or under sections 38A and 38B.

(4) The authority must—

(a) notify the qualifying body as to whether or not they are satisfied that the matters mentioned in sub-paragraphs (2) and (3) have been met or complied with, and

(b) in any case where they are not so satisfied, refuse the proposal and notify the body of their reasons for refusing it.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 8(1)-(4)(b): England, Wales

[Requirement to appoint examiner] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[9

(1) This paragraph applies if—

(a) a local planning authority have considered the matters mentioned in paragraph 8(2) and (3), and

(b) they are satisfied that the matters mentioned there have been met or complied with.

(2) The local planning authority must submit for independent examination—

(a) the draft plan, and

(b) such other documents as may be prescribed.

(3) The authority must make such arrangements as they consider appropriate in connection with the holding of the examination.

(4) The authority may appoint a person to carry out the examination, but only if the qualifying body consents to the appointment.

(5) If—

(a) it appears to the Secretary of State that no person may be appointed under sub-paragraph (4), and

(b) the Secretary of State considers that it is expedient for an appointment to be made under this sub-paragraph,

the Secretary of State may appoint a person to carry out the examination.

(6) The person appointed must be someone who, in the opinion of the person making the appointment—

(a) is independent of the qualifying body and the authority,

(b) does not have an interest in any land that may be affected by the draft plan, and

(c) has appropriate qualifications and experience.

(7) The Secretary of State or another local planning authority may enter into arrangements with the authority for the provision of the services of any of their employees as examiners.

(8) Those arrangements may include—

(a) provision requiring payments to be made by the authority to the Secretary of State or other local planning authority, and

(b) other provision in relation to those payments and other financial matters.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 9(1)-(8)(b): England, Wales

[What examiner must consider] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[10

(1) The examiner must first determine whether the modifications contained in the draft plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace.

(2) The following provisions of this paragraph apply if the examiner determines that the modifications would have that effect.

(3) The examiner must—

(a) notify the qualifying body and the local planning authority of the determination, and

(b) give reasons for the determination.

(4) The qualifying body must decide whether it wishes to proceed with the proposal or withdraw it, and must notify the examiner and the local planning authority of that decision.

(5) If the qualifying body notifies the examiner that it wishes to proceed with the proposal, the examiner must consider the draft plan and the documents submitted with it under paragraph 8 of Schedule 4B to the principal Act (as applied by sections 38A(3) and 38C(5) of this Act).

(6) In that event that Schedule is to apply in relation to the draft plan and the documents submitted with it as if they had been submitted to the examiner under that Schedule.
] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 10(1)-(6): England, Wales

Law In Force

[11

(1) If paragraph 10(2) does not apply, the examiner must consider the following—

(a) whether the draft plan meets the basic conditions (see sub-paragraph (2));

(b) whether the draft plan complies with the provision made by or under sections 38A and 38B;

(c) such other matters as may be prescribed.

(2) A draft plan meets the basic conditions if—

(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,

(b) the making of the plan contributes to the achievement of sustainable development,

(c) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),

(d) the making of the plan does not breach, and is otherwise compatible with, **[** retained EU obligations **]** [2] , and

(e) prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.

(3) The examiner is not to consider any matter that does not fall within sub-paragraph (1) (apart from considering whether the draft plan is compatible with the Convention rights).
] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

[2] Words substituted by Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 Pt 2 reg.3(3)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Extent

Sch. A2 para. 11(1)-(3): England, Wales

[Procedure for examination] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[12

(1) The general rule is that the examination of the issues by the examiner under paragraph 10 or 11 is to take the form of the consideration of written representations.

(2) But the examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue at the hearing—

(a) in any case where the examiner considers that there are exceptional reasons for doing so, or

(b) in such other cases as may be prescribed.

(3) The following persons are entitled to make oral representations about the issue at the hearing—

(a) the qualifying body,

(b) the local planning authority, and

(c) such other persons as may be prescribed.

(4) The hearing must be in public.

(5) It is for the examiner to decide how the hearing is to be conducted, including—

(a) whether a person making oral representations may be questioned by another person and, if so, the matters to which the questioning may relate, and

(b) the amount of time for the making of a person's oral representations or for any questioning by another person.

(6) In making decisions about the questioning of a person's oral representations by another, the examiner must apply the principle that the questioning should be done by the examiner except where the examiner considers that questioning by another is necessary to ensure—

(a) adequate examination of a particular issue, or

(b) a person has a fair chance to put a case.

(7) Sub-paragraph (5) is subject to regulations under paragraph 15.
] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 12(1)-(7): England, Wales

[Recommendation by examiner] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[13

(1) After considering a draft plan under paragraph 11, the examiner must make a report on the draft plan containing recommendations in accordance with this paragraph (and no other recommendations).

(2) The report must recommend either—

(a) that the local planning authority should make the draft plan,

(b) that the local planning authority should make the draft plan with the modifications specified in the report, or

(c) that the local planning authority should not make the draft plan.

(3) The only modifications that may be recommended are—

(a) modifications that the examiner considers need to be made to secure that the draft plan meets the basic conditions mentioned in paragraph 11(2),

(b) modifications that the examiner considers need to be made to secure that the draft plan is compatible with the Convention rights,

(c) modifications that the examiner considers need to be made to secure that the draft plan complies with the provision made by or under sections 38A and 38B, and

(d) modifications for the purpose of correcting errors.

(4) The report may not recommend that a plan (with or without modifications) should be made if the examiner considers that the plan does not—

(a) meet the basic conditions mentioned in paragraph 11(2), or

(b) comply with the provision made by or under sections 38A and 38B.

(5) The report must—

(a) give reasons for each of its recommendations, and

(b) contain a summary of its main findings.

(6) The examiner must send a copy of the report to the qualifying body and the local planning authority.

(7) The local planning authority must then arrange for the publication of the report in such manner as may be prescribed.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 13(1)-(7): England, Wales

[Functions of authority: modifications proposed by qualifying body] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[14

(1) This paragraph applies if an examiner has made a report under paragraph 13.

(2) If the report recommends that the local planning authority should make the draft plan, the authority must do so (subject as follows).

(3) But if the examiner's report recommends that the authority should make the draft plan with the modifications specified in the report, the authority must make the draft plan with those modifications (subject as follows).

(4) Sub-paragraph (2) or (3) does not apply if the authority consider that to make the draft plan or (as the case may be) to do so with those modifications would breach, or would otherwise be incompatible with, any **[** retained EU obligation **]** [2] or any of the Convention rights.

(5) If the authority do not make the draft plan on that ground, they must give reasons to the qualifying body for doing so.

(6) Where sub-paragraph (2) or (3) applies, the authority may make the draft plan with modifications or (as the case may be) modifications other than those specified in the report if—

(a) the authority considers the modifications need to be made to secure that the draft plan is compatible with **[** retained EU obligations **]** [3] and the Convention rights, or

(b) the modifications are for the purpose of correcting errors.

(7) The authority must make the draft plan or (as the case may be) the draft plan with modifications permitted by this paragraph as soon as reasonably practicable and, in any event, by such date as may be prescribed.

(8) If the examiner's report recommends that the local planning authority should not make the draft plan, the authority must not make the draft plan.
] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

[2] Words substituted by Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 Pt 2 reg.3(3)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Words substituted by Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 Pt 2 reg.3(3)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Extent

Sch. A2 para. 14(1)-(8): England, Wales

[Regulations about examinations] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[15

(1) The Secretary of State may by regulations make provision in connection with examinations under paragraph 9.

(2) The regulations may in particular make provision as to—

(a) the giving of notice and publicity in connection with an examination,

(b) the information and documents relating to an examination that are to be made available to the public,

(c) the making of reasonable charges for anything provided as a result of the regulations,

(d) the making of written or oral representations in relation to draft plans (including the time by which written representations must be made),

(e) the written representations which are to be, or which may be or may not be, considered at an examination,

(f) the refusal to allow oral representations of a prescribed description to be made at a hearing,

(g) the procedure to be followed at an examination (including the procedure to be followed at a hearing),

(h) the payment by a local planning authority of remuneration and expenses of the examiner, and

(i) the award of costs by the examiner.

(3) The regulations may in particular impose duties on an examiner which are to be complied with by the examiner in considering the draft plan under paragraphs 10 and 11 and which require the examiner—

(a) to provide prescribed information to each person within sub-paragraph (4);

(b) to publish a draft report containing the recommendations which the examiner is minded to make in the examiner's report under paragraph 13;

(c) to invite each person within sub-paragraph (4) or representatives of such a person to one or more meetings at a prescribed stage or prescribed stages of the examination process;

(d) to hold a meeting following the issuing of such invitations if such a person requests the examiner to do so.

(4) Those persons are—

(a) the qualifying body,

(b) the local planning authority, and

(c) such other persons as may be prescribed.

(5) Where the regulations make provision by virtue of sub-paragraph (3)(c) or (d), they may make further provision about—

(a) the procedure for a meeting;

(b) the matters to be discussed at a meeting.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 15(1)-(2)(i): England, Wales

Sch. A2 para. 15(3)-(5)(b): (extent not available)

[** Interpretation **] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Law In Force

[16

In this Schedule—

"the Convention rights" has the same meaning as in the Human Rights Act 1998;

"the development plan" —

(a) includes a development plan for the purposes of paragraph 1 of Schedule 8 (transitional provisions);

(b) does not include so much of a development plan as consists of a neighbourhood development plan under section 38A;

"draft plan" has the meaning given by paragraph 1(3);

"prescribed" means prescribed by regulations made by the Secretary of State.

] [1]

Notes

[1] Added by Neighbourhood Planning Act 2017 c. 20 Sch.1 para.1 (January 31, 2018: 2017 c.20 Sch.1 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 oherwise)

Extent

Sch. A2 para. 16 definition of "the Convention rights"- definition of "prescribed": England, Wales

SCHEDULE 1

LOCAL DEVELOPMENT ORDERS: PROCEDURE

Section 40

Law In Force

In the principal Act after Schedule 4 (special provision as to land use in 1948) there is inserted the following Schedule–

"SCHEDULE 4A

LOCAL DEVELOPMENT ORDERS: PROCEDURE

Preparation

1

(1) A local development order must be prepared in accordance with such procedure as is prescribed by a development order.

(2) A development order may include provision as to–

(a) the preparation, submission, approval, adoption, revision, revocation and withdrawal of a local development order;

(b) notice, publicity, and inspection by the public;

(c) consultation with and consideration of views of such persons and for such purposes as are prescribed;

(d) the making and consideration of representations.

(3) Regulations under this paragraph may include provision as to the matters relating to a local development order to be included in the report to be made by a local planning authority under section 35 or 76 of the Planning and Compulsory Purchase Act 2004.

Revision

2

(1) The local planning authority may at any time prepare a revision of a local development order.

(2) An authority in England must prepare a revision of a local development order–

(a) if the Secretary of State directs them to do so, and

(b) in accordance with such timetable as he directs.

(3) An authority in Wales must prepare a revision of a local development order–

(a) if the National Assembly for Wales directs them to do so, and

(b) in accordance with such timetable as it directs.

(4) If a development plan document mentioned in section 61A(1) is revised under section 26 of the Planning and Compulsory Purchase Act 2004 (revision of local planning documents) or revoked under section 25 of that Act (revocation by Secretary of State) a local development order made to implement the policies in the document must be revised accordingly.

(5) If a local development plan mentioned in section 61A(1) is revised under section 70 of the Planning and Compulsory Purchase Act 2004 (revision of local development plan) or revoked under section 68 of that Act (revocation by National Assembly for Wales) a local development order made to implement the policies in the plan must be revised accordingly.

(6) This Schedule applies to the revision of a local development order as it applies to the preparation of the order.

Order to be adopted

3

A local development order is of no effect unless it is adopted by resolution of the local planning authority.

Annual report

4

(1) The report made under section 35 of the Planning and Compulsory Purchase Act 2004 must include a report as to the extent to which the local development order is achieving its purposes.

(2) The Secretary of State may prescribe the form and content of the report as it relates to the local development order.

5

(1) The report made under section 76 of the Planning and Compulsory Purchase Act 2004 must include a report as to the extent to which the local development order is achieving its purposes.

(2) The National Assembly for Wales may prescribe the form and content of the report as it relates to the local development order."

Commencement

Sch. 1 para. 1: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; May 10, 2006 in relation to England; April 30, 2012 in relation to Wales (SI 2004/2097 art. 2; SI 2006/1061 art. 2(c); SI 2012/1100 art. 2)

Extent

Sch. 1 para. 1-: England, Wales

SCHEDULE 2

TIMETABLE FOR DECISIONS

Section 55

Decisions

Partially In Force

1

This Schedule applies to any decision which must be taken by the Secretary of State under–

(a) section 77 of the principal Act (reference of applications to Secretary of State);

(b) section 78 of the principal Act (right to appeal against planning decisions).

Commencement

Sch. 2 para. 1(a)-(b): April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 1-(b): England, Wales

Partially In Force

2

(1) This Schedule also applies to a decision not mentioned in paragraph 1 if each of the following two conditions applies.

(2) The first condition is that the Secretary of State thinks the decision is connected with a decision mentioned in paragraph 1.

(3) The second condition is that–

(a) the Secretary of State is required by virtue of any enactment to take the decision, or

(b) (in any case to which paragraph (a) does not apply) the Secretary of State by virtue of a power under any enactment directs that the decision must be referred to him.

Commencement

Sch. 2 para. 2(1)-(3)(b): April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 2-(3)(b): England, Wales

Partially In Force

3

But the Secretary of State may by order specify decisions or descriptions of decisions to which a timetable is not to apply.

Commencement

Sch. 2 para. 3: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; April 1, 2005 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 3-: England, Wales

Timetable

Partially In Force

4

(1) The Secretary of State must make one or more timetables for the purposes of decisions to which this Schedule applies.

(2) A timetable may make different provision for different decisions or different descriptions of decision.

(3) A timetable–

(a) has effect from such time as the Secretary of State determines;

(b) must set out the time within which the decision must be taken;

(c) may set out the time within which any other step to be taken for the purposes of the decision must be taken.

(4) A timetable made under this paragraph must be published in such form and manner as the Secretary of State thinks appropriate.

Commencement

Sch. 2 para. 4(1)-(4): April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 4-(4): England, Wales

Notice

Partially In Force

5

(1) The Secretary of State must notify the following persons as soon as practicable of the published timetable which applies to a decision–

(a) the applicant or appellant (as the case may be) in relation to the decision;

(b) the local planning authority for the area to which the decision relates;

(c) any other person who requests such notification.

(2) But the Secretary of State may direct that the timetable is subject to such variation as he specifies in the notice under sub-paragraph (1).

(3) If the Secretary of State acts under sub-paragraph (2) the notice under sub-paragraph (1) must also specify the reasons for the variation.

(4) The timetable notified under this paragraph is the applicable timetable.

Commencement

Sch. 2 para. 5(1)-(4): April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 5-(4): England, Wales

Variation

Partially In Force

6

(1) This paragraph applies if before the time at which any step must be taken in accordance with the applicable timetable the Secretary of State thinks that there are circumstances which are likely to prevent the taking of the step at that time.

(2) The Secretary of State may vary the applicable timetable accordingly.

(3) If the Secretary of State varies the applicable timetable under sub-paragraph (2) he must notify the persons mentioned in paragraph 5(1) of the variation and the reason for it.

Commencement

Sch. 2 para. 6(1)-(3): April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 6-(3): England, Wales

Written reasons

Partially In Force

7

If the Secretary of State fails to take any step in accordance with the applicable timetable (or that timetable as varied under paragraph 6) he must give written reasons to the persons mentioned in paragraph 5(1).

Commencement

Sch. 2 para. 7: April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 7: England, Wales

Annual report

Partially In Force

8

(1) The Secretary of State must lay before Parliament a report in respect of each year which–

(a) reviews his performance under the provisions of this Schedule;

(b) explains any failure to comply with a timetable.

(2) The report must be published in such form and manner as the Secretary of State thinks appropriate.

Commencement

Sch. 2 para. 8(1)-(2): April 1, 2005 in relation to England; not yet in force otherwise (SI 2005/204 art. 3, art. 4)

Extent

Sch. 2 para. 8-(2): England, Wales

[SCHEDULE 2A

STRATEGIC PLANNING PANELS

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

[PART 1

STATUS AND MEMBERSHIP

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

[Status

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

1.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Membership] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

2.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Appointment of local planning authority members] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

3.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Appointment of nominated members] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

4.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Composition of strategic planning panels: further provision][1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

5.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Terms and notice of appointments][1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

6.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Members' allowances] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

7.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Termination of membership] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

8.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Termination of membership: further provision about local planning authority members] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

9.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Chair and deputy chair] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

10.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[PART 2

ADMINISTRATION

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

[Staff] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

11.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Delegation] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

12.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Voting rights] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

13. […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Procedure] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

14.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Access to meetings] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

15.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[PART 3

FINANCIAL ARRANGEMENTS

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

[Qualifying expenditure] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

16.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Apportionment of qualifying expenditure] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

17.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Annual work programme and estimate of qualifying expenditure] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

18.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Payments by constituent local planning authorities] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

19.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Payments by Welsh Ministers] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

20.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Accounts and audit] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

21.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Annual report] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

22.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Financial year] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

23.— […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[PART 4

SUPPLEMENTARY

] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

[Guidance] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

24. […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Default powers of Welsh Ministers] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

25.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Provision in connection with establishment etc of strategic planning panel] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

26.— […] [1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Interpretation] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

27. […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

[Power to amend provisions about strategic planning panels] [1]

Notes

[1] Added by Planning (Wales) Act 2015 anaw. 4 Sch.1(1) para.1 (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; October 5, 2015 otherwise)

Repealed

28. […][1]

Notes

[1] Repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.8 (January 21, 2021)

SCHEDULE 3

CROWN APPLICATION

Section 79

Purchase notices

Law In Force

1

After section 137 of the principal Act (circumstances in which a purchase notice may be served) there is inserted the following section–

"137A Purchase notices: Crown land

(1) A purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private interest in Crown land must not serve a purchase notice unless–

(a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and
(b) the offer is refused by the appropriate authority.

(3) The appropriate authority may serve a purchase notice in relation to the following land–
(a) land belonging to Her Majesty in right of Her private estates;
(b) land belonging to Her Majesty in right of the Duchy of Lancaster;
(c) land belonging to the Duchy of Cornwall;
(d) land which forms part of the Crown Estate.

(4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.

(5) Expressions used in this section and in Part 13 must be construed in accordance with that Part."

Commencement

Sch. 3 para. 1: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 1: England, Wales

Law In Force

2

After section 32 of the listed buildings Act (circumstances in which a purchase notice may be served) there is inserted the following section–

"32A Purchase notices: Crown land

(1) A listed building purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private interest in Crown land must not serve a listed building purchase notice unless–
(a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and
(b) the offer is refused by the appropriate authority.

(3) The appropriate authority may serve a listed building purchase notice in relation to the following land–
(a) land belonging to Her Majesty in right of Her private estates;
(b) land belonging to Her Majesty in right of the Duchy of Lancaster;
(c) land belonging to the Duchy of Cornwall;
(d) land which forms part of the Crown Estate.

(4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would

be payable in respect of it if it were acquired in pursuance of a listed building purchase notice."

Commencement

Sch. 3 para. 2: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 2: England, Wales

Compulsory acquisition

Law In Force

3

(1) Section 226 of the principal Act (compulsory acquisition of land for development and other planning purposes) is amended as follows.

(2) After subsection (2) there is inserted the following subsection–

"(2A) The Secretary of State must not authorise the acquisition of any interest in Crown land unless–

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate authority consents to the acquisition."

(3) After subsection (8) there is inserted the following subsection–

"(9) Crown land must be construed in accordance with Part 13."

Commencement

Sch. 3 para. 3(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 3(1)-(3): England, Wales

Law In Force

4

(1) Section 228 of the principal Act (compulsory acquisition of land by the Secretary of State) is amended as follows.

(2) After subsection (1) there is inserted the following subsection–

"(1A) But subsection (1) does not permit the acquisition of any interest in Crown land unless–

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate authority consents to the acquisition."

(3) After subsection (7) there is inserted the following subsection–

"(8) Crown land must be construed in accordance with Part 13."

Commencement

Sch. 3 para. 4(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 4(1)-(3): England, Wales

Law In Force

5

(1) Section 47 of the listed buildings Act (compulsory acquisition of listed building in need of repair) is amended as follows.

(2) After subsection (6) there is inserted the following subsection–

"(6A) This section does not permit the acquisition of any interest in Crown land unless–

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate authority (within the meaning of section 82C) consents to the acquisition."

Commencement

Sch. 3 para. 5(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 5(1)-(2): England, Wales

Definitions

Law In Force

6

(1) Section 293 of the principal Act (preliminary definitions) is amended as follows.

(2) In subsection (1) for the definition of "Crown interest" there is substituted the following definition–

""Crown interest" means any of the following–

(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;

(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

(c) such other interest as the Secretary of State specifies by order;".

(3) In subsection (2) after paragraph (b) there is inserted the following paragraph–

"(ba) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;".

(4) In subsection (2) after paragraph (e) there are inserted the following paragraphs–

"(f) in relation to Westminster Hall and the Chapel of St Mary Undercroft, means the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;

(g) in relation to Her Majesty's Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, means the Lord Great Chamberlain."

(5) After subsection (2) there is inserted the following subsection–

"(2A) For the purposes of an application for planning permission made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which it has no interest a reference to the appropriate authority must be construed as a reference to the person who makes the application."

(6) After subsection (3) there are inserted the following subsections–

"(3A) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862.

(3B) In subsection (2A) the Crown includes–

(a) the Duchy of Lancaster;

(b) the Duchy of Cornwall;

(c) a person who is an appropriate authority by virtue of subsection (2)(f) and (g)."

(7) After subsection (4) there are inserted the following subsections–

"(5) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (1) must be made by statutory instrument.

(6) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament."

Commencement

Sch. 3 para. 6(1)-(7): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 6-(7): England, Wales

Law In Force

7

In the listed buildings Act after section 82B (inserted by section 83(1)) there is inserted the following section–

"82C Expressions relating to the Crown

(1) In this Act, expressions relating to the Crown must be construed in accordance with this section.

(2) Crown land is land in which there is a Crown interest or a Duchy interest.

(3) A Crown interest is any of the following–

(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;

(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

(c) such other interest as the Secretary of State specifies by order.

(4) A Duchy interest is–

(a) an interest belonging to Her Majesty in right of the Duchy of Lancaster, or

(b) an interest belonging to the Duchy of Cornwall.

(5) A private interest is an interest which is neither a Crown interest nor a Duchy interest.

(6) The appropriate authority in relation to any land is–

(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;

(b) in relation to any other land belonging to Her Majesty in right of the Crown, the government department having the management of the land;

(c) in relation to land belonging to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;

(d) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(e) in relation to land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy, appoints;

(f) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, the department;

(g) in relation to Westminster Hall and the Chapel of St Mary Undercroft, the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;

(h) in relation to Her Majesty's Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, the Lord Great Chamberlain.

(7) If any question arises as to what authority is the appropriate authority in relation to any land it must be referred to the Treasury, whose decision is final.

(8) For the purposes of an application for listed building consent made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which it has no interest a reference to the appropriate authority must be construed as a reference to the person who makes the application.

(9) For the purposes of subsection (8) the Crown includes–

(a) the Duchy of Lancaster;

(b) the Duchy of Cornwall;

(c) a person who is an appropriate authority by virtue of subsection (6)(g) and (h).

(10) The reference to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862.

(11) An order made for the purposes of paragraph (c) of subsection (3) must be made by statutory instrument.

(12) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament."

Commencement

Sch. 3 para. 7: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 7: England, Wales

Law In Force

8

(1) Section 31 of the hazardous substances Act (exercise of powers in relation to Crown land) is amended as follows.

(2) Subsections (1) and (2) are omitted.

(3) In subsection (3) for the definition of "Crown interest" there is substituted the following definition–

""Crown interest" means any of the following–

(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;

(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
(c) such other interest as the Secretary of State specifies by order;".

(4) In subsection (5) after paragraph (a) there is inserted the following paragraph–

"(aa) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;".

(5) In subsection (5) after paragraph (d) there are inserted the following paragraphs–

"(e) in relation to Westminster Hall and the Chapel of St Mary Undercroft, means the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;
(f) in relation to Her Majesty's Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, means the Lord Great Chamberlain."

(6) After subsection (6) there are inserted the following subsections–

"(7) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862.

(8) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (3) must be made by statutory instrument.

(9) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament."

Commencement

Sch. 3 para. 8(1)-(6): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 8-(6): England, Wales

Special enforcement notices

Law In Force

9

(1) Sections 294 and 295 of the principal Act (control of development on Crown land: special enforcement notices) are omitted.

(2) But the repeal of sections 294 and 295 does not affect their operation in relation to development carried out before the commencement of this paragraph.

Commencement

Sch. 3 para. 9(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 9(1)-(2): England, Wales

Applications for planning permission, etc.

Law In Force

10

(1) After section 298 of the principal Act (supplementary provision as to Crown and Duchy interests) there is inserted the following section–

"298A Applications for planning permission by Crown

(1) This section applies to an application for planning permission or for a certificate under section 192 made by or on behalf of the Crown.

(2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment."

(2) Section 299 of the principal Act is omitted.

(3) The repeal of section 299 of the principal Act does not does not affect any requirement made in pursuance of regulations made under subsection (5)(b) of that section.

Commencement

Sch. 3 para. 10(1)-(3): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 10-(3): England, Wales

Law In Force

11

After section 82E of the listed buildings Act (inserted by section 84) there is inserted the following section–

"82F Applications for listed building or conservation area consent by Crown

(1) This section applies to an application for listed building consent or conservation area consent made by or on behalf of the Crown.

(2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment."

Commencement

Sch. 3 para. 11: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 11: England, Wales

Law In Force

12

(1) After section 31 of the hazardous substances Act (exercise of powers in relation to Crown land) there is inserted the following section–

"31A Applications for hazardous substances consent by Crown

(1) This section applies to an application for hazardous substances consent made by or on behalf of the Crown.

(2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment."

(2) Section 32 of the hazardous substances Act is omitted.

Commencement

Sch. 3 para. 12(1)-(2): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; June 7, 2006 otherwise (SI 2004/2097 art. 2; SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 12-(2): England, Wales

Rights of entry

Law In Force

13

After section 325 of the principal Act (supplementary provisions as to rights of entry) there is inserted the following section–

"325A Rights of entry: Crown land

(1) Section 324 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of–

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (8) the words "Subject to section 325" must be ignored.

(5) Section 325 does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 293(2)."

Commencement

Sch. 3 para. 13: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 13: England, Wales

Law In Force

14

After section 88B of the listed buildings Act (rights of entry: supplementary provisions) there is inserted the following section–

"88C Rights of entry: Crown land

(1) Section 88 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of–

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (6) the words "Subject to section 88B(8)" must be ignored.

(5) Section 88B does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 82C(6)."

Commencement

Sch. 3 para. 14: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 14: England, Wales

Law In Force

15

After section 36B of the hazardous substances Act (rights of entry: supplementary provisions) there is inserted the following section–

"36C Rights of entry: Crown land

(1) Section 36 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of–

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) Section 36B does not apply to anything done by virtue of this section.

(5) "Appropriate authority" must be construed in accordance with section 31(5)."

Commencement

Sch. 3 para. 15: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 15: England, Wales

Service of notices

Law In Force

16

After section 329 of the principal Act (service of notices) there is inserted the following section–

"329A Service of notices on the Crown

(1) Any notice or other document required under this Act to be served on the Crown must be served on the appropriate authority.

(2) Section 329 does not apply for the purposes of the service of such a notice or document.

(3) "Appropriate authority" must be construed in accordance with section 293(2)."

Commencement

Sch. 3 para. 16: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 16: England, Wales

Information as to interests in land

Law In Force

17

After section 330 of the principal Act (power to require information as to interests in land) there is inserted the following section–

"330A Information as to interests in Crown land

(1) This section applies to an interest in Crown land which is not a private interest.

(2) Section 330 does not apply to an interest to which this section applies.

(3) For a purpose mentioned in section 330(1) the Secretary of State may request the appropriate authority to give him such information as to the matters mentioned in section 330(2) as he specifies in the request.

(4) The appropriate authority must comply with a request under subsection (3) except to the extent–

(a) that the matter is not within the knowledge of the authority, or

(b) that to do so will disclose information as to any of the matters mentioned in section 321(4).

(5) Expressions used in this section and in Part 13 must be construed in accordance with that Part."

Commencement

Sch. 3 para. 17: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 17: England, Wales

Listed buildings and conservation areas

Law In Force

18

(1) Sections 83 and 84 of the listed buildings Act (provisions relating to Crown land) are omitted.

(2) The repeal of section 84 of the listed buildings Act does not affect any requirement made in pursuance of regulations made under subsection (4)(b) of that section.

Commencement

Sch. 3 para. 18(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 18(1)-(2): England, Wales

Law In Force

19

(1) Section 89(1) of the listed buildings Act (application of certain general provisions of principal Act) is amended as follows.

(2) After the entry relating to section 329 there is inserted–

"section 329A(1) and (2) (service of notices on the Crown)".

(3) After the entry relating to section 330 there is inserted–

"section 330A(1) to (4) (information as to interests in Crown land)".

Commencement

Sch. 3 para. 19(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 19(1)-(3): England, Wales

Hazardous substances

Law In Force

20

In section 17 of the hazardous substances Act (revocation of consent on change of control of land) after subsection (2) there is inserted the following subsection–

> "(3) This section does not apply if the control of land changes from one emanation of the Crown to another."

Commencement

Sch. 3 para. 20: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 20: England, Wales

Law In Force

21

(1) Section 37(2) of the hazardous substances Act (application of certain general provisions of the principal Act) is amended as follows.

(2) After the entry relating to section 329 there is inserted–

> "section 329A(1) and (2) (service of notices on the Crown)".

(3) After the entry relating to section 330 there is inserted–

> "section 330A(1) to (4) (information as to interests in Crown land)".

Commencement

Sch. 3 para. 21(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 21(1)-(3): England, Wales

Miscellaneous

Law In Force

22

Section 293(4) of the principal Act (certain persons treated as having an interest in Crown land) is omitted.

Commencement

Sch. 3 para. 22: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 22: England, Wales

Law In Force

23

Section 297 of the principal Act (agreements relating to Crown land) is omitted.

Commencement

Sch. 3 para. 23: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 23: England, Wales

Law In Force

24

(1) Section 298 of the principal Act (supplementary provisions as to Crown and Duchy interests) is amended as follows.

(2) Subsections (1) and (2) are omitted.

(3) In subsection (3) after “in which there is” there is inserted “a Crown interest or”.

Commencement

Sch. 3 para. 24(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 24(1)-(3): England, Wales

Law In Force

25

Section 299A of the principal Act (Crown planning obligations) is omitted.

Commencement

Sch. 3 para. 25: June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 25: England, Wales

Law In Force

26

(1) Section 300 of the principal Act (tree preservation orders in anticipation of disposal of Crown land) is omitted.

(2) But the repeal of section 300 does not affect its operation in relation to a tree preservation order made by virtue of that section before the commencement of this paragraph.

Commencement

Sch. 3 para. 26(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 26(1)-(2): England, Wales

Law In Force

27

(1) Section 301 of the principal Act (requirement of planning permission for continuance of use instituted by the Crown) is omitted.

(2) But the repeal of section 301 does not affect its operation in relation to an agreement made as mentioned in subsection (1) of that section before the commencement of this paragraph.

Commencement

Sch. 3 para. 27(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(c))

Extent

Sch. 3 para. 27(1)-(2): England, Wales

SCHEDULE 4

TRANSITIONAL PROVISIONS: CROWN APPLICATION

Section 89

PART 1

THE PRINCIPAL ACT

Introduction

Law In Force

1

This Part applies to a development if–

(a) it is a development for which before the relevant date no planning permission is required,

(b) it is not a development or of a description of development for which planning permission is granted by virtue of a development order, and

(c) before the relevant date proposed development notice had been given to the local planning authority.

Commencement

Sch. 4(1) para. 1(a)-(c): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(1) para. 1(a)-(c): England, Wales

Law In Force

2

In this Part–

(a) the relevant date is the date of commencement of section 79(1);

(b) proposed development notice is notice of a proposal for development given by the developer in pursuance of arrangements made by the Secretary of State in relation to development by or on behalf of the Crown;

(c) the developer is the Crown or a person acting on behalf of the Crown.

Commencement

Sch. 4(1) para. 2(a)-(c): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(1) para. 2(a)-(c): England, Wales

Acceptable development

Law In Force

3

(1) This paragraph applies if before the relevant date in pursuance of the arrangements either the local planning authority have or the Secretary of State has given notice to the developer that they or he (as the case may be) find the proposed development acceptable.

(2) The notice must be treated as if it is planning permission granted under Part 3 of the principal Act.

(3) If the notice is subject to conditions the conditions have effect as if they are conditions attached to the planning permission.

Commencement

Sch. 4(1) para. 3(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(1) para. 3(1)-(3): England, Wales

Law In Force

4

(1) This paragraph applies if before the relevant date the local planning authority have in pursuance of the arrangements kept a register of proposed development notices.

(2) The register must be treated as if it is part of the register kept by them in pursuance of section 69 of the principal Act.

Commencement

Sch. 4(1) para. 4(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(1) para. 4(1)-(2): England, Wales

Referred proposals

Law In Force

5

(1) This paragraph applies if–

(a) before the relevant date the local planning authority have notified the developer in pursuance of the arrangements that they do not find the development acceptable, and

(b) the matter has been referred to but not decided by the Secretary of State.

(2) This paragraph also applies if–

(a) before the relevant date the local planning authority have notified the developer in pursuance of the arrangements that they find the development acceptable subject to conditions, and

(b) the matter has been referred to but not decided by the Secretary of State.

(3) The Secretary of State must deal with the proposal as if it is an appeal by an applicant for planning permission under section 78 of the principal Act.

Commencement

Sch. 4(1) para. 5(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(1) para. 5(1)-(3): England, Wales

Pending proposals

Law In Force

6

(1) This paragraph applies if before the relevant date–

(a) proposed development notice has been given, but

(b) the local planning authority have not given notice to the developer as mentioned in paragraph 3 or 5.

(2) The principal Act applies as if the proposal is an application for planning permission duly made under Part 3 of that Act.

Commencement

Sch. 4(1) para. 6(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(1) para. 6(1)-(2): England, Wales

PART 2

THE LISTED BUILDINGS ACT

Introduction

Law In Force

7

This Part applies to works if–

(a) they are works for which before the relevant date no listed building consent is required, and

(b) before the relevant date proposed works notice had been given to the local planning authority.

Commencement

Sch. 4(2) para. 7(a)-(b): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(2) para. 7(a)-(b): England, Wales

Law In Force

8

In this Part–

(a) the relevant date is the date of commencement of section 79(1);

(b) proposed works notice is notice of a proposal for works given by the person proposing to carry out the works (the developer) in pursuance of arrangements made by the Secretary of State in relation to development by or on behalf of the Crown;

(c) the developer is the Crown or a person acting on behalf of the Crown.

Commencement

Sch. 4(2) para. 8(a)-(c): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(2) para. 8(a)-(c): England, Wales

Acceptable works

Law In Force

9

(1) This paragraph applies if before the relevant date in pursuance of the arrangements either the local planning authority have or the Secretary of State has given notice to the developer that they or he (as the case may be) find the proposed works acceptable.

(2) The notice must be treated as if it is listed building consent granted under the listed buildings Act.

(3) If the notice is subject to conditions the conditions have effect as if they are conditions attached to the consent.

Commencement

Sch. 4(2) para. 9(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(2) para. 9(1)-(3): England, Wales

Law In Force

10

(1) This paragraph applies if before the relevant date the local planning authority have in pursuance of the arrangements kept a register of proposed works notices.

(2) The register must be treated as if it is part of the register kept by them in pursuance of the listed buildings Act.

Commencement

Sch. 4(2) para. 10(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(2) para. 10(1)-(2): England, Wales

Referred proposals

Law In Force

11

(1) This paragraph applies if–

(a) before the relevant date the local planning authority have notified the developer in pursuance of the arrangements that they do not find the works acceptable, and

(b) the matter has been referred to but not decided by the Secretary of State.

(2) This paragraph also applies if–

(a) before the relevant date the local planning authority have notified the developer in pursuance of the arrangements that they find the works acceptable subject to conditions, and

(b) the matter has been referred to but not decided by the Secretary of State.

(3) The Secretary of State must deal with the proposal as if it is an appeal by an applicant for listed building consent under section 20 of the listed buildings Act.

Commencement

Sch. 4(2) para. 11(1)-(3): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(2) para. 11(1)-(3): England, Wales

Pending proposals

Law In Force

12

(1) This paragraph applies if before the relevant date–

(a) proposed works notice has been given, but

(b) the local planning authority have not given notice to the developer as mentioned in paragraph 9 or 11.

(2) The listed buildings Act applies as if the proposal is an application for listed building consent duly made under that Act.

Commencement

Sch. 4(2) para. 12(1)-(2): June 7, 2006 (SI 2006/1281 art. 2(d))

Extent

Sch. 4(2) para. 12(1)-(2): England, Wales

SCHEDULE 5

CROWN APPLICATION: SCOTLAND

Section 90

Purchase notices

Law In Force

1

In the Town and Country Planning (Scotland) Act 1997 (c. 8) (referred to in this Schedule as the "principal Scottish Act"), there is inserted after section 88 (circumstances in which purchase notices may be served) the following section–

"88A Purchase notices: Crown land

(1) A purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private interest in Crown land must not serve a purchase notice unless–

(a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and

(b) the offer is refused by the appropriate authority.

(3) The appropriate authority may serve a purchase notice in relation to the following land–

(a) land belonging to Her Majesty in right of her private estates,

(b) land which forms part of the Crown Estate.

(4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.

(5) Expressions used in this section and in Part 12 (Crown Land) must be construed in accordance with that Part."

Commencement

Sch. 5 para. 1: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 1: Scotland

Law In Force

2

In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) (referred to in this Schedule as the "Scottish listed buildings Act"), after section 28 (circumstances in which purchase notices may be served) there is inserted the following section–

"28A Purchase notices: Crown land

(1) A listed building purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private interest in Crown land must not serve a listed building purchase notice unless–

(a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and

(b) the offer is refused by the appropriate authority.

(3) The appropriate authority may serve a listed building purchase notice in relation to the following land–

(a) land belonging to Her Majesty in right of her private estates,

(b) land which forms part of the Crown Estate.

(4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a listed building purchase notice."

Commencement

Sch. 5 para. 2: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 2: Scotland

Compulsory acquisition

Law In Force

3

(1) In the principal Scottish Act, section 189 (compulsory acquisition of land for development and other planning purposes) is amended as follows.

(2) After subsection (2) there is inserted the following subsection–

> "(2A) The Scottish Ministers must not authorise the acquisition of any interest in Crown land unless–
>
> (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
>
> (b) the appropriate authority consents to the acquisition."

(3) After subsection (8) there is inserted the following subsection–

> "(9) Crown land must be construed in accordance with Part 12."

Commencement

Sch. 5 para. 3(1)-(3): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 3(1)-(3): Scotland

Law In Force

4

(1) Section 190 of that Act (compulsory acquisition of land by Secretary of State for the Environment) is amended as follows.

(2) After subsection (1) there is inserted the following subsection–

> "(1A) But subsection (1) does not permit the acquisition of any interest in Crown land unless–
>
> (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
>
> (b) the appropriate authority consents to the acquisition."

(3) After subsection (7) there is added the following subsection–

> "(8) Crown land must be construed in accordance with Part 12."

Commencement

Sch. 5 para. 4(1)-(3): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 4(1)-(3): Scotland

Law In Force

5

(1) In the Scottish listed buildings Act, section 42 (compulsory acquisition of listed building in need of repair) is amended as follows.

(2) After subsection (6) there is inserted the following subsection–

"(6A) This section does not permit the acquisition of any interest in Crown land unless–

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate authority consents to the acquisition."

Commencement

Sch. 5 para. 5(1)-(2): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 5(1)-(2): Scotland

Definitions

Law In Force

6

(1) In the principal Scottish Act, section 242 (preliminary definitions) is amended as follows.

(2) In subsection (1) for the definition of "Crown interest" there is substituted the following definition–

""Crown interest" means any of the following–

(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates,

(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department,

(c) such other interest as the Scottish Ministers specify by order;".

(3) In subsection (2) after paragraph (b) there is inserted the following paragraph–

"(ba) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers;".

(4) After subsection (2) there is inserted the following subsection–

"(2A) For the purposes of an application for planning permission made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which the

Crown has no interest, a reference to the appropriate authority must be construed as a reference to the person who makes the application."

(5) After subsection (3) there is inserted the following subsection–

"(3A) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37)."

(6) After subsection (4) there are inserted the following subsections–

"(5) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (1) must be made by statutory instrument.

(6) But no such order may be made unless a draft of it has been laid before and approved by resolution of the Scottish Parliament."

Commencement

Sch. 5 para. 6(1)-(6): March 20, 2006 for purposes specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 6-(6): Scotland

Law In Force

7

In the Scottish listed buildings Act, after section 73B (inserted by section 93(1)), there is inserted the following section–

"73C Expressions relating to the Crown

(1) Expressions relating to the Crown must be construed in accordance with this section.

(2) Crown land is land in which there is a Crown interest.

(3) A Crown interest is any of the following–

(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates,

(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department,

(c) such other interest as the Scottish Ministers specify by order.

(4) A private interest is an interest which is not a Crown interest.

(5) The appropriate authority in relation to any land is–

(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners,

(b) in relation to any other land belonging to Her Majesty in right of the Crown, the government department having the management of the land,

(c) in relation to land belonging to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
(d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, the department.

(6) If any question arises as to what authority is the appropriate authority in relation to any land it must be referred to the Scottish Ministers, whose decision is final.

(7) For the purpose of an application for listed building consent made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which the Crown has no interest, a reference to the appropriate authority must be construed as a reference to the person who makes the application.

(8) The reference to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

(9) An order made for the purposes of paragraph (c) of subsection (3) must be made by statutory instrument.

(10) But no such order may be made unless a draft of it has been laid before and approved by resolution of the Scottish Parliament.

(11) This section applies for the purposes of this Act."

Commencement

Sch. 5 para. 7: March 20, 2006 for purposes specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 7-: Scotland

Law In Force

8

(1) In the Planning (Hazardous Substances) (Scotland) Act 1997 (c. 10) (referred to in this Schedule as the "Scottish hazardous substances Act"), section 31 (exercise of powers in relation to Crown land) is amended as follows.

(2) Subsections (1) and (2) are omitted.

(3) In subsection (3) for the definition of "Crown interest" there is substituted the following definition–

""Crown interest" means any of the following–
(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates,
(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department,
(c) such other interest as the Scottish Ministers specify by order."

(4) In subsection (5) after paragraph (b) there is inserted the following paragraph–

> "(ba) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,".

(5) After subsection (6) there are inserted the following subsections–

> "(7) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).
>
> (8) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (3) must be made by statutory instrument.
>
> (9) But no such order may be made unless a draft of it has been laid before and approved by resolution of the Scottish Parliament."

Commencement

Sch. 5 para. 8(1)-(5): March 20, 2006 for purposes specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 8-(5): Scotland

Special enforcement notices

Law In Force

9

(1) Sections 243 and 244 of the principal Scottish Act (control of development on Crown land: special enforcement notices) are omitted.

(2) But the repeal of sections 243 and 244 does not affect their operation in relation to development carried out before the commencement of this paragraph.

Commencement

Sch. 5 para. 9(1)-(2): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 9(1)-(2): Scotland

Applications for planning permission, etc.

Law In Force

10

(1) In the principal Scottish Act, after section 247 (supplementary provision as to Crown interest) there is inserted the following section–

"247A Applications for planning permission by Crown

(1) This section applies to an application for planning permission or for a certificate under section 151 made by or on behalf of the Crown.

(2) The Scottish Ministers may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment (including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament)."

(2) Section 248 (application for planning permission etc. in anticipation of disposal of Crown land) is omitted.

(3) The repeal of that section does not affect any requirement made in pursuance of regulations made under subsection (5)(b) of that section.

Commencement

Sch. 5 para. 10(1)-(3): March 20, 2006 for purposes specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 10-(3): Scotland

Law In Force

11

After section 73E of the Scottish listed buildings Act (inserted by section 94(4)) there is inserted the following section–

"73F Applications for listed building or conservation area consent by Crown

(1) This section applies to an application for–

(a) listed building consent, or

(b) conservation area consent,

made by or on behalf of the Crown.

(2) The Scottish Ministers may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment (including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament)."

Commencement

Sch. 5 para. 11: March 20, 2006 for purposes specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 11-: Scotland

Law In Force

12

In the Scottish hazardous substances Act, section 32 (application for hazardous substances consent in anticipation of disposal of Crown land) is omitted.

Commencement

Sch. 5 para. 12: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 12: Scotland

Law In Force

13

Before section 33 of that Act there is inserted–

"32A Applications for hazardous substances consent by Crown

(1) This section applies to an application for hazardous substances consent made by or on behalf of the Crown.

(2) The Scottish Ministers may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment (including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament)."

Commencement

Sch. 5 para. 13: March 20, 2006 for purposes specified in SSI 2006/101 Sch.1; June 12, 2006 otherwise (SSI 2006/101 art. 2, Sch. 1 para. 1; SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 13-: Scotland

Rights of entry

Law In Force

14

After section 270 of the principal Scottish Act (supplementary provisions as to rights of entry) there is inserted the following section–

"270A Rights of entry: Crown land

(1) Section 269 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of–

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (6) the words "Subject to section 270" must be ignored.

(5) Section 270 does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 242."

Commencement

Sch. 5 para. 14: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 14: Scotland

Law In Force

15

After section 78 of the Scottish listed buildings Act (rights of entry: supplementary provisions) there is inserted the following section–

"78A Rights of entry: Crown land

(1) Section 76 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of–

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (6) the words "and 78" must be ignored.

(5) Section 78 does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 73C."

Commencement

Sch. 5 para. 15: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 15: Scotland

Law In Force

16

After section 35 of the Scottish hazardous substances Act (rights of entry: supplementary provisions) there is inserted the following section–

"35A Rights of entry: Crown land

(1) Section 33 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of–

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (5), the words "and 35" must be ignored.

(5) Section 35 does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 31(5)."

Commencement

Sch. 5 para. 16: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 16: Scotland

Service of notices

Law In Force

17
After section 271 of the principal Scottish Act (service of notices) there is inserted the following section–

"271A Service of notices on the Crown

(1) Any notice or other document required under this Act to be served on the Crown must be served on the appropriate authority.

(2) Section 271 does not apply for the purposes of the service of such a notice or document.

(3) "Appropriate authority" must be construed in accordance with section 242."

Commencement

Sch. 5 para. 17: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 17: Scotland

Information as to interests in land

Law In Force

18
In the principal Scottish Act, after section 272 (power to require information as to interests in land) there is inserted the following section–

"272A Information as to interests in Crown land

(1) This section applies to an interest in Crown land which is not a private interest.

(2) Section 272 does not apply to an interest to which this section applies.

(3) For a purpose mentioned in section 272(1) the Scottish Ministers may request the appropriate authority to give them such information as to the matters mentioned in section 272(2) as they specify in the request.

(4) The appropriate authority must comply with a request under subsection (3) except to the extent–

(a) that the matter is not within the knowledge of the authority, or
(b) that to do so will disclose information as to any of the matters mentioned in section 265A(4).

(5) Expressions used in this section and in Part 12 (Crown Land) must be construed in accordance with that Part."

Commencement

Sch. 5 para. 18: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 18: Scotland

Listed buildings and conservation areas

Law In Force

19

(1) In the Scottish listed buildings Act, sections 74 and 75 (provisions relating to Crown land) are omitted.

(2) The repeal of section 75 does not affect any requirement made in pursuance of regulations made under subsection (4)(b) of that section.

Commencement

Sch. 5 para. 19(1)-(2): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 19(1)-(2): Scotland

Law In Force

20

(1) In the Scottish listed buildings Act, section 79 (application of certain general provisions of the principal Scottish Act) is amended as follows.

(2) In subsection (1)–
(a) after the entry relating to section 265 there is inserted–

"section 265A (planning inquiries to be held in public subject to certain exceptions),",
(b) after the entry relating to section 271 there is inserted–

"section 271A(1) and (2) (service of notices on the Crown),"

, and

(c) after the entry relating to section 272 there is inserted–

"section 272A(1) to (4) (information as to interests in Crown land),".

(3) After subsection (2) there is inserted the following subsection–

"(3) In the application of section 265A of the principal Act for the purposes of this Act, the provisions mentioned in subsection (1) of the section shall be construed as including any inquiry held by virtue of this section."

Commencement

Sch. 5 para. 20(1)-(3): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 20(1)-(3): Scotland

Hazardous substances

Law In Force

21

In the Scottish hazardous substances Act, in section 15 (revocation of consent on change of control of land) after subsection (2) there is inserted the following subsection–

"(3) This section does not apply if the control of the land changes from one emanation of the Crown to another."

Commencement

Sch. 5 para. 21: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 21: Scotland

Law In Force

22

(1) In the Scottish hazardous substances Act, section 36 (application of certain general provisions of the principal Scottish Act) is amended as follows–

(a) after the entry relating to section 265 there is inserted–

"section 265A (planning inquiries to be held in public subject to certain exceptions),",

(b) after the entry relating to section 271 there is inserted–

"section 271A(1) to (2) (service of notices on the Crown),"

, and

(c) after the entry relating to section 272 there is inserted–

"section 272A(1) to (4) (information as to interests in Crown land),".

(2) The existing provision as so amended becomes subsection (1), and after that subsection there is added–

"(2) In the application of section 265A of the principal Act for the purposes of this Act, the provisions mentioned in subsection (1) of the section shall be construed as including any inquiry held by virtue of this section."

Commencement

Sch. 5 para. 22(1)-(2): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 22(1)-(2): Scotland

Miscellaneous

Law In Force

23

Sections 242(4) (certain persons treated as having an interest in Crown land) and 246 (agreements relating to Crown land) of the principal Scottish Act are omitted.

Commencement

Sch. 5 para. 23: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 23: Scotland

Law In Force

24

In the principal Scottish Act, for section 247 (supplementary provisions as to Crown interest) there is substituted the following section–

"247 Supplementary provisions as to Crown interest

Where, in accordance with an agreement under section 246, the approval of a planning authority is required in respect of any development of land in which there is a Crown interest,

sections 78 to 82 have effect in relation to the withholding of that approval, or the giving of it subject to conditions, as if it were a refusal of planning permission, or, as the case may be, a grant of planning permission subject to conditions."

Commencement

Sch. 5 para. 24: June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 24: Scotland

Law In Force

25

(1) In the principal Scottish Act, section 249 (tree preservation orders in anticipation of disposal of Crown land) is omitted.

(2) But the repeal of section 249 does not affect its operation in relation to a tree preservation order made by virtue of that section before the commencement of this paragraph.

Commencement

Sch. 5 para. 25(1)-(2): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 25(1)-(2): Scotland

Law In Force

26

(1) In the principal Scottish Act, section 250 (requirement of planning permission for continuance of use instituted by the Crown) is omitted.

(2) But the repeal of section 250 does not affect its operation in relation to an agreement made as mentioned in subsection (1) of that section before the commencement of this paragraph.

Commencement

Sch. 5 para. 26(1)-(2): June 12, 2006 (SSI 2006/268 art. 3(f))

Extent

Sch. 5 para. 26(1)-(2): Scotland

SCHEDULE 6

AMENDMENTS OF THE PLANNING ACTS

Section 118

Town and Country Planning Act 1990 (c. 8)

Law In Force

1
The Town and Country Planning Act 1990 is amended as follows.

Commencement

Sch. 6 para. 1: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2097 art. 2; SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 1-: England, Wales

Law In Force

2
In section 55(2)(b) (meaning of development) the word "local" is omitted.

Commencement

Sch. 6 para. 2: June 7, 2006 (SI 2006/1281 art. 2(e))

Extent

Sch. 6 para. 2: England, Wales

Law In Force

3
For section 69 there is substituted the following section–

"69 Register of applications etc

(1) The local planning authority must keep a register containing such information as is prescribed as to–

(a) applications for planning permission;

(b) requests for statements of development principles (within the meaning of section 61E);
(c) local development orders;
(d) simplified planning zone schemes.

(2) The register must contain–
(a) information as to the manner in which applications mentioned in subsection (1)(a) and requests mentioned in subsection (1)(b) have been dealt with;
(b) such information as is prescribed with respect to any local development order or simplified planning zone scheme in relation to the authority's area.

(3) A development order may require the register to be kept in two or more parts.

(4) Each part must contain such information as is prescribed relating to the matters mentioned in subsection (1)(a) and (b).

(5) A development order may also make provision–
(a) for a specified part of the register to contain copies of applications or requests and of any other documents or material submitted with them;
(b) for the entry relating to an application or request (and everything relating to it) to be removed from that part of the register when the application (including any appeal arising out of it) or the request (as the case may be) has been finally disposed of.

(6) Provision made under subsection (5)(b) does not prevent the inclusion of a different entry relating to the application or request in another part of the register.

(7) The register must be kept in such manner as is prescribed.

(8) The register must be kept available for inspection by the public at all reasonable hours.

(9) Anything prescribed under this section must be prescribed by development order."

Commencement

Sch. 6 para. 3: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; February 22, 2010 otherwise (SI 2004/2097 art. 2; SI 2010/321 art. 2)

Extent

Sch. 6 para. 3: England, Wales

Not Yet In Force

4

Section 76 (Duty to draw attention to certain provisions for benefit of disabled) is omitted.

Commencement

Sch. 6 para. 4: Date to be appointed (not yet in force) (2004 c. 5 Pt 9 s. 121)

Extent

Sch. 6 para. 4: England, Wales

Repealed

5 […][1]

Notes

[1] Repealed, never in force, by Planning Act 2008 c. 29 Sch.13 para.1 (January 26, 2009)

Not Yet In Force

6

In section 108 (compensation for refusal of planning permission formerly granted by development order) after subsection (3) there is inserted the following subsection–

"(3A) This section does not apply if–

(a) development authorised by planning permission granted by a development order or local development order is started before the permission is withdrawn, and

(b) the order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn."

Commencement

Sch. 6 para. 6: Date to be appointed (not yet in force) (2004 c. 5 Pt 9 s. 121)

Extent

Sch. 6 para. 6: England, Wales

Law In Force

7

(1) In section 245 (modification of incorporated enactments), subsections (2) and (3) are omitted.

(2) The amendments made by sub-paragraph (1) do not apply to compulsory purchase orders of which notice under section 11 of or, as the case may be, paragraph 2 of Schedule 1 to the Acquisition of Land Act 1981 (c. 67) is published before commencement of this paragraph.

Commencement

Sch. 6 para. 7(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(c))

Extent

Sch. 6 para. 7(1)-(2): England, Wales

Law In Force

8

In section 284(1) (restriction on challenge to validity of certain documents), paragraph (a) is omitted.

Commencement

Sch. 6 para. 8: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 8: England, Wales

Law In Force

9

(1) Section 287 (procedure for questioning the validity of certain matters) is amended as follows.

(2) For subsections (1) to (3) there are substituted the following subsections–

"(1) This section applies to–

(a) a simplified planning zone scheme or an alteration of such a scheme;

(b) an order under section 247, 248, 249, 251, 257, 258 or 277,

and anything falling within paragraphs (a) and (b) is referred to in this section as a relevant document.

(2) A person aggrieved by a relevant document may make an application to the High Court on the ground that–

(a) it is not within the appropriate power, or

(b) a procedural requirement has not been complied with.

(3) The High Court may make an interim order suspending the operation of the relevant document–

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

(3A) Subsection (3B) applies if the High Court is satisfied–

(a) that a relevant document is to any extent outside the appropriate power;

(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

(3B) The High Court may quash the relevant document–

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

(3C) An interim order has effect until the proceedings are finally determined.

(3D The appropriate power is–

(a) in the case of a simplified planning zone scheme or an alteration of the scheme, Part III;

(b) in the case of an order under section 247, 248, 249, 251, 257, 258 or 277, the section under which the order is made."

(3) In subsection (5)–

(a) paragraph (a) is omitted;

(b) in each of paragraphs (b) to (e) the words "by virtue of subsection (3)" are omitted.

(4) Subsection (6) is omitted.

Commencement

Sch. 6 para. 9(1)-(4): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 9-(4): England, Wales

Law In Force

10

(1) Section 296 (exercise of powers in relation to Crown land) is amended as follows.

(2) In subsection (1) for paragraph (a) there is substituted the following paragraph–

"(a) a document, plan or strategy specified in subsection (1A) may include proposals relating to the use of Crown land;".

(3) After subsection (1) there is inserted the following subsection–

"(1A) These are the documents, plans and strategies–

(a) the regional spatial strategy (or a revision of it) within the meaning of Part 1 of the Planning and Compulsory Purchase Act 2004;

(b) a local development document (or a revision of it) adopted or approved under Part 2 of that Act;

(c) a local development plan (or a revision of it) adopted or approved under Part 6 of that Act;

(d) the Mayor of London's spatial development strategy (or any alteration or replacement of it) published in pursuance of section 337 of the Greater London Authority Act 1999."

Commencement

Sch. 6 para. 10(1)-(3): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 10-(3): England, Wales

Law In Force

11

(1) Section 303A (recovery of costs of certain inquiries) is amended as follows.

(2) For subsection (1) there are substituted the following subsections–

"(1) This section applies if the appropriate authority appoints a person to carry out or hold a qualifying procedure.

(1A) A qualifying procedure is–

(a) an independent examination under section 20 or 64 of the Planning and Compulsory Purchase Act 2004;

(b) a local inquiry or other hearing under paragraph 8(1)(a) of Schedule 7;

(c) the consideration of objections under paragraph 8(1)(b) of that Schedule.

(1B) The appropriate authority is–

(a) the Secretary of State if the local planning authority causing the procedure to be carried out or held is in England;

(b) the National Assembly for Wales if the local planning authority causing the procedure to be carried out or held is in Wales."

(3) In each of subsections (2) to (6) and (10)(a) in each place where it occurs–

(a) for "Secretary of State" there is substituted "appropriate authority";

(b) for "him" there is substituted "it";

(c) for "he" there is substituted "it".

(4) In each of subsections (2), (4), (5) and (6) in each place where it occurs for "inquiry" there is substituted "procedure".

(5) In subsection (5) each of the following is omitted–

(a) "or appointed as one of the persons who are to hold it";

(b) "(in addition to what may be recovered by virtue of the appointment of any other person)";

(c) in paragraph (c), "(or, in a case where that person is appointed as one of the persons who are to hold the qualifying inquiry, an appropriate proportion of any costs attributable to the appointment of an assessor to assist those persons)".

(6) Subsections (7) to (9) are omitted.

(7) Before subsection (10) there is inserted the following subsection–

"(9A) References to a local planning authority causing a qualifying inquiry to be held include references to a requirement under the Planning and Compulsory Purchase Act 2004 on the authority to submit a plan to the appropriate authority for independent examination."

Commencement

Sch. 6 para. 11(1)-(7): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 11-(7): England, Wales

Law In Force

12

In section 306 (2) (local authorities and statutory undertakers may contribute to certain costs of local planning authorities) for paragraph (a) there are substituted the following paragraphs–

"(a) any expenses incurred by a local planning authority for the purposes of carrying out a review under section 13 or 61 of the Planning and Compulsory Purchase Act 2004 (duty of local planning authority to keep under review certain matters affecting development);

(ab) any expenses incurred by a county council for the purposes of carrying out a review under section 14 of that Act (duty of county council to keep under review certain matters affecting development);"

Commencement

Sch. 6 para. 12: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 12: England, Wales

Law In Force

13

In section 324(1) (rights of entry) for paragraph (a) there is substituted the following paragraph–

"(a) the preparation, revision, adoption or approval of a local development document under Part 2 of the Planning and Compulsory Purchase Act 2004 or a local development plan under Part 6 of that Act;"

Commencement

Sch. 6 para. 13: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 13: England, Wales

Partially In Force

14

(1) Section 333 (provision about regulations and orders) is amended as follows.

(2) After subsection (2) there is inserted the following subsection–

> "(2A) Regulations may make different provision for different purposes."

Commencement

Sch. 6 para. 14(1)-(2): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; not yet in force otherwise (SI 2004/2097 art. 2)

Extent

Sch. 6 para. 14(1)-(2): England, Wales

Law In Force

15

In section 336(1) (interpretation) for the definition of development plan there is substituted–

> ""development plan" must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004;".

Commencement

Sch. 6 para. 15: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 15: England, Wales

Partially In Force

16

(1) Schedule 1 (distribution of functions of local planning authorities) is amended as follows.

(2) Paragraph 2 is omitted.

(3) In paragraph 3(7) the words "but paragraph 4 shall apply to such applications instead" are omitted.

(4) For paragraph 7 there is substituted the following paragraph–

"7

(1) A local planning authority must not determine an application for planning permission to which the consultation requirements apply unless it complies with sub-paragraph (7).

(2) The consultation requirements are–

(a) consultation with the RPB for the region in which the authority's area is situated if the development is one to which sub-paragraph (3) applies;

(b) consultation by a district planning authority with the county planning authority for their area if the development is one to which sub-paragraph (4) applies.

(3) This sub-paragraph applies to–

(a) a development which would by reason of its scale or nature or the location of the land be of major importance for the implementation of the RSS or a relevant regional policy, or

(b) a development of a description in relation to which the RPB has given notice in writing to the local planning authority that it wishes to be consulted.

(4) This sub-paragraph applies to–

(a) a development which would materially conflict with or prejudice the implementation of a relevant county policy,

(b) a development in an area in relation to which the county planning authority have given notice in writing to the district planning authority that development is likely to affect or be affected by the winning and working of minerals, other than coal,

(c) a development of land in respect of which the county planning authority have given notice in writing to the district planning authority that they propose to carry out development,

(d) a development which would prejudice a proposed development mentioned in paragraph (c) in respect of which notice has been given as so mentioned,

(e) a development of land in relation to which the county planning authority have given notice in writing to the district planning authority that it is proposed to use the land for waste disposal, or

(f) a development which would prejudice a proposed use mentioned in paragraph (e) in respect of which notice has been given as so mentioned.

(5) The consultation requirements do not apply–

(a) in respect of a development to which sub-paragraph (3) applies if the RPB gives a direction authorising the determination of the application without compliance with the requirements;

(b) in respect of a development to which sub-paragraph (4) applies if the county planning authority gives a direction authorising the determination of the application without compliance with the requirements.

(6) A direction under sub-paragraph (5) may be given in respect of a particular application or a description of application.

(7) If the consultation requirements apply the local planning authority–

(a) must give notice to the RPB or county planning authority (as the case may be) (the consulted body) that they propose to consider the application,

(b) must send a copy of the application to the consulted body, and

(c) must not determine the application until the end of such period as is prescribed by development order beginning with the date of the giving of notice under paragraph (a).

(8) Sub-paragraph (7)(c) does not apply if before the end of the period mentioned in that sub-paragraph–

(a) the local planning authority have received representations concerning the application from the consulted body, or

(b) the consulted body gives notice that it does not intend to make representations.

(9) A relevant regional policy is–

(a) a policy contained in a draft revision of the RSS which has been submitted to the Secretary of State in pursuance of section 5(8) of the 2004 Act, or

(b) a policy contained in a structure plan which has effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.

(10) A relevant county policy is–

(a) a policy contained in a local development document which has been prepared in accordance with a minerals and waste scheme and submitted to the Secretary of State in pursuance of section 20(1) of the 2004 Act or adopted by the county planning authority in pursuance of section 23 of that Act, or

(b) a policy contained in a structure plan which has effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.

(11) RPB and RSS must be construed in accordance with Part 1 of the 2004 Act.

(12) The 2004 Act is the Planning and Compulsory Purchase Act 2004."

Commencement

Sch. 6 para. 16(1)-(3): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(h))

Sch. 6 para. 16(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; August 24, 2005 in relation to England subject to savings specified in SI 2005/2081 art.4(4); not yet in force otherwise (SI 2004/2097 art. 2; SI 2005/2081 art. 2(d)(ii), art. 4(4))

Extent

Sch. 6 para. 16(1)-(4): England, Wales

Law In Force

17

In Schedule 2 (transitional provisions relating to development plans) Parts 1, 2 and 3 are omitted.

Commencement

Sch. 6 para. 17: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 17: England, Wales

Law In Force

18

(1) Schedule 13 (blighted land) is amended as follows.

(2) Paragraphs 1 to 4 are omitted.

(3) The following paragraph is inserted as paragraph 1A–

"1A

Land which is identified for the purposes of relevant public functions by a development plan document for the area in which the land is situated.

Notes

(1) Relevant public functions are–

(a) the functions of a government department, local authority, National Park authority or statutory undertakers;

(b) the establishment or running by a public telecommunications operator of a telecommunication system.

(2) For the purposes of this paragraph a development plan document is–

(a) a development plan document which is adopted or approved for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004 (in this paragraph, the 2004 Act);

(b) a revision of such a document in pursuance of section 26 of the 2004 Act which is adopted or approved for the purposes of Part 2 of the 2004 Act;

(c) a development plan document which has been submitted to the Secretary of State for independent examination under section 20(1) of the 2004 Act;

(d) a revision of a development plan document in pursuance of section 26 of the 2004 Act if the document has been submitted to the Secretary of State for independent examination under section 20(1) of that Act.

(3) But Note (2)(c) and (d) does not apply if the document is withdrawn under section 22 of the 2004 Act at any time after it has been submitted for independent examination.

(4) In Note (2)(c) and (d) the submission of a development plan document to the Secretary of State for independent examination is to be taken to include the holding of an independent examination by the Secretary of State under section 21 or section 27 of the 2004 Act."

(4) In paragraph 5 for "any such functions as are mentioned in paragraph 1(a)(i) or (ii)" there is substituted "relevant public functions (within the meaning of paragraph 1A)".

(5) In paragraph 6 for "any such functions as are mentioned in paragraph 5" there is substituted "relevant public functions (within the meaning of paragraph 1A)".

(6) In paragraph 13, for "paragraphs 1, 2, 3 and 4" there is substituted "paragraph 1A".

Commencement

Sch. 6 para. 18(1)-(6): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 18-(6): England, Wales

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

Law In Force

19

The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.

Commencement

Sch. 6 para. 19: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; October 15, 2005 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 19-: England, Wales

Law In Force

20

In section 10(3) (regulations relating to applications for listed building consent)–

(a) for paragraph (b) and the word "and" following it there is substituted the following paragraph–

"(b) requirements as to publicity in relation to such applications;";

(b) after paragraph (c) there are inserted the following paragraphs–

"(d) requirements as to consultation in relation to such applications;

(e) prohibiting the determination of such applications during such period as is prescribed;

(f) requirements on the local planning authority to take account of responses from persons consulted."

Commencement

Sch. 6 para. 20(a)-(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(e))

Extent

Sch. 6 para. 20-(b): England, Wales

Law In Force

21

In section 23(2) (matters to which regard is to be had by local planning authority in exercising function of revoking or modifying consent) for "the development plan and to any other" there is substituted "any".

Commencement

Sch. 6 para. 21: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 21: England, Wales

Law In Force

22

In section 26(2) (matters to which regard is to be had by the Secretary of State in exercising function of revoking or modifying consent) for "the development plan and to any other" there is substituted "any".

Commencement

Sch. 6 para. 22: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 22: England, Wales

Law In Force

23

In section 67 (publicity for applications affecting the setting of listed buildings) for subsections (1) to (7) there is substituted the following subsection–

> "(1) The Secretary of State may prescribe requirements as to publicity for applications for planning permission in cases where the local planning authority think that the development of land would affect the setting of a listed building."

Commencement

Sch. 6 para. 23: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(e))

Extent

Sch. 6 para. 23: England, Wales

Law In Force

24

In section 73 (publicity for applications affecting conservation areas) for subsection (1) there is substituted the following subsection–

> "(1) The Secretary of State may prescribe requirements as to publicity for applications for planning permission in cases where the local planning authority think that the development of land would affect the character or appearance of a conservation area."

Commencement

Sch. 6 para. 24: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(e))

Extent

Sch. 6 para. 24: England, Wales

Law In Force

25

In section 91(2) (interpretation) ""development plan"" is omitted.

Commencement

Sch. 6 para. 25: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(h); SI 2005/2847 art. 2(e))

Extent

Sch. 6 para. 25: England, Wales

Law In Force

26

In section 93 (provision about regulations and orders) after subsection (6) there are inserted the following subsections–

> "(6A) Regulations and orders may make different provision for different purposes.
>
> (6B) The powers to make regulations under sections 10(3)(b), 67(1) and 73(1) must be taken to be powers mentioned in section 100(2) of the Local Government Act 2003 (powers exercisable in relation to descriptions of certain local authorities which fall into particular categories for the purposes of section 99 of that Act)."

Commencement

Sch. 6 para. 26: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 3(e))

Extent

Sch. 6 para. 26: England, Wales

Planning (Hazardous Substances) Act 1990 (c. 10)

Partially In Force

27

In section 40 of the Planning (Hazardous Substances) Act 1990 (provision about regulations) after subsection (3) there is inserted the following subsection–

> "(4) Regulations may make different provision for different purposes."

Commencement

Sch. 6 para. 27: August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; not yet in force otherwise (SI 2004/2097 art. 2)

Extent

Sch. 6 para. 27: England, Wales

SCHEDULE 7

AMENDMENTS OF OTHER ENACTMENTS

Section 118

Not Yet In Force

1 Gas Act 1965 (c. 36)

In paragraph 7(2) of Schedule 3 of the Gas Act 1965 after "development order" there is inserted "or local development order".

Commencement

Sch. 7 para. 1: Date to be appointed (not yet in force) (2004 c. 5 Pt 9 s. 121)

Extent

Sch. 7 para. 1: England, Wales

Law In Force

2 Finance Act 1969 (c. 32)

In section 58(4) of the Finance Act 1969 (disclosure of information for statistical purposes), in the Table in the entry relating to local planning authorities–

(a) in the first column for "the Town and Country Planning Act 1990" there is substituted "Part 2 or 6 of the Planning and Compulsory Purchase Act 2004";

(b) In the second column for "Part II of the Town and Country Planning Act 1990" there is substituted "Part 2 or 6 of the Planning and Compulsory Purchase Act 2004".

Commencement

Sch. 7 para. 2(a)-(b): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Extent

Sch. 7 para. 2-(b): England, Wales

Law In Force

3 Leasehold Reform Act 1967 (c. 88)

In section 28(6)(a) of the Leasehold Reform Act 1967 (development for certain public purposes) for "Town and Country Planning Act 1990" there is substituted "Planning and Compulsory Purchase Act 2004".

Commencement

Sch. 7 para. 3: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Extent

Sch. 7 para. 3: England, Wales

Law In Force

4 Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)

In section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 after subsection (3) there is inserted the following subsection–

"(4) If a person is entitled in respect of the same interest in land to a payment both–

(a) by virtue of subsection (1), and

(b) under section 33B of the Land Compensation Act 1973 (additional loss payment for agricultural land), section 33H of that Act (only one payment to be made if a person has dual entitlement) applies."

Commencement

Sch. 7 para. 4: October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 4: England, Wales

Law In Force

5 Countryside Act 1968 (c. 41)

(1) Paragraph 3 of Schedule 2 to the Countryside Act 1968 is amended as follows.

(2) In sub-paragraph (2), after "published" there is inserted ", affixed".

(3) In sub-paragraph (4)(a), after "published" there is inserted ", affixed".

(4) The amendments made by this paragraph do not apply to compulsory purchase orders of which notice under section 11 of the Acquisition of Land Act 1981 (c. 67) is published before commencement of this paragraph.

Commencement

Sch. 7 para. 5(1)-(4): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 5(1)-(4): England, Wales

Partially In Force

6 Greater London Council (General Powers) Act 1969 (c lii)

In section 13 of the Greater London Council (General Powers) Act 1969 (exercise of powers relating to walkways), in the proviso for the words from "any local plan" to "Schedule 1 to that Act)" there is substituted "a local development document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004)".

Commencement

Sch. 7 para. 6: September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(i))

Extent

Sch. 7 para. 6: England, Wales

Law In Force

7 Land Compensation Act 1973 (c. 26)

(1) The Land Compensation Act 1973 is amended as follows.

(2) In section 29 (home loss payments) after subsection (3A) there is inserted the following subsection–

> "(3B) For the purposes of this section a person must not be treated as displaced from a dwelling in consequence only of the compulsory acquisition of part of a garden or yard or of an outhouse or appurtenance belonging to or usually enjoyed with the building which is occupied or is intended to be occupied as the dwelling."

(3) Sections 34 to 36 are omitted.

(4) In section 87(1) (general interpretation) in the definition of "dwelling" "(except in section 29)" is omitted.

(5) But the amendments made by this paragraph do not have effect in relation to a compulsory purchase order made or made in draft before the commencement of this paragraph.

Commencement

Sch. 7 para. 7(1)-(5): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 7(1)-(5): England, Wales

Law In Force

8 Greater London Council (General Powers) Act 1973 (c xxx)

In section 24(4) of the Greater London Council (General Powers) Act 1973 (definitions for the purpose or provision relating to parking place agreements)–

(a) in the definition of appropriate provision for "the Greater London" there is substituted "their";

(b) in the second place where it occurs "Greater London development plan" is omitted.

Commencement

Sch. 7 para. 8(a)-(b): September 28, 2004 (SI 2004/2202 art. 2(i))

Extent

Sch. 7 para. 8(a)-(b): England, Wales

Law In Force

9 Welsh Development Agency Act 1975 (c. 70)

(1) Schedule 4 to the Welsh Development Agency Act 1975 is amended as follows.

(2) Paragraph 2 is omitted.

(3) In paragraph 3, in sub-paragraph (1)(c), for "section 13 of that Act to objections made by an owner, lessee or occupier" there is substituted "sections 13 and 13A of that Act to relevant objections".

(4) The amendments made by this paragraph do not apply to compulsory purchase orders of which notice under section 11 of the Acquisition of Land Act 1981 (c. 67) is published before commencement of this paragraph.

Commencement

Sch. 7 para. 9(1)-(4): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 9(1)-(4): England, Wales

Law In Force

10 Local Government, Planning and Land Act 1980 (c. 65)

(1) The Local Government, Planning and Land Act 1980 is amended as follows.

(2) In section 142 (acquisition by corporation), in subsection (2A), "(subject to section 144(2))" is omitted.

(3) In section 143 (acquisition by local highway authority), in subsection (3A), "(subject to section 144(2))" is omitted.

(4) In section 144, in subsection (2), "the 1981 Act and" is omitted.

(5) In Schedule 28, in paragraph 1, "The 1981 Act and" and the words from "and in paragraph 2" to the end are omitted.

(6) The amendments made by this paragraph do not apply to compulsory purchase orders of which notice under section 11 of or, as the case may be, paragraph 2 of Schedule 1 to the Acquisition of Land Act 1981 is published before commencement of this paragraph.

(7) In Schedule 26 (Urban Development Corporations), after paragraph 14 there are inserted the following paragraphs–

14A Delegation of planning functions

(1) This paragraph applies in relation to any function conferred on the corporation by virtue of an order under section 149 above.

(2) The corporation may appoint committees and such committees may appoint sub-committees.

(3) Anything which is authorised or required to be done by the corporation–

(a) may be done by any member of the corporation or of its staff who is authorised for the purpose either generally or specifically;

(b) may be done by a committee or sub-committee which is so authorised.

(4) The corporation may–

(a) determine the quorum of a committee or sub-committee;

(b) make such arrangements as it thinks appropriate relating to the meetings and procedure of a committee or sub-committee.

(5) Anything done for the purposes of sub-paragraph (4) is subject to directions given by the Secretary of State.

(6) The validity of anything done by a committee or sub-committee is not affected by–

(a) any vacancy among its members;

(b) any defect in the appointment of any of its members.

(7) This paragraph does not extend to Scotland.

14B

(1) This paragraph has effect in relation to the membership of committees and sub-committees appointed under paragraph 14A.

(2) A committee may consist of–

(a) such members of the corporation as it appoints;

(b) such other persons as the corporation (with the consent of the Secretary of State) appoints.

(3) A sub-committee of a committee may consist of–

(a) such members of the committee as it appoints;

(b) such persons who are members of another committee of the corporation (whether or not they are members of the corporation) as the committee appoints;

(c) such other persons as the corporation (with the consent of the Secretary of State) appoints.

(4) The membership of a committee or sub-committee–

(a) must always include at least one person who is a member of the corporation;

(b) must not include any person who is a member of the staff of the corporation."

Commencement

Sch. 7 para. 10(1)-(6): October 31, 2004 (SI 2004/2593 art. 2(d))

Sch. 7 para. 10(7): July 13, 2004 (2004 c. 5 Pt 9 s. 121(6))

Extent

Sch. 7 para. 10(1)-(7): England, Wales

Law In Force

11 Highways Act 1980 (c. 66)

(1) The Highways Act 1980 is amended as follows.

(2) In section 232(8) after "1990" there is inserted "and Parts 2 and 6 of the Planning and Compulsory Purchase Act 2004".

(3) In section 232(9) for the definition of development plan there is substituted–

> ""development plan" must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004;
> "local authority" has the same meaning as in the Town and Country Planning Act 1990."

(4) Section 259 (power to confirm, etc, compulsory purchase order in part) is omitted.

(5) The amendment made by sub-paragraph (4) does not apply to a compulsory purchase order of which notice under section 11 of or, as the case may be, paragraph 2 of Schedule 1 to the Acquisition of Land Act 1981 is published before the commencement of that sub-paragraph.

Commencement

Sch. 7 para. 11(1)-(3): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Sch. 7 para. 11(4)-(5): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 11(1)-(5): England, Wales

Law In Force

12 Acquisition of Land Act 1981 (c. 67)

In section 29(5) of the Acquisition of Land Act 1981 for the words "any reference to any owner, lessee or occupier" there are substituted the words "the reference to a qualifying person for the purposes of section 12(2)".

Commencement

Sch. 7 para. 12: October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 12: England, Wales

Law In Force

13 Housing Act 1985 (c. 68)

(1) In section 578A of the Housing Act 1985 (modification of compulsory purchase order in case of acquisition of land for clearance), in subsection (2), for "section 13" there is substituted "sections 13 to 13C".

(2) The amendment made by sub-paragraph (1) does not apply to compulsory purchase orders of which notice under section 11 of the Acquisition of Land Act 1981 is published before commencement of this paragraph.

Commencement

Sch. 7 para. 13(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 13(1)-(2): England, Wales

Law In Force

14 Education Reform Act 1988 (c. 40)

(1) The Education Reform Act 1988 is amended as follows.

(2) In section 190 (wrongful contracts or disposals), in subsection (6) for the words from "references" to the end there is substituted "the reference in section 12 of that Act to an owner of the land included reference to the London Residuary Body".

(3) In section 201 (wrongful disposals), in subsection (6), for the words from "references" to the end there is substituted "the reference in section 12 of that Act to an owner of the land included reference to the local education authority concerned".

(4) The amendments made by this paragraph do not apply to compulsory purchase orders of which notice under section 11 of the Acquisition of Land Act 1981 (c. 67) is published before commencement of this paragraph.

Commencement

Sch. 7 para. 14(1)-(4): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 14(1)-(4): England, Wales

Law In Force

15 Housing Act 1988 (c. 50)

(1) Paragraph 2 of Schedule 10 to the Housing Act 1988 (modifications of Acquisition of Land Act 1981) is omitted.

(2) The amendment made by sub-paragraph (1) does not apply to compulsory purchase orders of which notice under section 11 of or, as the case may be, paragraph 2 of Schedule 1 to the Acquisition of Land Act 1981 is published before commencement of this paragraph.

Commencement

Sch. 7 para. 15(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 15(1)-(2): England, Wales

Law In Force

16 Planning and Compensation Act 1991 (c. 34)

In Schedule 4 to the Planning and Compensation Act 1991Part 3 is omitted.

Commencement

Sch. 7 para. 16: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Extent

Sch. 7 para. 16: England, Wales

Law In Force

17 Local Government Act 1992 (c. 19)

In section 14(5) of the Local Government Act 1992 (structural changes which may be recommended by the Electoral Commission), paragraph (d) is omitted.

Commencement

Sch. 7 para. 17: September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Extent

Sch. 7 para. 17: England, Wales

Repealed

18 […][1]

Notes

[1] Repealed by Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008/3002 Sch.3 para.1 (April 1, 2009: repeal has effect subject to transitional and savings provisions specified in SI 2008/3002 Sch.2 paras.1-5 and para.7)

Partially In Force

19 Environment Act 1995 (c. 25)

(1) The Environment Act 1995 is amended as follows.

(2) In section 67 (which makes provision for a National Park authority to be the local planning authority) subsections (2) to (4) are omitted.

(3) In Schedule 14 (periodic review of mineral planning permissions) in paragraph 2(1), in the definition of "first review date", for "paragraph 5" there is substituted "paragraphs 3A and 5".

(4) In Schedule 14 after paragraph 3 there is inserted the following paragraph–

> **"3A**
>
> (1) The Secretary of State may by order specify a first review date different from the first review date found in pursuance of paragraph 3(1) or (2).
>
> (2) Sub-paragraph (3) applies if no first review date is found in pursuance of paragraph 3(1) or (2).
>
> (3) The Secretary of State may by order specify a first review date.
>
> (4) An order under sub-paragraph (3) may make different provision for different cases or different classes of case.
>
> (5) An order under this paragraph must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament."

Commencement

Sch. 7 para. 19(1), (3)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; not yet in force otherwise (SI 2004/2097 art. 2)

Sch. 7 para. 19(2): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; October 15, 2005 otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Extent

Sch. 7 para. 19(1)-(4): England, Wales

Law In Force

20 Town and Country Planning (Scotland) Act 1997 (c. 8)

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

(2) In section 26(2)(b) (meaning of "development"), for "local roads authority" there is substituted "roads authority (as defined by section 151(1) of the Roads (Scotland) Act 1984)".

(3) In section 275 (regulations and orders), after subsection (2) there is inserted–

"(2A) Regulations may make different provision for different purposes."

(4) In Schedule 10 (periodic review of mineral planning permissions)–

(a) in paragraph 2(1), in the definition of "first review date", for "paragraph 5" there is substituted "paragraphs 3A and 5"; and

(b) after paragraph 3, there is inserted the following paragraph–

"3A

(1) The Scottish Ministers may by order specify a first review date different from the first review date found in pursuance of paragraph 3(1) or (2).

(2) Sub-paragraph (3) applies if no first review date is found in pursuance of paragraph 3(1) or (2).

(3) The Scottish Ministers may by order specify a first review date.

(4) An order under sub-paragraph (3) may make different provision for different cases or different classes of case.

(5) An order under this paragraph must be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament."

Commencement

Sch. 7 para. 20(1)-(4)(b): June 12, 2006 (SSI 2006/268 art. 3(d))

Extent

Sch. 7 para. 20(1)-(4)(b): England, Wales

Law In Force

21 Regional Development Agencies Act 1998 (c. 45)

(1) Paragraph 1 of Schedule 5 to the Regional Development Agencies Act 1998 (modifications of Acquisition of Land Act 1981) is omitted.

(2) The amendment made by sub-paragraph (1) does not apply to compulsory purchase orders of which notice has been published under section 11 of or, as the case may be, paragraph 2 of Schedule 1 to the Acquisition of Land Act 1981 (c. 67) before commencement of this paragraph.

Commencement

Sch. 7 para. 21(1)-(2): October 31, 2004 (SI 2004/2593 art. 2(d))

Extent

Sch. 7 para. 21(1)-(2): England, Wales

Partially In Force With Amendments Pending

22 Greater London Authority Act 1999 (c. 29)

(1) The Greater London Authority Act 1999 is amended as follows.

(2) In section 337 (publication)–

(a) for "relevant regional planning guidance" there is substituted "the regional spatial strategy for a region which adjoins Greater London";

(b) subsection (10) is omitted.

(3) In section 342(1) (matters to which Mayor is to have regard) for paragraph (a) there is substituted the following–

"(a) the regional spatial strategy for a region which adjoins Greater London;".

(4) In section 346(b) (Mayor to monitor plans) for "unitary development plan" there is substituted "local development documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004)".

Amendments Pending

Sch. 7 para. 22(3): repealed by Localism Act 2011 c. 20, Sch. 25(16) para. 1 (date to be appointed)

Sch. 7 para. 22(2)(a): repealed by Localism Act 2011 c. 20, Sch. 25(16) para. 1 (date to be appointed)

Commencement

Sch. 7 para. 22(1)-(4): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(i))

Extent

Sch. 7 para. 22(1)-(4): England, Wales

Law In Force

23 Countryside and Rights of Way Act 2000 (c. 37)

In section 86(4) of the Countryside and Rights of Way Act 2000–

(a) "II," is omitted;

(b) at the end there is inserted "or under Part 2 or 6 of the Planning and Compulsory Purchase Act 2004".

Commencement

Sch. 7 para. 23(a)-(b): September 28, 2004 in relation to England; October 15, 2005 in relation to Wales (SI 2004/2202 art. 2(i); SI 2005/2847 art. 2(f))

Extent

Sch. 7 para. 23-(b): England, Wales

SCHEDULE 8

TRANSITIONAL PROVISIONS: PARTS 1 AND 2

Section 119

Development plan

Partially In Force

1

(1) During the transitional period a reference in an enactment mentioned in section 38(7) above to the development plan for an area in England is a reference to–

(a) the RSS for the region in which the area is situated or the spatial development strategy for an area in Greater London, and

(b) the development plan for the area for the purposes of section 27 or 54 of the principal Act.

(2) The transitional period is the period starting with the commencement of section 38 and ending on whichever is the earlier of–

(a) the end of the period of three years;

(b) the day when in relation to an old policy, a new policy which expressly replaces it is published, adopted or approved.

(3) But the Secretary of State may direct that for the purposes of such policies as are specified in the direction sub-paragraph (2)(a) does not apply.

(4) An old policy is a policy which (immediately before the commencement of section 38) forms part of a development plan for the purposes of section 27 or 54 of the principal Act.

(5) A new policy is a policy which is contained in–

(a) a revision of an RSS;

(b) an alteration or replacement of the spatial development strategy;

(c) a development plan document **[** ; **]** [1]

[(d) a neighbourhood development plan. **]** [1]

(6) But–

(a) an old policy contained in a structure plan is replaced only by a new policy contained in a revision to an RSS;

(b) an old policy contained in a waste local plan or a minerals local plan is replaced in relation to any area of a county council for which there is a district council only by a new policy contained in a development plan document which is prepared in accordance with a minerals and waste development scheme.

(7) A new policy is published if it is contained in–

(a) a revision of an RSS published by the Secretary of State under section 9(6);

(b) an alteration or replacement of the Mayor of London's spatial development strategy published in pursuance of section 337 of the Greater London Authority Act 1999 (c. 29) **[** ; **]** [2]

[(c) a neighbourhood development plan published under section 38B(5) of the principal Act. **]** [2]

(8) A new policy is adopted or approved if it is contained in a development plan document which is adopted or approved for the purposes of Part 2.

(9) A minerals and waste development scheme is a scheme prepared in accordance with section 16.

(10) The development plan mentioned in sub-paragraph (1)(b) does not include a street authorisation map which continued to be treated as having been adopted as a local plan by virtue of paragraph 4 of Part 3 of Schedule 2 to the principal Act.

Notes

[1] Added by Localism Act 2011 (Consequential Amendments) Order 2012/961 Sch.3 para.1(2)(a) (March 28, 2012)

[2] Added by Localism Act 2011 (Consequential Amendments) Order 2012/961 Sch.3 para.1(2)(b) (March 28, 2012)

Commencement

Sch. 8 para. 1(1)-(10): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 1(1)-(10): England, Wales

Structure plans

Partially In Force

2

(1) This paragraph applies to proposals for the alteration or replacement of a structure plan for the area of a local planning authority.

(2) If before the commencement of Part 1 of this Act the authority have complied with section 33(2) of the principal Act (making copies of proposals and the explanatory memorandum available for inspection) the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals.

(3) In any other case–

(a) the authority must take no further step in relation to the proposals;

(b) the proposals have no effect.

(4) If the proposals are adopted or approved by virtue of sub-paragraph (2) above, paragraph 1 of this Schedule applies to the policies contained in the proposals as if–

(a) they were policies contained in a development plan within the meaning of section 54 of the principal Act;

(b) the date of commencement of section 38 is the date when the proposals are adopted or approved (as the case may be).

Commencement

Sch. 8 para. 2(1)-(4)(b): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 2(1)-(4)(b): England, Wales

Unitary development plan

Partially In Force

3

(1) This paragraph applies to proposals for the alteration or replacement of a unitary development plan for the area of a local planning authority.

(2) If before the relevant date the authority have not complied with section 13(2) of the principal Act (making copies of the proposals available for inspection)–

(a) they must take no further step in relation to the proposals;

(b) the proposals have no effect.

(3) In any other case paragraph 4 or 5 below applies.

Commencement

Sch. 8 para. 3(1)-(3): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 3(1)-(3): England, Wales

Partially In Force

4

(1) This paragraph applies if–

(a) before the relevant date the local planning authority is not required to cause an inquiry or other hearing to be held by virtue of section 16(1) of the principal Act (inquiry must be held if objections made), or

(b) before the commencement of Part 2 of this Act a person is appointed under that section to hold an inquiry or other hearing.

(2) If this paragraph applies the provisions of Chapter 1 of Part 2 of the principal Act continue to have effect in relation to the proposals.

(3) The relevant date is whichever is the later of–

(a) the end of any period prescribed by regulations under section 26 of the principal Act for the making of objections to the proposals;

(b) the commencement of Part 2 of this Act.

Commencement

Sch. 8 para. 4(1)-(3)(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 4-(3)(b): England, Wales

Partially In Force

5

(1) If paragraph 4 does not apply the provisions of Chapter 1 of Part 2 of the principal Act continue to have effect in relation to the proposals subject to the modifications in sub-paragraphs (2) to (5) below.

(2) If before the commencement of Part 2 of this Act the local planning authority have not published revised proposals in pursuance of regulations under section 26 of the principal Act–

(a) any provision of the regulations relating to publication of revised proposals must be ignored,

(b) the authority must comply again with section 13(2) of the principal Act.

(3) If before the commencement of Part 2 of this Act the local planning authority have published revised proposals in pursuance of regulations under section 26 of the principal Act the authority must comply again with section 13(2) of that Act.

(4) Any provision of regulations under section 26 of the principal Act which permits the local planning authority to modify proposals after an inquiry or other hearing has been held under section 16 of that Act must be ignored.

(5) If such an inquiry or other hearing is held the authority must adopt the proposals in accordance with the recommendations of the person appointed to hold the inquiry or other hearing.

Commencement

Sch. 8 para. 5(1)-(5): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 5(1)-(5): England, Wales

Partially In Force

6

If proposals are adopted or approved in pursuance of paragraph 4 or 5 above paragraph 1 of this Schedule applies to the policies contained in the proposals as if–

(a) they were policies contained in a development plan for the purposes of section 27 of the principal Act;

(b) the date of commencement of section 38 is the date when the proposals are adopted or approved.

Commencement

Sch. 8 para. 6(a)-(b): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 6(a)-(b): England, Wales

Partially In Force

7

(1) This paragraph applies if at the date of commencement of Part 1 a local planning authority have not prepared a unitary development plan in pursuance of section 12 of the principal Act.

(2) References in paragraphs 3 to 6 to proposals for the alteration or replacement of a plan must be construed as references to the plan.

Commencement

Sch. 8 para. 7(1)-(2): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 7(1)-(2): England, Wales

Local plan

Partially In Force

8

(1) This paragraph applies to proposals for the alteration or replacement of a local plan for the area of a local planning authority.

(2) If before the commencement of Part 2 of this Act the authority have not complied with section 40(2) of the principal Act (making copies of the proposals available for inspection)–

(a) they must take no further step in relation to the proposals;

(b) the proposals have no effect.

(3) In any other case paragraph 9 or 10 below applies.

Commencement

Sch. 8 para. 8(1)-(3): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 8(1)-(3): England, Wales

Partially In Force

9

(1) This paragraph applies if–

(a) before the relevant date the local planning authority is not required to cause an inquiry or other hearing to be held by virtue of section 42(1) of the principal Act (inquiry must be held if objections made), or

(b) before the commencement of Part 2 of this Act a person is appointed under that section to hold an inquiry or other hearing.

(2) If this paragraph applies the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals.

(3) The relevant date is whichever is the later of–

(a) the end of any period prescribed by regulations under section 53 of the principal Act for the making of objections to the proposals;
(b) the commencement of Part 2 of this Act.

Commencement

Sch. 8 para. 9(1)-(3)(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 9-(3)(b): England, Wales

Partially In Force

10

(1) If paragraph 9 does not apply the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals subject to the modifications in sub-paragraphs (2) to (5) below.

(2) If before the commencement of Part 2 of this Act the local planning authority have not published revised proposals in pursuance of regulations under section 53 of the principal Act–
(a) any provision of the regulations relating to publication of revised proposals must be ignored,
(b) the authority must comply again with section 40(2) of the principal Act.

(3) If before the commencement of Part 2 of this Act the local planning authority have published revised proposals in pursuance of regulations under section 53 of the principal Act the authority must comply again with section 40(2) of that Act.

(4) Any provision of regulations under section 53 of the principal Act which permits the local planning authority to modify proposals after an inquiry or other hearing has been held under section 42 of that Act must be ignored.

(5) If such an inquiry or other hearing is held the authority must adopt the proposals in accordance with the recommendations of the person appointed to hold the inquiry or other hearing.

Commencement

Sch. 8 para. 10(1)-(5): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 10(1)-(5): England, Wales

Partially In Force

11

(1) This paragraph applies if the Secretary of State thinks–

(a) that the conformity requirement is likely to give rise to inconsistency between the proposals and relevant policies or guidance, and
(b) that it is necessary or expedient to avoid such inconsistency.

(2) The Secretary of State may direct that to the extent specified in the direction the conformity requirement must be ignored.

(3) The Secretary of State must give reasons for the direction.

(4) The conformity requirement is–
(a) the requirement under section 36(4) of the principal Act that the local plan is to be in general conformity with the structure plan;
(b) the prohibition under section 43(3) of the principal Act on the adoption of proposals for a local plan or for its alteration or replacement which do not conform generally with the structure plan.

(5) Relevant policies and guidance are–
(a) national policies;
(b) advice contained in guidance;
(c) policies in the RSS.

Commencement

Sch. 8 para. 11(1)-(5)(c): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 11(1)-(5)(c): England, Wales

Partially In Force

12

If proposals are adopted or approved in pursuance of paragraphs 9 to 11 above paragraph 1 of this Schedule applies to the policies contained in the proposals as if–
(a) they were policies contained in a development plan for the purposes of section 54 of the principal Act;
(b) the date of commencement of section 38 is the date when the proposals are adopted or approved.

Commencement

Sch. 8 para. 12(a)-(b): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 12(a)-(b): England, Wales

Partially In Force

13

(1) This paragraph applies if at the date of commencement of Part 1 a local planning authority have not prepared a local plan in pursuance of section 36 of the principal Act.

(2) References in paragraphs 8 to 12 to proposals for the alteration or replacement of a plan must be construed as references to the plan.

Commencement

Sch. 8 para. 13(1)-(2): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 13(1)-(2): England, Wales

Minerals and waste local plans

Partially In Force

14

Paragraphs 8 to 13 above apply to a minerals local plan and a waste local plan as they apply to a local plan and references in those paragraphs to a local planning authority must be construed as including references to a mineral planning authority and an authority who are entitled to prepare a waste local plan.

Commencement

Sch. 8 para. 14: September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 14: England, Wales

Schemes

Partially In Force

15

(1) This paragraph applies to–

(a) the local development scheme which a local planning authority are required to prepare and maintain under section 15 of this Act;

(b) the minerals and waste development scheme which a county council are required to prepare and maintain for any part of their area for which there is a district council.

(2) During the transitional period the local planning authority or county council (as the case may be) must include in the scheme as a development plan document–

(a) any plan or document which relates to an old policy (for the purposes of paragraph 1 above) which has not been replaced by a new policy;

(b) any proposals adopted or approved by virtue of paragraphs 3 to 12 above.

Commencement

Sch. 8 para. 15(1)-(2)(b): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 15(1)-(2)(b): England, Wales

Savings

Partially In Force

16

(1) The repeal by this Act of paragraphs 1 to 4 of Schedule 13 to the principal Act does not affect anything which is required or permitted to be done for the purposes of Chapter 2 of Part 6 of the principal Act during any time when a plan mentioned in any of those paragraphs continues to form part of the development plan by virtue of–

(a) paragraph 1 of this Schedule, or

(b) that paragraph as applied by any other provision of this Schedule.

(2) References to a plan mentioned in any of paragraphs 1 to 4 include any proposal for the alteration or replacement of the plan.

(3) The development plan is the development plan for the purposes of section 27 or 54 of the principal Act.

Commencement

Sch. 8 para. 16(1)-(3): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 16(1)-(3): England, Wales

Regulations and orders

Partially In Force

17

(1) The Secretary of State may by regulations make provision for giving full effect to this Schedule.

(2) The regulations may, in particular–

(a) make such provision as he thinks is necessary in consequence of this Schedule;

(b) make provision to supplement any modifications of the principal Act required by this Schedule.

(3) The Secretary of State may by order make such provision as he thinks is necessary in consequence of anything done under or by virtue of this Schedule.

(4) Provision under sub-paragraph (3) includes provisions corresponding to that which could be made by order under Schedule 2 of the principal Act.

Commencement

Sch. 8 para. 17(1)-(4): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 17-(4): England, Wales

Partially In Force

18

The Secretary of State may by regulations make provision–

(a) for treating anything done or purported to have been done for the purposes of Part 2 before the commencement of that Part as having been done after that commencement;

(b) for disregarding any requirement of section 19 in respect of anything done or purported to have been done for the purposes of any other provision of Part 2.

Commencement

Sch. 8 para. 18(a)-(b): August 6, 2004 in relation to the exercise of powers specified in SI 2004/2097 art.2; September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2097 art. 2; SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 18-(b): England, Wales

Interpretation

Partially In Force

19

(1) References to section 27 of the principal Act must be construed subject to section 28(3)(a) and (c) of that Act.

(2) RSS must be construed in accordance with Part 1 of this Act.

(3) Development plan document must be construed in accordance with Part 2 of this Act.

Commencement

Sch. 8 para. 19(1)-(3): September 28, 2004 in relation to England; not yet in force otherwise (SI 2004/2202 art. 2(j))

Extent

Sch. 8 para. 19(1)-(3): England, Wales

SCHEDULE 9

REPEALS

Section 120

Partially In Force

Short title and chapter	*Extent of repeal*
Land Compensation Act 1973 (c. 26)	Sections 34 to 36. In section 87(1), in the definition of “dwelling”, “(except in section 29)”.
Greater London Council (General Powers) Act 1973 (c. xxx)	In section 24(4), the second “Greater London development plan”.
Welsh Development Agency Act 1975 (c. 70)	In Schedule 4, paragraph 2.
Local Government, Planning and Land Act 1980 (c. 65)	In section 142(2A), “(subject to section 144(2))”. In section 143(3A), “(subject to section 144(2))”. In section 144(2), “the 1981 Act and”. In Schedule 28, in paragraph 1, “The 1981 Act and” and the words from “and in paragraph 2” to the end.
Highways Act 1980 (c. 66)	Section 259.
Housing Act 1988 (c. 50)	In Schedule 10, paragraph 2.
Town and Country Planning Act 1990 (c. 8)	Part 2. In section 55(2)(b), the word “local”. Section 73(3). Section 76. Section 83(1). Sections 106 to 106B. In section 220(3), the expression “62”.

Short title and chapter	***Extent of repeal***
	In section 226, in subsection (1) the first "which" and subsection (2). Section 245(2) and (3). In section 284(1), paragraph (a). In section 287, in subsection (5), paragraph (a) and in each of paragraphs (b) to (e) the words "by virtue of subsection (3)" and subsection (6). Section 293(4). Sections 294 to 297. Section 298(1) and (2). Sections 299 to 301. Section 303(6). In section 303A, in subsection (5) the words "or appointed as one of the persons who are to hold it", the words "(in addition to what may be recovered by virtue of the appointment of any other person)" and in paragraph (c) the words "(or, in a case where that person is appointed as one of the persons who are to hold the qualifying inquiry, and appropriate proportion of any costs attributable to the appointment of an assessor to assist those persons)" and subsections (7) to (9). In Schedule 1, paragraph 2, in paragraph 3(7) the words "but paragraph 4 shall apply to such applications instead". In Schedule 2, Parts 1, 2 and 3. In Schedule 7, paragraphs 3 and 4. In Schedule 13, paragraphs 1 to 4.
Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)	In section 10, in subsection (2) the words "shall be made in such form as the authority may require and" and in subsection (3) the word "and" after paragraph (b). Section 67(2) to (7). Sections 83 and 84. In section 91(2),""development plan"". In section 92(2)(a), "83, 84,".
Planning (Hazardous Substances) Act 1990 (c. 10)	Section 31(1) and (2). Section 32.
Planning and Compensation Act 1991 (c. 34)	Section 17(1). In Schedule 4, Part 3. In Schedule 18, Part 2 in the entry relating to the Land Compensation Act 1973, "section 36 (6) (farm loss payment),".
Local Government Act 1992 (c. 19)	In section 14(5), paragraph (d).
Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)	In Schedule 20, paragraph 2.
Environment Act 1995 (c. 25)	In section 67, subsections (2) to (4).
Town and Country Planning (Scotland) Act 1997 (c. 8)	Section 242(4). Sections 243 to 250.
Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9)	Sections 74 and 75.

Short title and chapter	***Extent of repeal***
Planning (Hazardous Substances) (Scotland) Act 1997 (c. 10)	Section 31(1) and (2). Section 32.
Regional Development Agencies Act 1998 (c. 45)	In Schedule 5, paragraph 1.
Countryside and Rights of Way Act 2000 (c. 37)	In section 86(4), "II,".
Note: The repeal of sections 34 to 36 of the Land Compensation Act 1973 does not have effect in relation to a compulsory purchase order made or made in draft before the commencement of paragraph 7(3) of Schedule 7.	

Commencement

Sch. 9 para. 1: August 6, 2004 for repeals specified in SI 2004/2097 art.2; September 28, 2004 in relation to England for repeals specified in SI 2004/2202 art.2(k) and Sch.1 Part 1; September 28, 2004 for repeals specified in SI 2004/2202 art.3(f) and Sch.1 Part 2; October 31, 2004 for repeals specified in SI 2004/2593 art.2(e); October 15, 2005 in relation to Wales for repeals specified in SI 2005/2847 Sch.1; August 10, 2006 in relation to England for the repeal specified in SI 2006/1061 art.3(b); June 7, 2006 in relation to England and Wales for repeals specified in SI 2006/1281 art.2(f); June 12, 2006 as specified in SSI 2006/268 art.3(e); June 30, 2007 in relation to Wales for the repeal specified in SI 2007/1369 art.2(b); not yet in force otherwise (SSI 2006/268 art. 3(e); SI 2004/2097 art. 2; SI 2004/2202 art. 2(k), art. 3(f), Sch. 1; SI 2004/2593 art. 2(e); SI 2005/2847 art. 2(g), Sch. 1 para. 1; SI 2006/1061 art. 3(b); SI 2006/1281 art. 2(f); SI 2007/1369 art. 2(b))

Extent

Sch. 9 para. 1-: England, Wales

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Planning and Compulsory Purchase Act 2004 which received Royal Assent on 13th May 2004. They have been prepared by the Office of the Deputy Prime Minister in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

3. The Act extends to England and Wales with certain provisions extending to Scotland.

SUMMARY

4. The Planning and Compulsory Purchase Act 2004 is a key element of the Government's agenda for speeding up the planning system. The provisions introduce powers which allow for the reform and speeding up of the plans system and an increase in the predictability of planning decisions, the speeding up of the handling of major infrastructure projects and the need for simplified planning zones to be identified in the strategic plan for a region or in relation to Wales. The Act also provides for a number of reforms to make the handling of planning applications by both central government and local authorities quicker and more efficient. There are also provisions to make the planning Acts bind the Crown, fulfilling a long-standing commitment to end the Crown's immunity from the planning system. The provisions relating to compulsory purchase powers and compensation will liberalise the compulsory purchase and compensation regimes. They support policies relating to investment in major infrastructure and regeneration.

BACKGROUND

5. The aim of the Act is to give effect to the Government's policy on the reform of the planning system, the principal features of which were set out in the policy statement *Sustainable Communities — Delivering through Planning* which was published in July 2002. That paper took forward proposals that were outlined in the Green Paper *Planning: Delivering a Fundamental Change*, published in December 2001. The policy on reform of the compulsory purchase system was set out in the Green Paper daughter document *Compulsory Purchase and Compensation: delivering a fundamental change* published in December 2001 and confirmed in the policy statement *Compulsory Purchase Powers, Procedures and Compensation: the way forward* published in July 2002.

6. In relation to Wales, planning is an area in respect of which functions are devolved to the National Assembly for Wales. The Assembly Government published its own consultation paper: *Planning Delivering for Wales* in January 2002. The Act gives effect to the Assembly Government's policy, formulated in the light of responses to the consultation document, as announced by the Assembly Minister for Environment in November 2002.

THE ACT

7. The Act consists of 9 parts. These are:

- Part 1 — Regional Functions
- Part 2 — Local Development
- Part 3 — Development
- Part 4 — Development Control
- Part 5 — Correction of Errors
- Part 6 — Wales
- Part 7 — Crown Application of Planning Acts
- Part 8 — Compulsory Purchase
- Part 9 — Miscellaneous and General

OVERVIEW

8. Part 1 (which applies only to England) provides that there will be a regional spatial strategy (RSS) for each region. Such regional planning guidance (RPG) as is prescribed by the Secretary of State will become the RSS. In addition, the Secretary of State has power to recognise a body as the regional planning body (RPB) for a region. The RPB must keep the RSS under review and monitor and report on its implementation. The RPB must seek advice from county councils and other types of authorities with strategic planning expertise about keeping the RSS under review and monitoring its implementation and preparing draft revisions of the RSS, and these authorities

must provide the advice. The RPB must prepare a draft revision of the RSS when it appears to be necessary or expedient to do so, or at such time as is prescribed. Where the RPB decides to prepare different policies for different areas within the region, the detailed proposals must first be made by an authority with strategic planning expertise. The RPB must prepare, publish and comply with a statement of its polices for involving persons with an interest in preparing draft revisions. The Part makes general provision covering the preparation of draft revisions of the RSS, their submission to the Secretary of State and the holding of examinations in public of draft revisions. The Secretary of State has various default powers and may exercise functions of the RPB where there is no such recognised body in a region. The Secretary of State may by regulations make provision in connection with the exercise by any person of functions under this Part.

9. Part 2 (which also applies only to England) provides for the preparation of local development documents (LDDs). These will replace local plans, unitary development plans and structure plans. Every local planning authority (as defined in the Part) must prepare and maintain a local development scheme. A county council in respect of any part of their area for which there is a district council must prepare and maintain a minerals and waste development scheme.

10. These schemes will set out what LDDs the authority will prepare, their timetable for preparation and whether they are to be prepared jointly with one or more other authorities. County councils in respect of any part of their area for which there is a district council will be able to participate in the preparation of LDDs concerning matters other than minerals and waste by entering a joint committee with one or more local planning authorities. LDDs must be prepared in accordance with the relevant scheme and must be in general conformity with the RSS or the spatial development strategy for London, as appropriate. The Part makes general provision as to the preparation, withdrawal, adoption and approval of LDDs and the examination of development plan documents. The Secretary of State has powers of intervention and may by regulations make provision in connection with the exercise by any person of functions under this Part.

11. Part 3 deals with development. It updates the definition of the development plan to take account of the changes to the planning system made by the Act. It also imposes on those with plan-making functions under Parts 1, 2 and 6 a duty to exercise their functions with the objective of contributing to the achievement of sustainable development.

12. Part 4 deals with development control. Local planning authorities will be able to introduce local permitted development rights by way of local development orders. The Secretary of State will be able to make development orders and regulations prescribing the procedure for making applications for planning permission and certain consents; to prescribe fees and charges for a wider range of planning functions; and set a timetable for “called in” and recovered appeals and connected decisions. The Part provides that local planning authorities may decline to determine applications. It also changes the duration of planning permission and consents. It deals with major infrastructure projects in England, in relation to which the Secretary of State — if he considers the development to be of national or regional importance — may direct that a planning application must be referred to him rather than dealt with by the local planning authority. The Part introduces a new scheme of planning contributions to replace existing provisions relating to planning obligations. The Part amends the provisions for simplified planning zones contained in the Town and Country Planning Act 1990 so that they can only be made where the need for such a zone has been identified in the RSS (or, in relation to Wales, where criteria prescribed by the National Assembly are met). It provides local planning authorities with a new enforcement power to serve temporary stop notices. It introduces a duty for persons or bodies which are required to be consulted to respond to consultation requests

within a specified time. It also brings the creation of additional floorspace within buildings under planning control.

13. Part 5 deals with the correction of errors. The Secretary of State or an inspector may, subject to various conditions, correct errors contained in decision letters where a decision document is issued which contains a correctable error. The Secretary of State or the inspector may correct the letter where he is requested to do so in writing or where he writes to the applicant explaining that he is considering making a correction. The applicant (and, if the applicant is not the owner of the land, the owner of the land as well) must agree to the correction.

14. Part 6 contains Wales-specific sections. It reforms the development plan system in Wales, where a single-tier system of local government and a uniform pattern of unitary development plans were introduced by the Local Government (Wales) Act 1994. The basic pattern of development plans (to be known as local development plans) is to be retained. Each local planning authority in Wales will be required to prepare a local development plan, to review it at intervals and to revise it as necessary. Local development plans will be simpler, more concise documents than the present unitary development plans and will focus on the authority's objectives for the use and development of land in their area and their general policies for implementing them (but with scope for more detailed policies in key localities).

15. Procedures for preparing and revising plans will be simplified. Public participation in formulating plans and expedition in taking them through to adoption are to be maximised through community involvement schemes and timetables agreed between the local planning authority and the National Assembly for Wales (or, if agreement cannot be reached, determined by the Assembly). A shift in the focus of an independent examination of the local development plan towards its overall soundness is intended to encourage examinations to become less adversarial. Provision is also made for the National Assembly for Wales to prepare and publish a national spatial plan for Wales (the “Wales Spatial Plan”) to which local planning authorities will be required to have regard when preparing their plans.

16. Part 7 Chapter 1 (sections 79–89) ends Crown immunity in the planning system and makes special provision in relation to certain planning applications by or on behalf of the Crown and in respect of enforcement of planning control in relation to the Crown in England and Wales.

17. Part 7 Chapter 2 (sections 90 to 98) makes similar substantive provision for the Scottish planning Acts as does Chapter 1 for England and Wales. The drafting and terminology may differ from that in Chapter 1 because of differences in the text and terminology of the Scottish legislation.

18. The only provisions not carried through are those for transitional arrangements to the Scottish hazardous substances Act and for Notices of Proposed Development. These will be made by order of the Scottish Ministers using the power in section 119(2).

19. Part 8 amends the existing power of local authorities, joint planning boards and National Park authorities under section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily land which is suitable for and required in order to secure the carrying out of development, re-development or improvement. They will be able to acquire land by compulsory purchase if they think that it will facilitate the carrying out of development, re-development or improvement on or in relation to the land, on condition that such acquisition will be of economic, social or environmental benefit to their area.

20. This Part also amends procedural provisions in the Acquisition of Land Act 1981 for authorising the compulsory purchase of land. A wider category of persons with an interest in land will be

entitled to have their objections to the authorisation heard. There is to be a written representations procedure for considering objections to compulsory purchase authorisation when all objectors entitled to be heard consent. There is to be a power to authorise compulsory purchase in stages and, in the case of unopposed compulsory purchase orders which are not made on behalf of a Minister or the National Assembly for Wales for the confirming authority to transfer its determination to the acquiring authority. Further provisions in this Part enable an acquiring authority to requisition for information as to the ownership and occupation of land in certain cases.

21. The Part also contains provisions relating to compensation in respect of land that is compulsorily purchased. These set out the date on which property is to be valued for compensation purposes. In addition, a new statutory scheme is introduced which, subject to certain exceptions, provides for "loss payments" for those owners and occupiers who are not entitled to receive payments under the home loss scheme set out in sections 29 to 33 of the Land Compensation Act 1973.

22. Part 9 deals with miscellaneous and general issues.

TERRITORIAL APPLICATION: WALES AND SCOTLAND

23. Parts 1 and 2 apply only to England and Part 6 applies only to Wales. Part 7 Chapter 1 applies to England and Wales and Part 7 Chapter 2 applies to Scotland. Otherwise, provisions apply (unless otherwise indicated) to both England and Wales. References in these Notes to the Secretary of State are therefore intended (other than in Parts 1 and 2 or where the context otherwise requires) to refer also to the National Assembly for Wales in relation to Wales.

COMMENTARY ON SECTIONS

PART 1**: REGIONAL FUNCTIONS**

Section 1**: Regional spatial strategy**

24. Section 1 provides for a regional spatial strategy (RSS) in every region other than London. The RSS must set out the Secretary of State's policies (however expressed) in relation to the development and use of land in the region. These policies must be concerned with the use and development of land, but they need not be directly related to the grant or refusal of planning permission. They could include, for example, congestion charging policies. The RSS can include different policies for different areas within the region.

25. Existing regional planning guidance issued by the Secretary of State will become the RSS. But it is only the regional planning guidance which the Secretary of State prescribes in regulations which will become the RSS. This is to enable the Secretary of State to decide, where there is a range of regional planning guidance in a region, which should become the RSS.

Section 2**: Regional planning bodies**

26. Section 2 enables the Secretary of State to recognise a body as the regional planning body (RPB) for a region (and to withdraw that recognition). The Secretary of State must not recognise a body as the RPB unless at least 60% of its members are members of county councils or local planning authorities. Where there is no such body the Secretary of State may himself exercise those functions of an RPB which he thinks appropriate. But it would not be appropriate, for example, for the Secretary of State to report to himself under section 3 on the implementation of the RSS.

27. A change in the membership of a body which is not incorporated does not affect the validity of the Secretary of State's recognition of that body as an RPB. This will prevent the need for the

Secretary of State to issue a new direction recognising a body as the RPB every time a member of an unincorporated RPB is replaced.

Section 3**: RPB: general functions**

28. Section 3 defines the general functions of the RPB. In particular, the RPB must keep the RSS and matters affecting development in its region under review. It must also monitor and report on the implementation of the RSS.

Section 4**: Assistance from certain local authorities**

29. This section requires an RPB to seek advice from county councils and other types of authorities with strategic planning expertise in keeping the RSS under review and monitoring its implementation and preparing draft revisions of the RSS. These authorities must give this advice. The RPB may make arrangements with these authorities and district councils for the authority or council to discharge functions on its behalf. The section allows the RPB to reimburse an authority for any expenditure incurred under such an arrangement.

Section 5**: RSS revision**

30. Section 5 explains when a draft revision of the RSS is to be prepared and what matters the RPB must consider when preparing a revision. Along with the draft revision the RPB must prepare, publish and submit a sustainability appraisal of the draft revision, together with any other documents prescribed in regulations, to the Secretary of State. Where the RPB decides to prepare different policies for different areas within the region, the detailed proposals must first be made by an authority with strategic planning expertise. The RPB may withdraw a draft revision at any time before it submits it to the Secretary of State.

Section 6**: RSS: community involvement**

31. Section 6 requires the RPB to prepare, publish and comply with a statement of its policy for involving interested parties in its functions in relation to preparing a draft RSS revision.

Sections 7–10**: RSS**

32. These sections set out the Secretary of State's functions in relation to a draft revision of an RSS and provide, as part of the consultation process, for the holding of an examination in public.

33. Following submission of a draft revision to the Secretary of State, anyone may make representations on the draft and the Secretary of State may arrange for an examination in public. It is the Secretary of State's intention that it will only be in the exceptional circumstances of a minor revision, and subject to the criteria set out in section 7(4), that there will not be an examination. The examination is held before a person appointed by the Secretary of State who must report his findings to the Secretary of State. No one has a right to be heard at the examination. The Secretary of State must consider the report of the examination together with any representations made on the draft RSS (to the extent that these have not already been considered during the course of an examination) before publishing any changes he proposes to make with the reasons for them. After considering any representations on the draft changes, the Secretary of State must publish the revision to the RSS with reasons for any changes unless he withdraws it.

34. The Secretary of State may direct an RPB to prepare a draft revision of the RSS and may specify which aspects of the RSS are to be revised and within what time frame. Where the RPB fails to act in accordance with such a direction, or where the RPB fails to comply with certain regulations made by the Secretary of State, the Secretary of State may prepare a draft revision and make

regulations as to the manner in which this will occur. The Secretary of State may revoke all or parts of an RSS if he thinks it necessary to do so.

Section 11–12**: Regulations and Supplementary**

35. Section 11 gives the Secretary of State power to make regulations in connection with the exercise by any person of functions under Part 1. Section 12 provides that the Secretary of State for the purposes of Part 1 is that Secretary of State with general responsibility for planning policy. (The only exception is in relation to national policies and advice contained in guidance to which an RPB must have regard in preparing draft RSS revisions, which may be issued by any Secretary of State.) It defines a region in accordance with the Regional Development Agencies Act 1998.

PART 2**: LOCAL DEVELOPMENT**

Section 13**: Survey of area**

36. Section 13 provides for the survey function of local planning authorities. An authority must keep under review matters which are likely to affect the development of their area or the planning of its development. An authority may also keep matters in any neighbouring area under review, to the extent that those matters might affect the area of the authority, and in doing so they must consult the authority for the neighbouring area concerned.

Section 14**: Survey of area: county councils**

37. Section 14 provides for the survey function of county councils. County councils are to keep matters relating to minerals and waste development under review, as well as certain matters which are required to be kept under review under section 13. The Secretary of State may make regulations requiring or may direct a county council to keep certain matters under review and to make the results of the review available to such persons as he specifies. With regard to this latter function it is immaterial whether the matters relate to minerals and waste development.

Section 15**: Local development scheme**

38. Section 15 sets out the roles of the local planning authority and the Secretary of State in relation to an authority's local development scheme. Every local planning authority must prepare and maintain a local development scheme specifying the documents that will be local development documents, their subject matter and area and the timetable for their preparation and revision. The local planning authority must submit their local development scheme to the Secretary of State who can direct changes to the scheme as he thinks appropriate. He can also make regulations for bringing the scheme into effect.

Section 16**: Minerals and waste development scheme**

39. Section 16 provides for county councils to prepare and maintain minerals and waste development schemes and explains the way in which Part 2 of the Act applies to those schemes. The major difference between a local development scheme and a minerals and waste development scheme is that the provisions in Part 2 on joint committees will not apply to documents prepared under the latter.

Section 17**: Local development documents**

40. Section 17 makes provision relating to local development documents (LDDs). A local planning authority must include as LDDs in their local development scheme those documents which are prescribed and their statement of community involvement. The LDDs together must set out the authority's policies relating to the development and use of land in their area. In the case of LDDs

included in a minerals and waste development scheme, the LDDs together must also set out the authority's policies relating to minerals and waste development. The Secretary of State may prescribe the form and content of LDDs and which descriptions of those documents are development plan documents (which are to be subject to the process of independent examination and which will form part of the authority's development plan).

Section 18**: Statement of community involvement**

41. Section 18 defines a local planning authority's statement of community involvement as a statement of their policy for involving interested parties in matters relating to development in their area. The statement will apply to the preparation and revision of LDDs and to the exercise of the authority's functions in relation to development control. The statement will be subject to independent examination as if it were a development plan document.

Section 19**: Preparation of local development documents**

42. Section 19 sets out the requirements for preparing LDDs. The local planning authority must prepare each LDD in accordance with their local development scheme. The authority must have regard to the matters listed in the section, including national policies, the RSS for their region and their community strategy, and must carry out a sustainability appraisal of the proposals in each document. Once the authority have adopted their statement of community involvement they must comply with it in preparing any local development document.

Section 20**: Independent examination**

43. Section 20 requires the local planning authority to submit every development plan document to the Secretary of State for independent examination and provides for the arrangements and procedures for the examination. The purpose of the examination will be to determine whether the development plan document is sound and whether it satisfies the requirements relating to its preparation. Any person who makes representations which ask for any matter in the development plan document to be changed has a right to appear in person at the examination. The examination must be carried out by a person appointed by the Secretary of State and that person must make recommendations, which the local planning authority must publish.

Section 21**: Intervention by Secretary of State**

44. Section 21 allows the Secretary of State, if he thinks an LDD is unsatisfactory, to direct a local planning authority to modify the LDD before it is adopted. It also allows the Secretary of State to direct that a development plan document or any part of it is submitted to him for his approval. If an independent examination of that document is already in process, the person appointed to carry out that examination is required, if he has not already made his recommendations, to report to the Secretary of State, who must publish the person's recommendations. If the Secretary of State's direction is given before the document has been submitted for examination, the Secretary of State is required to hold an examination.

Sections 22–26**: Withdrawal, adoption, conformity with regional strategy, revocation and revision of LDDs**

45. Sections 22 to 26 deal with the arrangements for LDDs to be withdrawn, adopted, checked for conformity with regional strategy, revoked and revised. A local planning authority can withdraw an LDD at any time before they adopt it. But an authority cannot withdraw a development plan document once it has been submitted for independent examination unless the person carrying out

the examination so recommends or the Secretary of State directs the document to be withdrawn. An authority may adopt an LDD which is not a development plan document with or without changes. But it can only adopt a development plan document in accordance with the recommendations of the person appointed to hold the independent examination.

46. LDDs must be in general conformity with the RSS or the Mayor of London's spatial development strategy (as appropriate). (In relation to development plan documents, a local planning authority must request the opinion of the RPB or the Mayor, as applicable, as to the conformity of those documents with the RSS or spatial development strategy.) If the RPB or the Mayor does not believe the LDD to be in general conformity with the appropriate regional strategy, its or his opinion will be treated as a representation seeking a change, and it or he will accordingly have the right to appear in person at the examination. The Secretary of State may, however, direct that the RPB's opinion should be ignored.

47. The Secretary of State may revoke an LDD if an authority ask him to do so. He may also prescribe types of LDD that an authority may revoke without reference to him.

48. An authority may prepare a revision of an LDD at any time, and must prepare a revision if the Secretary of State so directs, adhering to any timetable he sets. Revisions to LDDs must comply with the same requirements as those which apply to the preparation of LDDs.

Section 27**: Secretary of State's default powers**

49. Section 27 contains default powers for the Secretary of State to prepare or revise development plan documents if he thinks the local planning authority are failing properly to carry out these functions themselves. The authority must reimburse the Secretary of State for any expenditure he incurs in exercising these powers.

Section 28**: Joint local development documents**

50. Section 28 enables and sets out the arrangements for two or more local planning authorities jointly to prepare an LDD. If an authority withdraw from an agreement to prepare an LDD jointly, it will be possible for the remaining authority or authorities to continue with the preparation of the LDD provided that the document satisfies the conditions required for it to be treated as a “corresponding document”.

Section 29–31**: Joint committees**

51. Sections 29–31 contain provisions for joint committees of one or more local planning authorities and one or more county councils in whose area(s) there are district councils. The Secretary of State may by order constitute a joint committee to be the local planning authority for such area and in relation to such matters as the constituent authorities agree. Provision is also made to enable the joint committee to exercise additional functions where the constituent authorities agree. If a joint committee breaks down, provision is made to enable successor authorities (authorities which were constituent authorities of the joint committee or a successor joint committee) to preserve the effect of the local development scheme or document provided that the scheme or document satisfies the conditions for treatment as a “corresponding” scheme or document.

Section 32**: Exclusion of certain representations**

52. Section 32 allows the Secretary of State or a local planning authority to disregard representations in relation to an LDD if, in substance, such representations are made in respect of anything that is done or proposed under certain orders or schemes made under the Highways (Miscellaneous Provisions) Act 1961, the Highways Act 1971, the Highways Act 1980, or the New Towns Act

1981. Those Acts set out specific procedures for considering the representations and objections concerned.

Section 33**: Urban development corporations**

53. Section 33 allows the Secretary of State to direct that Part 2 of the Act does not apply to the area of an urban development corporation. If such a direction is made the local planning authority will not be required to prepare a local development scheme and local development documents etc in respect of that area.

Section 34**: Guidance**

54. Section 34 requires a local planning authority to have regard to any guidance issued by the Secretary of State when exercising any function under Part 2.

Section 35**: Annual monitoring report**

55. Section 35 requires local planning authorities to report annually to the Secretary of State on the implementation of their local development scheme and whether the policies in the local development documents are being achieved. The section also provides powers for the Secretary of State to make regulations prescribing what information an annual report must contain, the period it must cover, when it must be made and the form it must take.

Section 36**: Regulations**

56. Section 36 gives the Secretary of State power to make regulations in connection with the exercise by any person of functions under Part 2.

Section 37**: Interpretation**

57. Section 37 defines various terms used in Part 2.

PART 3**: DEVELOPMENT**

Section 38**: Development Plan**

58. Section 38 defines the development plan by reference to the simplified hierarchy of plans and documents created by this Act. It also applies the definition to existing relevant legislation.

Section 39**: Sustainable development**

59. Section 39 imposes a statutory duty on persons and bodies responsible for preparing RSSs and LDDs in England, and the Wales Spatial Plan and local development plans in Wales. It applies therefore to RPBs and local planning authorities in England and local planning authorities in Wales. It also applies where necessary to the Secretary of State in England and the National Assembly for Wales.

60. In exercising those functions, the persons or bodies concerned must do so with the objective of contributing to the achievement of sustainable development. The persons or bodies therefore need to consider how the policies and plans set out in those documents will contribute to this objective. In doing so, they must have regard to policies and guidance on sustainable development issued by the Secretary of State or the National Assembly of Wales.

PART 4**: DEVELOPMENT CONTROL**

Section 40**: Local development orders**

61. By providing for local permitted development rights, section 40 introduces a new procedure to allow local planning authorities to expand on the permitted development rights set nationally by way of development orders. A local development order (LDO) may be made solely to implement policies in one or more development plan documents (or, in Wales, the local development plan). Schedule 1 (which inserts a new Schedule 4A into the Town and Country Planning Act 1990) specifies that the Secretary of State may prescribe the procedure for the making of an LDO, including publicity and consultation requirements.

62. Schedule 1 also allows the Secretary of State (or the National Assembly for Wales) to set out matters which must be included in the annual report by local authorities on the extent to which a LDO is achieving its purposes. It also allows the Secretary of State (or the Assembly) to prescribe the form and content of that report.

Section 41**: Effect of revision or revocation of development order on incomplete development**

63. This section introduces a new section (61D) in the Town and Country Planning Act 1990. It enables the Secretary of State to include in a development order, and local planning authorities to include in any LDO, permission for the completion of development for which planning permission is granted by the development order or LDO and which has been started but not completed before that planning permission is withdrawn.

Section 42**: Applications for planning permission and certain consents**

64. Section 42 amends the powers to make secondary legislation prescribing the form of applications for planning permission and certain consents. It enables a development order to make provision for the procedure for applications for planning permission. This replaces the power in the Town and Country Planning Act 1990 for the Secretary of State to prescribe the procedure by regulations. It also provides new powers to prescribe the form of applications for consent under tree preservation orders, for the display of advertisements and for listed building and conservation area consents.

65. This section also requires applications for planning permission for development to be accompanied by a “design statement”, or an “access statement”, or both. The contents of the statements, and the types of development to which they will apply, would be prescribed by regulations or in a development order.

Section 43**: Power to decline to determine applications**

66. Section 43 extends a local planning authority's existing powers to decline to determine applications for planning permission. It also applies to applications for listed building consent and conservation area consent and the prior approval of a local planning authority for development which is permitted by virtue of a development order.

67. A local planning authority's existing powers allow it to decline to determine an application for planning permission which is the same or substantially the same as an application which, within the previous two years, the Secretary of State has called in and refused, or which the Secretary of State has dismissed on appeal.

68. The section allows a local planning authority to refuse to determine a planning application where it has refused two similar applications and there has been no appeal to the Secretary of State in the two year period preceding the submission of the application.

69. In addition, the section allows an authority to decline to determine an application if they think that it is similar to another application which has not been finally determined (either by the authority or on appeal by the Secretary of State).

Section 44**: Major infrastructure projects**

70. Section 44 applies only to England and provides for sections 76A and 76B to be inserted in the Town and Country Planning Act 1990. It allows the Secretary of State to call in any application for planning permission, or an application for the approval of a local planning authority required under a development order, if he thinks that the development to which the application relates is of national or regional importance. Other related applications must also be referred to him. The Secretary of State must appoint an inspector to consider the application. The Secretary of State himself, rather than the local planning authority, will make the decision, based on the advice of an inspector.

71. Consideration of any application referred to the Secretary of State may be made either by a single inspector as at present, or by a lead inspector and a number of additional inspectors appointed by the Secretary of State. It enables additional inspectors to hear evidence on matters as directed by the lead inspector but independently from him. Each additional inspector must report to the lead inspector on the matter he is appointed to consider. In every case the lead inspector must report to the Secretary of State on his consideration of the application and the consideration of any additional inspector.

Section 45**: Simplified planning zones**

72. Section 45 amends the provisions in the Town and Country Planning Act 1990 regarding the power available to local planning authorities to make simplified planning zones. It is intended to facilitate the designation by local planning authorities of simplified planning zones where the need for such areas has first been identified in the regional spatial strategy (or in the spatial development strategy in London, or by the National Assembly for Wales). An authority must make a simplified planning zone if directed to do so by the Secretary of State (or the Assembly).

Section 46**: Planning contribution**

73. Section 46 empowers the Secretary of State to make regulations which will enable planning contributions to be made in relation to the development or use of land in the area of a local planning authority. The local planning authority could be required by the regulations to set out in a document:

— which developments and uses they will seek contributions for;
— where they will not seek a contribution;
— the purposes to which receipts from contributions may be made, either in whole or in part;
— the criteria for determining the value of the contribution.

The contributor may make a contribution either by the optional planning charge (‘the prescribed means’) or by a means agreed by negotiation (the ‘relevant requirements’), or by a combination of both. The prescribed means could consist of the payment of a sum, or the provision of a benefit in kind, or a combination of both. Section 46 also provides for regulations to prescribe circumstances in which the contribution, if made by the prescribed means, may not also be made by meeting the relevant requirements, and vice versa.

Section 122(5)(a) and 122(6) provide that any regulations made under Section 46 should be subject to the affirmative resolution procedure.

Section 47**: Planning contribution: regulations**

74. Section 47 sets out the range of powers in the regulations for defining the scope of contributions. It allows the Secretary of State to provide:

— maximum and minimum contributions via the prescribed means; and to periodically adjust the criteria by reference to which the value of a contribution made by the prescribed means is to be determined;
— a requirement to publish an annual report in relation to planning contributions;
— the procedure for preparing the document referred to above (in which the local planning authority sets out matters relating to planning contributions), where this is not a development plan document, and the circumstances in which the Secretary of State might take steps in relation to its preparation;
— provisions relating to enforcement, modification and discharge of planning contributions;
— a provision requiring that the local authority may only spend receipts from prescribed means on matters identified in the document referred to above;
— a provision enabling the terms of the planning contribution to be set out in writing.
— a provision to allow the Secretary of State to make different provision in different areas or local authorities.

Section 48**: Planning contribution: Wales**

75. Section 48 sets out the terms for operating planning contributions in Wales. It:
— confers on the National Assembly for Wales the same powers in relation to planning contributions as the Secretary of State has for England;
— substitutes the local development plan for any reference to the development plan document.

Section 49**: Development to include certain internal operations**

76. Section 49 amends the definition of development in Section 55(2) of the Town and Country Planning Act 1990 so as to bring the creation of additional floorspace within buildings under planning control. Secondary legislation will enable the Secretary of State, by development order, to bring specified proposals for the provision of additional floorspace in existing buildings within the definition of "development".

Section 50**: Appeal made: functions of local planning authority**

77. Section 50 inserts a new section 78A into the Town and Country Planning Act 1990. Its intention is to allow a short period of dual jurisdiction between the Secretary of State and the local planning authority where an appeal has been made against non-determination of a planning application by that authority.

78. This provision applies where an applicant appeals to the Secretary of State on the grounds that the local planning authority have not determined his planning application within the prescribed period (8 weeks). Once an appeal has been made, jurisdiction to decide whether to grant planning permission passes to the Secretary of State. The local planning authority cannot determine the application, even in circumstances where the local planning authority would have been in a position to do so shortly after the prescribed period.

79. The purpose of this new section is to allow an additional period of time (to be prescribed by the development order) in which the local planning authority could still issue its decision even though an appeal has been lodged. The period of "dual jurisdiction" would have effect where an appeal against non-determination has been lodged after the 8 week deadline.

80. In such cases the appeal will progress under the usual procedures — for example if the local planning authority refuse planning permission, then the appeal (against non-determination) would

become an appeal against refusal. If the local planning authority grant permission, the appellant may withdraw the appeal, proceed with the appeal or revise the grounds of appeal (for example, an appeal against conditions which may have been imposed).

Section 51**: Duration of permission and consent**

81. Section 51 amends sections 73, 91 and 92 of the Town and Country Planning Act 1990 and sections 18 and 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It reduces the period of validity of a planning permission, a listed building consent and a conservation area consent from five to three years. But local planning authorities may still direct longer or shorter periods where this would be appropriate. It also prevents an extension to the agreed period of validity without the submission of a new application.

Section 52**: Temporary Stop Notice**

82. Section 52 inserts new sections 171E–171H into the Town and Country Planning Act 1990. It provides local planning authorities with a new discretionary power to serve temporary stop notices to halt breaches of planning control for a period of up to 28 days. It gives them the means to prevent unauthorised development at an early stage without first having had to issue an enforcement notice. It allows them up to 28 days to decide whether further enforcement action is appropriate and what that action should be, without the breach intensifying by being allowed to continue.

83. The new sections set out how the notice must be issued, what the notice should say about the activities that should stop, and on whom the notice should be served. The temporary stop notice has effect immediately but ceases to have effect after 28 days, unless it is withdrawn earlier. It also sets out what the offences are for contravening a temporary stop notice and the arrangements for compensation.

84. There is also provision for the Secretary of State to prescribe in regulations other activities that a temporary stop notice shall not apply to, even though those activities are in breach of planning control. Regulations may set out these activities either by describing them or by setting out circumstances when an activity cannot be prohibited by a temporary stop notice. This section also sets out when second or subsequent temporary stop notices can be used.

Section 53**: Fees and charges**

85. Section 53 amends section 303 of the Town and Country Planning Act 1990. Section 303 enables the Secretary of State to prescribe planning fees for applications made to local planning authorities under the planning Acts (by instrument subject to affirmative resolution). The planning Acts are the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990. The section widens the scope of that power so as to enable the Secretary of State to provide for the payment of both charges and fees relating to planning applications and other functions of local planning authorities. The section also widens the scope for how the charge or fee is set, including the provision to allow local planning authorities to set their own fees, subject to the provision that taking one year with another they do not make a profit. The section allows the Secretary of State to prescribe that no charge or fee is payable in relation to specific activities.

Section 54**: Duty to respond to consultation**

86. Section 54 introduces a requirement that those persons or bodies which are required to be consulted by the Secretary of State, the National Assembly for Wales or a local planning authority (as the case may be) before the grant of any permission, approval or consent under the planning

Acts must respond to consultation requests within a prescribed period. It also applies to consultation by any other person prior to an application for any permission, approval or consent. Secondary legislation will specify to which consultation requirements the duty to respond will apply and the prescribed period.

87. The section also gives the Secretary of State power to require reports on the performance of consultees in meeting their response deadlines.

Section 55**: Time in which Secretary of State to take decisions**

88. Section 55 and Schedule 2 require that the Secretary of State must set a timetable for his decisions on "called in" planning applications and recovered appeals, together with any other decisions for which he is responsible and which are connected to those decisions. The Secretary of State is required to tell parties which timetable applies to the decision in question. At this stage he is able to vary the standard timetable if necessary for the purposes of the decision. He will also be able to revise a timetable subsequently if events arise which prevent the set timetable from being met. Where the Secretary of State fails to meet a timetable he must give reasons for that failure. The Secretary of State will be required to report to Parliament each year on his performance under these provisions. This section does not apply to decisions in relation to which the function has been transferred to the National Assembly for Wales.

PART 5**: CORRECTION OF ERRORS**

Sections 56–59**: Correction of errors in decisions**

89. These sections deal with the introduction of a "slip rule" for certain decisions made by the Secretary of State or an inspector under the planning Acts. The Secretary of State and planning inspectors will have power, subject to various conditions, to correct specified types of errors contained in decision letters.

90. This section applies if the Secretary of State or an inspector issues a decision document which contains a correctable error. "Correctable error" is defined as an error which is contained in any part of the decision document which records the decision but which is not part of any reasons given for the decision. The Secretary of State or the inspector may correct the error where he is requested to do so in writing, or where he has written to the applicant explaining that he is considering making a correction.

Section 57**: Correction notice**

91. Section 57 provides that the exercise of the power of correction will be by written notice (a "correction notice") which will either specify the correction which has been made or give notice that the power to correct the decision has not been used. The section also specifies on whom the correction notice or decision not to correct must be served.

Section 58**: Effect of correction**

92. Section 58 sets out the status of decisions which have been corrected and of decisions where it has been decided not to make a correction. Where a correction to the original decision is made, the original decision will be treated as though it had never been made. The corrected decision will be treated as having been made on the date the relevant correction is made and the statutory period for challenging the corrected decision will start to run from that date. Any person wishing to challenge the decision is therefore not prejudiced by the time taken to correct the decision. Where a decision not to correct has been made, the original decision will stand and the statutory period for challenge will be unaffected.

PART 6**: WALES**

Section 60**: Wales Spatial Plan**

93. Section 60 introduces a statutory footing for the National Assembly for Wales to prepare, approve and publish a spatial plan for Wales, the Wales Spatial Plan (WSP). The WSP will set out such policies as the Assembly considers appropriate in relation to the development and use of land in Wales. The Assembly is required to carry out consultation in making the WSP. The Assembly must not delegate the function of approving the WSP (which will thus require the approval of the Assembly in plenary session). The Assembly will be required to keep the WSP under review and to revise it when necessary.

Section 61**: Survey**

94. Section 61 sets out matters which local planning authorities must keep under review as these matters may affect the development of their area or the planning of its development. It replaces the existing survey functions of local planning authorities as set out in sections 11 and 30 of the Town and Country Planning Act 1990.

Section 62**: Local development plan**

95. Section 62 makes provision for local planning authorities to prepare local development plans (LDPs) setting out their objectives in relation to the use and development of land in their area and their general policies for the implementation of those objectives. More detailed policies for specific areas may also be included. The section sets out matters, including the WSP, to which authorities are to have regard when preparing LDPs. LDPs must be subjected to a sustainability appraisal. The National Assembly for Wales may make regulations about the form and content of LDPs.

Section 63**: Preparation requirements**

96. Section 63 requires LDPs to be prepared in accordance with a community involvement scheme and a timetable. It defines a community involvement scheme as the local planning authority's policy for involving other persons in the authority's functions under this Part. It requires the authority and the Assembly to attempt to agree the terms of the scheme and timetable and provides a power of direction for the Assembly where agreement is not possible.

Section 64**: Independent examination**

97. This section requires the authority to submit their LDP to the Assembly for independent examination by a person appointed by the Assembly. It states that the purpose of the examination is to examine whether an LDP meets the statutory requirements relating to its content and preparation and whether it is sound.

Section 65**: Intervention by Assembly**

98. Section 65 allows the Assembly to intervene if it believes that an LDP is unsatisfactory. In such a situation, if the LDP has not been adopted, the Assembly may direct that an authority must modify its LDP. The Assembly may also call the LDP in for approval by it. If an independent examination of the called in LDP is already in process, the person appointed to carry out that examination is required to report to the Assembly, which must publish the person's recommendations. If the Assembly's direction is given before the document has been submitted for examination, it is required to hold an examination.

Section 66**: Withdrawal of local development plan**

99. Section 66 enables a local planning authority to withdraw an LDP before it is adopted. However, if the LDP has been submitted for independent examination, it can be withdrawn only on the recommendation of the person carrying out that examination or following a direction by the Assembly.

Section 67**: Adoption of local development plan**

100. Section 67 provides for LDPs to be formally adopted by local planning authorities, either as originally prepared or with modifications (in accordance with the recommendation of the person who carried out the independent examination). The Assembly may direct the authority not to adopt an LDP.

Section 68**: Revocation of local development plan**

101. Section 68 enables the Assembly to revoke an adopted LDP at the request of a local planning authority.

Section 69**: Review of local development plan**

102. Section 69 requires a local planning authority to review an LDP at such times as the Assembly may prescribe and to report to the Assembly on the findings of the review.

Section 70**: Revision of local development plan**

103. Section 70 empowers a local planning authority to revise an LDP at any time. If a review under section 69 indicates that they should do so, or they are directed to do so by the Assembly, then they must carry out a revision. The procedures relating to preparation of an LDP also apply to revisions.

Section 71**: Assembly's default power**

104. Section 71 enables the Assembly to prepare, revise or approve an LDP if it believes the local planning authority is failing properly to carry out the function itself. The authority must reimburse the Assembly for any expenditure it incurs in exercising these powers.

Section 72**: Joint local development plans**

105. Section 72 enables two or more local planning authorities jointly to prepare an LDP and sets out the arrangements which are to apply in such a case. If an authority withdraw from an agreement to prepare an LDP jointly, it will be possible for the remaining authority or authorities to continue with the preparation of the LDD provided that the LDP satisfies the conditions required for it to be treated as a “corresponding document”.

Section 73**: Exclusions of certain representations**

106. Section 73 reproduces in relation to the making of LDPs by local planning authorities in Wales the effect of section 32 in relation to local development documents.

Section 76**: Annual monitoring report**

107. Section 76 requires a local planning authority to report annually to the Assembly on the extent to which the objectives set in the LDP are being achieved. It provides a power for the Assembly to prescribe in regulations the timing, form and content of the report.

PART 7**: CROWN APPLICATION OF PLANNING ACTS**

Section 79**: Crown application of planning Acts**

108. This section makes each of the planning Acts bind the Crown, subject to certain provisions and exceptions. The planning Acts are the Town and Country Planning Act 1990 ("the principal Act"), the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the listed buildings Act") and the Planning (Hazardous Substances) Act 1990 ("the hazardous substances Act"). Section 79 also introduces Schedule 3, which amends the planning Acts to take account of Crown application.

Section 80**: Special provision relating to national security**

109. Section 80 deals with the arrangements for planning inquiries where matters of national security are at issue. It adds eight new subsections to section 321 of the principal Act and a new section 321A. Section 321 provides that all oral evidence at planning inquiries must be heard in public, and that documents must be open to public inspection. There is, however, an exception. This is when there would be public disclosure of information relating to national security or to the security of any premises or property, and that public disclosure would be contrary to the national interest. The new provisions provide for the appointment and functions of a special advocate to represent the interest of those people who are prevented from seeing the sensitive material. They also provide for the payment of the special advocate, whether or not an inquiry takes place. The remainder of section 80 repeats these provisions for the listed buildings Act and the hazardous substances Act.

Section 81**: Special provision relating to national security: Wales**

110. Section 81 sets out how the arrangements as described in section 80 will differ for inquiries in Wales, again set out three times, once for each of the planning Acts.

Section 82**: Urgent Crown development**

111. Section 82 contains the urgency procedures for Crown applications. It provides that where the appropriate authority (as defined in section 293 of the principal Act) certifies that the development is of national importance and that it is necessary that the development is carried out urgently, the appropriate authority may apply directly to the Secretary of State instead of to the local planning authority. The appropriate authority must provide the Secretary of State with all the necessary documentation, including an environmental statement, if required. The application is to be treated as if it were a "called-in" application. This will mean that the Inquiries Procedure Rules apply, enabling complementary changes to the Rules to be made to shorten the period leading up to the public inquiry.

Section 83**: Urgent works relating to Crown land**

112. This section provides for a procedure for works to Crown land under the listed buildings Act that is an almost identical procedure to that under section 82. This provision is designed for development works to listed buildings, not for repairs or remedial works.

Section 84**: Enforcement in relation to Crown land**

113. This section provides that the Crown should remain immune from prosecution for any offence under the planning Acts. Local planning authorities will be able to initiate enforcement action by serving enforcement notices or issuing revocation orders etc, but will not be able to enforce them by entering land, bringing proceedings or making applications to the court without the permission of the appropriate authority.

Section 85**: Tree preservation orders affecting land where the Forestry Commissioners interested**

114. Section 85 provides that any tree preservation orders made on land placed at the disposal of the Forestry Commission do not apply to prevent forestry operations undertaken by the Commission.

Section 86**: Trees in conservation areas: acts of Crown**

115. Section 86 prohibits the Crown from doing any act to a tree in a conservation area which might be prohibited by a tree preservation order, unless it serves notice of its intention on the local planning authority and does the act either with the consent of the authority or between six weeks and two years after the date of the notice.

Section 87**: Old mining permissions**

116. This section deals with old mining permissions granted in the period 1943–1948 that were validated by the 1947 Town and County Planning Act. The section enables Crown bodies holding such permissions to have the opportunity to register such permissions and apply for the determination of new conditions, on the same terms that applied to all other permissions when the Planning and Compensation Act 1991 was implemented.

Section 88**: Subordinate legislation**

117. Section 88 provides the Secretary of State with a power to make an order to simplify the application of existing planning subordinate legislation to the Crown, with or without modifications.

Section 89**: Crown application: transitional**

118. This section introduces Schedule 4 which makes transitional provisions to deal with Notices of Proposed Development submitted by the Crown to the local planning authority in accordance with the guidelines set out in DOE Circular 18/84.

Section 90**: Crown application of Scottish planning Acts**

119. Section 90 creates an equivalent provision to section 79 for the principal Scottish planning Act, the Scottish listed buildings Act and Scottish hazardous substances Act, with the exception of the transitional arrangements for hazardous substances. The Scottish Executive intend that corresponding transitional provisions will be made by subordinate legislation in Scotland. Section 90 also introduces Schedule 5, which amends the Scottish planning Acts to take account of Crown application.

Section 91**: Special provision for certain circumstances where disclosure of information as to national security may occur: Scotland**

120. Section 91 introduces a new section 265A to the principal Scottish planning Act and applies it to the Scottish listed buildings and hazardous substances Acts. This new section has a similar effect to that of sections 321 and 321A of the principal planning Act in England and Wales as amended and introduced by section 80. The new section gives a concurrent power exercisable by either the Scottish Ministers or the Secretary of State to make directions restricting disclosure of specified evidence at inquiry. However, before the Scottish Ministers make such a direction, they are required to consult the Secretary of State. The concurrent power and consultation requirement reflect the fact that national security functions are reserved and planning functions are devolved. The Secretary of State and the Scottish Ministers are given powers to make rules as to the procedure to be followed respectively by them before giving a direction. In addition, the power to appoint special advocates in Scotland is conferred on the Lord Advocate to reflect the differences of the Scottish legal system.

Section 92**: Urgent Crown development: Scotland**

121. Section 92 provides for similar procedures to those set out in section 82 in relation to the Scottish principal planning Act.

Section 93**: Urgent works relating to Crown land: Scotland**

122. Section 93 provides for similar procedures to those set out in section 83 in relation to the Scottish listed buildings Act.

Section 94**: Enforcement in relation to Crown land: Scotland**

123. Section 94 makes amendments to Scottish planning legislation along the same lines as section 84. It introduces new sections 245A (Enforcement in relation to the Crown) and 245B (References to an interest in land) to the principal Scottish planning Act. It also introduces equivalent amendments to the Scottish listed buildings Act (new sections 73D and 73E) and the Scottish hazardous substances Act (new sections 30B and 30C).

Section 95**: Tree preservation orders: Scotland**

124. Section 95 amends section 162 of the principal Scottish planning Act in a virtually identical way to the amendment of section 200 of the principal Act under section 85.

Section 96**: Trees in conservation areas in Scotland: acts of Crown**

125. Section 96 amends section 172 of the principal Scottish planning Act in a virtually identical way to the amendment of section 211 of the principal Act under section 86.

Section 97**: Old mining permissions: Scotland**

126. Section 97 makes changes to Scottish planning legislation similar to those made by section 87 for England and Wales.

Section 98**: Subordinate legislation: Scotland**

127. Section 98 provides a similar power to the Scottish Ministers to that provided by section 88 for the Secretary of State.

PART 8**: COMPULSORY PURCHASE**

Section 99**: Compulsory acquisition of land for development etc**

128. Section 99 amends the basis upon which a local authority may acquire land compulsorily for the carrying out of development, redevelopment or improvement. The authority will be able to acquire land if they think the carrying out of development, re-development or improvement is likely to be of economic, social or environmental benefit to their area. A local authority is defined by section 226(8) of the Town and Country Planning Act 1990 as a council of a county, county borough, district or London borough. A joint planning board and a National Park authority may exercise the same power.

Section 100**: Procedure for authorisation by authority other than a Minister**

129. Section 100 amends the procedure for the making and confirmation of non-ministerial compulsory purchase orders set out in the Acquisition of Land Act 1981 to achieve the following:

— extend the categories of persons with interests in land who are entitled to be served with notice of the making of the order and who have a right to have any objections heard at a public local inquiry;

— require the fixing of notices of the making of an order on or near the order land;

— provide for objections to an order to be considered by means of written representations in accordance with a prescribed procedure (as an alternative to an inquiry or hearing) where all those with remaining objections consent, and to provide for awards of costs where the written representations procedure is followed;
— allow confirmation of orders in stages; and
— extend the existing requirement to give notice of confirmation of an order to include fixing a notice on or near the order land.

130. The intention behind all these changes is to make the statutory procedures fairer and quicker.

Section 101**: Procedure for authorisation by a Minister**

131. Section 101 amends the procedure for the preparation in draft and the making of a ministerial compulsory purchase order under Schedule 1 to the Acquisition of Land Act 1981 in a similar manner to the amendments in section 100 for the making and confirmation of non-ministerial compulsory purchase orders, other than provision for an award of costs.

Section 102**: Confirmation by acquiring authority**

132. Section 102 inserts a new section 14A into the Acquisition of Land Act 1981 to enable the confirming authority for a compulsory purchase order to transfer the decision whether or not to confirm to the acquiring authority. This power may only be exercised if there are no objections to the order and certain other specified conditions are met. This is intended to help to speed up the confirmation of unopposed compulsory purchase orders, and should be particularly helpful in situations where, as part of a wider land assembly exercise, an acquiring authority needs to exercise its compulsory purchase powers in order to acquire title to land in unknown ownership.

Section 103**: Assessment of compensation: valuation date**

133. Section 103 amends the Land Compensation Act 1961 which sets out the basic rules for assessing compensation on the compulsory purchase of land. It inserts a new section 5A which sets out the date on which the value of the land is to be assessed for the purpose of determining the amount of compensation payable.

Section 104**: Compensation: advance payments to mortgagees**

134. Section 104 inserts three new sections (52ZA, 52ZB and 52ZC) into the Land Compensation Act 1973 (the 1973 Act). These new sections make it possible for advance payments of the compensation due to a claimant following the compulsory purchase of his land to be paid direct to his mortgagee where appropriate.

Section 105**: Power to require information**

135. Section 105 inserts two new sections into the Acquisition of Land Act 1981.

136. New section 5A gives an acquiring authority the power to require it to be provided with the names and addresses of those who own, occupy or are believed to have an interest in land if the authority has a statutory power to acquire compulsorily. The power may only be exercised for the purpose of enabling the authority to acquire the land. Such a power will enable an acquiring authority to ascertain ownership and occupation of land for the purpose of early negotiations for purchase by agreement and for service of notices on the appropriate persons set out in sections 98 and 99 in any subsequent exercise of compulsory purchase powers.

137. New section 5B makes failure to provide such information without reasonable excuse or knowingly to provide materially false information an offence. Conviction can result in a fine on level 5 on the standard scale (currently £5,000 maximum).

Sections 106–109**: Loss payments**

138. Sections 106 to 109 introduce a new statutory scheme in the Land Compensation Act 1973, which will operate in addition to the home loss scheme set out in that Act. It replaces the existing farm loss payments scheme. The new provisions allow for “loss payments” to be made to those who have a certain interest in property, but who are not entitled to receive home loss payments under the home loss scheme set out in sections 29 to 33 of the 1973 Act.

Section 106**: Basic loss payment**

139. Section 106 introduces a new section 33A to the Land Compensation Act 1973. This new section provides that a person who is an owner or tenant of property that is compulsorily acquired (and who has held that interest for no less than a year) is entitled to a payment called a “basic loss payment”. This payment will be made in addition to the compensation paid for the value of his or her interest in the property and his or her disturbance costs. The amount of this payment is to be assessed at the rate of 7.5% of the value of the person's interest, subject to a maximum of £75,000. If the person is entitled to a home loss payment in respect of any part of the property which is a dwelling, the value of the interest in the dwelling part of the property must be deducted from the value of the interest in the whole when assessing the basic loss payment.

140. The basic loss payment will not be available in respect of compulsory acquisitions which are made before these provisions of the Act are brought into force.

Section 107**: Occupier's loss payment**

141. Section 107 inserts a new section 33B and a new section 33C into the Land Compensation Act 1973. Section 33B relates to occupiers of agricultural land that is compulsorily acquired. Section 33C relates to occupiers of non-agricultural land that is compulsorily acquired. Both sections provide for the payment of what is called an “occupier's loss payment” (in addition to the basic loss payment) to any person who satisfies the conditions for the basic loss payment and who has also occupied the land being acquired for a period of no less than a year. The amount of the payment is assessed at a rate of 2.5% of the value of the occupier's interest, or on the basis of a formula based on the area of the land or the floor space of the building being acquired, whichever gives the greatest figure, in each case subject to a maximum of £25,000. Again, if part of the property is a dwelling in respect of which the person could claim a home loss payment, the value of the interest in the dwelling must be deducted from the value of the interest in the whole when assessing the occupier's loss payment.

142. The occupier's loss payment will not be available in respect of compulsory acquisitions which are made before these provisions of the Act are brought into force.

Section 108**: Loss payments: exclusions**

143. Section 108 inserts a new section 33D into the Land Compensation Act 1973 which excludes entitlement to loss payments in certain situations. These are where an acquiring authority has exercised its compulsory purchase powers as a result of a failure to comply with the requirements of one of the notices specified in this section, or as a result of a person having had one of the specified orders served upon him. These notices and orders deal with the neglect of property. The

purpose of this section is therefore to prevent those whose neglect has prompted a compulsory purchase order from benefiting from that neglect.

Section 109**: Loss payments: supplementary**

144. Section 109 inserts sections 33E to 33K into the Land Compensation Act 1973. It sets out the supplementary provisions required to operate the loss payment scheme, covering: the arrangements for making a claim; who can make a claim if the person who is entitled to do so is insolvent or dies; situations of dual entitlement to both an occupier's loss payment in respect of agricultural land and a payment by virtue of the Agriculture (Miscellaneous Provisions) Act 1968 (which deals with additional payments consequent on compulsory acquisition of agricultural holding); date of payment by acquiring authorities, advances of payment and interest and acquisitions by agreement between an authority and a person entitled to a loss payment.

145. The Secretary of State may make regulations to amend any of the figures or percentages specified in the newly inserted sections of the 1973 Act. For any changes to percentages or to amounts not based on changes in the value of money or land, the regulations would be subject to the affirmative resolution procedure in Parliament.

Section 110**: Corresponding amendments of other enactments**

146. Section 110 is applicable to an enactment in which provision is made for the compulsory acquisition of an interest in land, or the interference with or affectation of any right in relation to land, or for the payment of compensation as a result. The Secretary of State may by order amend such an enactment so that its provisions correspond to or apply those contained in Part 8 of the Act. Any such orders would be subject to the affirmative resolution procedure in Parliament.

PART 9**: MISCELLANEOUS AND GENERAL**

Section 113**: Validity of strategies, plans and documents**

147. The purpose of this section is to prescribe the procedure to be followed in relation to a challenge to any of the specified documents (including a revision of an RSS, the WSP, a development plan document or an LDP). It also sets out the circumstances in which such a challenge may be made. These are when a specified document is in some respect outside the scope of the powers under which it should have been made; and/or where a procedural requirement has not been complied with in relation to a document.

Section 114**: Examinations**

148. Section 114 defines independent examinations under Part 2 or Part 6 of the Act as statutory inquiries. This means that the Tribunals and Inquiries Act 1992 will apply to such examinations and thus that the Lord Chancellor is able to make procedural rules in relation to them.

Section 115**: Grants for advice and assistance**

149. Section 115 introduces a new section into the Town and Country Planning Act 1990 to allow the Secretary of State or the National Assembly for Wales to give grants to bodies, such as Planning Aid, which provide advice and assistance on all aspects of the planning process.

Section 117**: Interpretation**

150. Section 117 provides that expressions used in the Act (unless otherwise indicated) are to have the same meaning as expressions used in the planning Acts.

Section 118**: Amendments**

151. This section introduces Schedules 6 and 7. Schedule 6 makes amendments to the planning Acts; Schedule 7 makes amendments to other legislation. All these amendments are consequential upon the provisions of the Act.

Section 119**: Transitionals**

152. This sections introduces Schedule 8, which sets out transitional arrangements. These arrangements concern various plans made under the Town and Country Planning Act 1990 and will have effect from the commencement of the relevant provisions of the Act until either the end of the three year transitional period or the adoption, publication or approval of a new policy to replace the relevant plan. Section 119 also gives the Scottish Ministers a power to make an order containing transitional provisions for Crown development under the current arrangements and for the Scottish hazardous substances Act.

Section 122**: Regulations and orders**

153. Section 122 refers to the requirement for subordinate legislation to be exercised by statutory instrument. It also enables such subordinate legislation to include supplementary, incidental, consequential, saving or transitional provisions.

COMMENCEMENT

154. Section 121 enables the Secretary of State to bring the provisions of the Act (except section 115 and the provisions specified in subsections (4), (5) and (6)) into force on such day as he appoints. In relation to the bringing into force of certain provisions he is required to consult the National Assembly for Wales or the Scottish Ministers. The Assembly will bring into force by order the provisions of Part 6. The Scottish Ministers will bring into force by order the provisions listed in subsection (4).

155. Section 115 came into force upon Royal Assent. Without the new power the Secretary of State (or the Assembly) was not able to fund the entire range of work undertaken by bodies such as Planning Aid. The commencement of this provision on Royal Assent ensured that a suitable funding mechanism would be in place as soon as possible.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	**Date**	**Hansard Reference**
House of Commons		
Introduction	4 December 2002	Vol. 395 Col 910
Second Reading	17 December 2002	Vol. 396 Col 729
Committee	9 January 2003 — 28 January 2003	Hansard Standing Committee G
Motion to carry over	10 June 2003	Vol. 406 Col 543
Motion to extend proceedings	10 June 2003	Vol. 406 Col 572
Motion to recommit	10 June 2003	Vol. 406 Col 599
Recommittal	14 October 2003 — 23 October 2003	Hansard Standing Committee A

Stage	**Date**	**Hansard Reference**
Reintroduction	1 December 2003	Vol. 415 Col 238
Report and Third Reading	8 December 2003 9 December 2003	Vol. 415 Col 783 Vol. 415 Col 932
House of Lords		
Introduction	10 December 2003	Vol. 655 Col 756
Second reading	6 January 2004	Vol. 656 Col 98
Committee	20 January 2004 22 January 2004 27 January 2004 29 January 2004 2 February 2004 5 February 2004	Vol. 656 Col 918 Vol. 656 Col 1146 Vol. 657 Col 100 Vol. 657 Col 323 Vol. 657 Col 486 Vol 657 Col 849
Report	24 February 2004-05-19 1 March 2004-05-19 16 March 2004	Vol. 658 Col 130 Vol. 658 Col 451 Vol. 658 Col 230
Third Reading	25 March 2004	Vol. 259 Col 866
House of Commons		
Commons Consideration of Lords Amendments	19 April 2004	Vol. 420 Col 38
House of Lords		
Lords Consideration of Commons Amendments	26 April 2004	Vol. 660 Col 562
House of Commons		
Commons Consideration of Lords Message	29 April 2004	Vol. 420 Col 1036
House of Lords		
Lords consideration of Commons Amendments	11 May 2004	Vol. 661 Col 151
House of Commons		
Commons Consideration of Lords Amendments	12 May 2004	Vol. 421 Col 414

Royal Assent — 13 May 2004 House of Commons Vol. 421 Col 536
House of Lords Vol. 661 Col 506

Modifications

Provision	Modification	Notes	Further Information
Pt 1	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 20(1)		
Pt 1 s. 4(4)(a)	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 20(1)(b)		
Pt 1 s. 4(4)(e)	Town and Country Planning (Isles of Scilly) Order 2005/2085, art. 4(2)	Deemed to be inserted for the purposes of application of the legislation to the Isles of Scilly	
Pt 2	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 21(1)		
	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 23(2)		
	Town and Country Planning (Isles of Scilly) Order 2013/2148, Sch. 2 para. 1	Modified in relation to the Isles of Scilly	art. 4
	Town and Country Planning (Isles of Scilly) Order 2013/2148, Sch. 2 para. 2	Modified in relation to the Isles of Scilly	art. 4
	Town and Country Planning (Isles of Scilly) Order 2013/2148, Sch. 2 para. 3	Modified in relation to the Isles of Scilly	art. 4
	Town and Country Planning (Isles of Scilly) Order 2013/2148, Sch. 2 para. 4	Modified in relation to the Isles of Scilly	art. 4
Pt 2 s. 15	Central Lincolnshire Joint Strategic Planning Committee Order 2009/2467, art. 4(2)	Modified in relation to the joint committee	
	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 22(1)		
	North Northamptonshire Joint Committee Order 2005/1552, art. 4(2)	Modified in relation to the functions of the joint committee	
Pt 2 s. 15(3)(b)	Cambridge City Fringes Joint Committee Order 2009/1254, art. 4(2)	Modified in relation to the joint committee	
	Luton and South Bedfordshire Joint Committee Order 2007/1412, art. 4(2)(a)	Modified in relation to functions of the joint committee	

	South Downs National Park Authority (Establishment) Order 2010/497, Sch. 3(2) para. 12	Modified in relation to South Downs National Park Authority	Pt 4 art. 16
	South East Lincolnshire Joint Strategic Planning Committee Order 2011/1455, art. 4(2)	Modified in relation to the joint committee	
	West Northamptonshire Joint Committee Order 2008/1572, art. 4(2)	Modified in relation to the joint committee	
Pt 2 s. 15(3)(c)	Luton and South Bedfordshire Joint Committee Order 2007/1412, art. 4(2)(b)	Modified in relation to functions of the joint committee	
Pt 2 s. 17(1)(b)	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 19		
Pt 2 s. 18	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 23(2)(a)		
Pt 2 s. 19(2)	Town and Country Planning (Local Planning) (England) Regulations 2012/767, Sch. 2 para. 2(1)	Modified where the Secretary of State prepares a local plan under 2004 c.5 s.27	
Pt 2 s. 19(3)	Town and Country Planning (Local Planning) (England) Regulations 2012/767, Sch. 2 para. 2(2)	Modified where the Secretary of State prepares a local plan under 2004 c.5 s.27	
Pt 2 s. 19(5)	Town and Country Planning (Local Planning) (England) Regulations 2012/767, Sch. 2 para. 2(3)	Modified where the Secretary of State prepares a local plan under 2004 c.5 s.27	
Pt 2 s. 29	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 24(1)		
	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 24(6)		
Pt 2 s. 33	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 5(2)	Modified in relation to the Olympic Delivery Authority	
Pt 2 s. 37(2)	Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008/2867, Pt 6 reg. 19		
Pt 4 s. 46	Planning and Compulsory Purchase Act 2004 c. 5, Pt 4 s. 48	Modified in relation to land in Wales	
Pt 4 s. 47	Planning and Compulsory Purchase Act 2004 c. 5, Pt 4 s. 48	Modified in relation to land in Wales	
Pt 6 s. 62(5)(e)	Local Government (Wales) Measure 2009 c. 02, Sch. 3 para. 7		

Pt 6 s. 62(7)	Local Government (Wales) Measure 2009 c. 02, Sch. 3 para. 5		

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