



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 1

#### REGIONAL FUNCTIONS

##### *Spatial strategy*

#### **1 Regional Spatial Strategy**

- (1) For each region there is to be a regional spatial strategy (in this Part referred to as the “RSS”).
- (2) The RSS must set out the Secretary of State’s policies (however expressed) in relation to the development and use of land within the region.
- (3) In subsection (2) the references to a region include references to any area within a region which includes the area or part of the area of more than one local planning authority.
- (4) If to any extent a policy set out in the RSS conflicts with any other statement or information in the RSS the conflict must be resolved in favour of the policy.
- (5) With effect from the appointed day the RSS for a region is so much of the regional planning guidance relating to the region as the Secretary of State prescribes.
- (6) The appointed day is the day appointed for the commencement of this section.

## *Planning bodies*

### **2 Regional planning bodies**

- (1) The Secretary of State may give a direction recognising a body to which subsection (2) applies as the regional planning body for a region (in this Part referred to as the “RPB”).
- (2) This subsection applies to a body (whether or not incorporated) which satisfies such criteria as are prescribed.
- (3) The Secretary of State must not give a direction under subsection (1) in relation to a body unless not less than 60% of the persons who are members of the body fall within subsection (4).
- (4) A person falls within this subsection if he is a member of any of the following councils or authorities and any part of the area of the council or authority (as the case may be) falls within the region to which the direction (if given) will relate—
  - (a) a district council;
  - (b) a county council;
  - (c) a metropolitan district council;
  - (d) a National Park authority;
  - (e) the Broads authority.
- (5) The Secretary of State may give a direction withdrawing recognition of a body.
- (6) Subsection (7) applies if the Secretary of State—
  - (a) does not give a direction under subsection (1) recognising a body, or
  - (b) gives a direction under subsection (5) withdrawing recognition of a body and does not give a direction under subsection (1) recognising any other body.
- (7) In such a case the Secretary of State may exercise such of the functions of the RPB as he thinks appropriate.
- (8) A change in the membership of a body which is not incorporated does not (by itself) affect the validity of the recognition of the body.

### **3 RPB: general functions**

- (1) The RPB must keep under review the RSS.
- (2) The RPB must keep under review the matters which may be expected to affect—
  - (a) development in its region or any part of the region;
  - (b) the planning of that development.
- (3) The RPB must—
  - (a) monitor the implementation of the RSS throughout the region;
  - (b) consider whether the implementation is achieving the purposes of the RSS.
- (4) The RPB must for each year prepare a report on the implementation of the RSS in the region.
- (5) The report—
  - (a) must be in respect of such period of 12 months as is prescribed;

- (b) must be in such form and contain such information as is prescribed;
  - (c) must be submitted to the Secretary of State on such date as is prescribed.
- (6) The RPB must give advice to any other body or person if it thinks that to do so will help to achieve implementation of the RSS.

#### **4 Assistance from certain local authorities**

- (1) For the purpose of the exercise of its functions under sections 3(1) and (3)(a) and 5(1) the RPB must seek the advice of each authority in its region which is an authority falling within subsection (4).
- (2) The authority must give the RPB advice as to the exercise of the function to the extent that the exercise of the function is capable of affecting (directly or indirectly) the exercise by the authority of any function it has.
- (3) The advice mentioned in subsection (1) includes advice relating to the inclusion in the RSS of specific policies relating to any part of the region.
- (4) Each of the following authorities fall within this subsection if their area or any part of their area is in the RPB's region—
- (a) a county council;
  - (b) a metropolitan district council;
  - (c) a district council for an area for which there is no county council;
  - (d) a National Park authority.
- (5) The RPB may make arrangements with an authority falling within subsection (4) or with any district council the whole or part of whose area is in the region for the discharge by the authority or council of a function of the RPB.
- (6) The RPB may reimburse an authority or council which exercises functions by virtue of such arrangements for any expenditure incurred by the authority or council in doing so.
- (7) Subsection (5) does not apply to a function of the RPB under section 5(8).
- (8) Any arrangements made for the purposes of subsection (5) must be taken to be arrangements between local authorities for the purposes of section 101 of the Local Government Act 1972 (c. 70).
- (9) Nothing in this section affects any power which a body which is recognised as an RPB has apart from this section.

#### *RSS revision*

#### **5 RSS: revision**

- (1) The RPB must prepare a draft revision of the RSS—
- (a) when it appears to it necessary or expedient to do so;
  - (b) at such time as is prescribed;
  - (c) if it is directed to do so under section 10(1).
- (2) But the RPB must give notice to the Secretary of State of its intention to prepare a draft revision under subsection (1)(a).

- (3) In preparing a draft revision the RPB must have regard to—
- (a) national policies and advice contained in guidance issued by the Secretary of State;
  - (b) the RSS for each adjoining region;
  - (c) the spatial development strategy if any part of its region adjoins Greater London;
  - (d) the Wales Spatial Plan if any part of its region adjoins Wales;
  - (e) the resources likely to be available for implementation of the RSS;
  - (f) the desirability of making different provision in relation to different parts of the region;
  - (g) such other matters as are prescribed.
- (4) In preparing a draft revision the RPB must also—
- (a) carry out an appraisal of the sustainability of the proposals in the draft, and
  - (b) prepare a report of the findings of the appraisal.
- (5) If the RPB decides to make different provision for different parts of the region the detailed proposals for such different provision must first be made by an authority which falls within section 4(4).
- (6) But if the RPB and the authority agree, the detailed proposals may first be made—
- (a) by a district council which is not such an authority, or
  - (b) by the RPB.
- (7) The Secretary of State may by regulations make provision as to—
- (a) the subject matter of a draft revision prepared in pursuance of subsection (1) (b);
  - (b) any further documents which must be prepared by the RPB in connection with the preparation of a draft revision;
  - (c) the form and content of any draft, report or other document prepared under this section.
- (8) When the RPB has prepared a draft revision, the report to be prepared under subsection (4)(b) and any other document to be prepared in pursuance of subsection (7) (b) it must—
- (a) publish the draft revision, report and other document;
  - (b) submit them to the Secretary of State.
- (9) But the RPB may withdraw a draft revision at any time before it submits the draft to the Secretary of State under subsection (8)(b).

## **6 RSS: community involvement**

- (1) For the purposes of the exercise of its functions under section 5, the RPB must prepare and publish a statement of its policies as to the involvement of persons who appear to the RPB to have an interest in the exercise of those functions.
- (2) The RPB must keep the policies under review and from time to time must—
- (a) revise the statement;
  - (b) publish the revised statement.

- (3) The RPB must comply with the statement or revised statement (as the case may be) in the exercise of its functions under section 5.
- (4) The documents mentioned in section 5(7)(b) and (c) include the statement and revised statement.

## **7 RSS: Secretary of State's functions**

- (1) This section applies when the Secretary of State receives a draft revision of the RSS.
- (2) Any person may make representations on the draft.
- (3) The Secretary of State may arrange for an examination in public to be held into the draft.
- (4) In deciding whether an examination in public is held the Secretary of State must have regard to—
  - (a) the extent of the revisions proposed by the draft;
  - (b) the extent and nature of the consultation on the draft before it was published;
  - (c) the level of interest shown in the draft;
  - (d) such other matters as he thinks appropriate.

## **8 RSS: examination in public**

- (1) This section applies if the Secretary of State decides that an examination in public is to be held of a draft revision of the RSS.
- (2) The examination must be held before a person appointed by the Secretary of State.
- (3) No person has a right to be heard at an examination in public.
- (4) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at an examination in public.
- (5) The person appointed under subsection (2) must make a report of the examination to the Secretary of State.
- (6) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the recommendations of the person appointed under subsection (2).
- (7) An examination in public—
  - (a) is a statutory inquiry for the purposes of section 1(1)(c) of the Tribunals and Inquiries Act 1992 (c. 53) (report on administrative procedures);
  - (b) is not a statutory inquiry for any other purpose of that Act.

## **9 RSS: further procedure**

- (1) If no examination in public is held the Secretary of State must consider any representations made on the draft revision of the RSS under section 7(2).
- (2) If an examination in public is held the Secretary of State must consider—
  - (a) the report of the person appointed to hold the examination;

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*Status: This is the original version (as it was originally enacted).*

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- (b) any representations which are not considered by the person appointed to hold the examination.
- (3) If after proceeding under subsection (1) or (2) the Secretary of State proposes to make any changes to the draft he must publish—
  - (a) the changes he proposes to make;
  - (b) his reasons for doing so.
- (4) Any person may make representations on the proposed changes.
- (5) The Secretary of State must consider any such representations.
- (6) The Secretary of State must then publish—
  - (a) the revision of the RSS incorporating such changes as he thinks fit;
  - (b) his reasons for making the changes.
- (7) But the Secretary of State may withdraw a draft revision of an RSS at any time before he publishes the revision of the RSS under subsection (6).

## **10 Secretary of State: additional powers**

- (1) If the Secretary of State thinks it is necessary or expedient to do so he may direct an RPB to prepare a draft revision of the RSS.
- (2) Such a direction may require the RPB to prepare the draft revision—
  - (a) in relation to such aspects of the RSS as are specified;
  - (b) in accordance with such timetable as is specified.
- (3) The Secretary of State may prepare a draft revision of the RSS if the RPB fails to comply with—
  - (a) a direction under subsection (1),
  - (b) section 5(1)(b), or
  - (c) regulations under section 5(7) or 11.
- (4) If the Secretary of State prepares a draft revision under subsection (3)—
  - (a) section 7 applies as it does if the Secretary of State receives a draft revision from the RPB, and
  - (b) sections 8 and 9 apply.
- (5) If the Secretary of State thinks it necessary or expedient to do so he may at any time revoke—
  - (a) an RSS;
  - (b) such parts of an RSS as he thinks appropriate.
- (6) The Secretary of State may by regulations make provision as to the procedure to be followed for the purposes of subsection (3).
- (7) Subsection (8) applies if—
  - (a) any step has been taken in connection with the preparation of any part of regional planning guidance, and
  - (b) the Secretary of State thinks that the step corresponds to a step which must be taken under this Part in connection with the preparation and publication of a revision of the RSS.

- (8) The Secretary of State may by order provide for the part of the regional planning guidance to have effect as a revision of the RSS.

### *Supplementary*

## **11 Regulations**

- (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 for the purposes of section 5;
  - (b) the procedure to be followed by the RPB in connection with its functions under section 6;
  - (c) requirements about the giving of notice and publicity;
  - (d) requirements about inspection by the public of a draft revision 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 an RSS;
  - (g) consideration of any such representations;
  - (h) the remuneration and allowances payable to a person appointed to carry out an examination in public under section 8;
  - (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 RPBs 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.

## **12 Supplementary**

- (1) A region is a region (except London) specified in Schedule 1 to the Regional Development Agencies Act 1998 (c. 45).
- (2) But the Secretary of State may by order direct that if the area of a National Park falls within more than one region it is treated as falling wholly within such region as is specified in the order.
- (3) Regional planning guidance for a region is a document issued by the Secretary of State setting out his policies (however expressed) in relation to the development and use of land within the region.
- (4) The Secretary of State is the Secretary of State for the time being having general responsibility for policy in relation to the development and use of land.
- (5) Subsection (4) does not apply for the purposes of section 5(3)(a).
- (6) References to a revision or draft revision of an RSS include references to a revision or draft revision—

- (a) of any part of an RSS;
  - (b) of the RSS as it relates to any part of a region.
- (7) This section has effect for the purposes of this Part.

## PART 2

### LOCAL DEVELOPMENT

#### *Survey*

#### **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.

#### **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)).

#### *Development schemes*

### **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) the documents which are to be local development documents;
  - (b) the subject matter and geographical area to which each document is to relate;
  - (c) which documents are to be development plan documents;
  - (d) which documents (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 documents;
  - (g) such other matters as are prescribed.
- (3) The local planning authority must —
  - (a) prepare the scheme in accordance with such other requirements as are prescribed;
  - (b) submit the scheme to the Secretary of State at such time as is prescribed or as the Secretary of State (in a particular case) directs;
  - (c) at that time send a copy of the scheme to the RPB or (if the authority are a London borough) to the Mayor of London.
- (4) The Secretary of State may direct the local planning authority to make such amendments to the scheme as he thinks appropriate.
- (5) Such a direction must contain the Secretary of State's reasons for giving it.
- (6) The local planning authority must comply with a direction given under subsection (4).
- (7) The Secretary of State may make regulations as to the following matters—

- (a) publicity about the scheme;
  - (b) making the scheme available for inspection by the public;
  - (c) requirements to be met for the purpose of bringing the scheme into effect.
- (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.
- (9) Subsections (2) to (7) apply to the revision of a scheme as they apply to the preparation of the scheme.

## **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.

### *Documents*

## **17 Local development documents**

- (1) Documents which must be specified in the local development scheme as local development documents are—
- (a) documents of such descriptions as are prescribed;
  - (b) the local planning authority's statement of community involvement.
- (2) The local planning authority may also specify in the scheme such other documents as they think are appropriate.
- (3) The local development documents 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) In the case of the documents which are included in a minerals and waste development scheme they must also (taken as a whole) set out the authority's policies (however expressed) 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.
- (7) Regulations under this section may prescribe—
  - (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.

## **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 19, 26 and 28 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.
- (3) For the purposes of sections 19(2) and 24 the statement of community involvement is not a local development document.
- (4) Section 20 applies to the statement of community involvement as if it were a development plan document.
- (5) But in section 20(5)(a)—
  - (a) the reference to section 19 must be construed as if it does not include a reference to subsection (2) of that section;
  - (b) the reference to section 24(1) must be ignored.
- (6) In the following provisions of this Part references to a development plan document include references to the statement of community involvement—
  - (a) section 22;
  - (b) section 23(2) to (5).

## **19 Preparation of local development documents**

- (1) Local development documents must be prepared in accordance with the local development scheme.
- (2) In preparing a 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 RSS 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 RSS for any region which adjoins the area of the authority;
  - (e) the Wales Spatial Plan if any part of the authority's area adjoins Wales;
  - (f) the community strategy prepared by the authority;
  - (g) the community strategy for any other authority whose area comprises any part of the area of the local planning authority;
  - (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 other local development documents 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 document;
  - (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) The community strategy is the strategy prepared by an authority under section 4 of the Local Government Act 2000 (c. 22).

## **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.
- (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.
- (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.

## **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 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;
  - (b) if the direction is given before the authority have submitted the document under section 20(1) the Secretary of State must hold an independent examination and section 20(4) to (7) applies accordingly;
  - (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 he must make his recommendations to the Secretary of State;
  - (d) the document has no effect unless it or (if the direction relates to only part of a document) the part has been approved by the Secretary of State.
- (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).
- (10) In the exercise of any function under this section the Secretary of State must have regard to the local development scheme.

## **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) But subsection (1) does not apply to a development plan document at any time after the document has been submitted for independent examination under section 20 unless—
  - (a) the person carrying out the examination recommends that the document is withdrawn and that recommendation is not overruled by a direction given by the Secretary of State, or
  - (b) the Secretary of State directs that the document must be withdrawn.

## **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) The authority may adopt a development plan document as originally prepared if the person appointed to carry out the independent examination of the document recommends that the document as originally prepared is adopted.
- (3) The authority may adopt a development plan document with modifications if the person appointed to carry out the independent examination of the document recommends the modifications.
- (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.

## **24 Conformity with regional strategy**

- (1) The local development documents must be in general conformity with—
  - (a) the RSS (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).

- (2) A local planning authority whose area is in a region other than London—
  - (a) must request the opinion in writing of the RPB as to the general conformity of a development plan document with the RSS;
  - (b) may request the opinion in writing of the RPB as to the general conformity of any other local development document with the RSS.
- (3) Not later than the end of the period prescribed for the purposes of this section the RPB must send its opinion to—
  - (a) the Secretary of State;
  - (b) the local planning authority.
- (4) A local planning authority which are a London borough—
  - (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 (2) or (4) the RPB or the Mayor (as the case may be) may give an opinion as to the general conformity of a local development document with the RSS or the spatial development strategy (as the case may be).
- (6) If in the opinion of the RPB a document is not in general conformity with the RSS the RPB must be taken to have made representations seeking a change to the document.
- (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) But the Secretary of State may in any case direct that subsection (6) must be ignored.
- (9) If at any time no body is recognised as the RPB under section 2 the functions of the RPB under this section must be exercised by the Secretary of State and subsections (3)(a), (6) and (8) of this section must be ignored.

## **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.

## **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.

## **27 Secretary of State's default power**

- (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 must hold an independent examination and section 20(4) to (7) applies accordingly.
- (3) The Secretary of State must publish the recommendations and reasons of the person appointed to hold the examination.
- (4) The Secretary of State may—
  - (a) prepare or revise (as the case may be) the document, and
  - (b) approve the document as a local development document.
- (5) The Secretary of State must give reasons for anything he does in pursuance of subsection (4).
- (6) 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 (4), and
  - (b) which the authority failed or omitted to do as mentioned in subsection (1).

## **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 the RSS is a requirement in relation to the RSS 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 the corresponding document;
  - (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.

#### *Joint committees*

### **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.

### **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).

### **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.

#### *Miscellaneous*

### **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.

### **33 Urban development corporations**

The Secretary of State may direct that this Part does not apply to the area of an urban development corporation.

### **34 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 Secretary of State.

### **35 Annual monitoring report**

(1) Every local planning authority must make an annual report to the Secretary of State.

(2) The annual report must contain 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) The annual report must—

- (a) be in respect of such period of 12 months as is prescribed;
- (b) be made at such time as is prescribed;
- (c) be in such form as is prescribed;
- (d) contain such other matter as is prescribed.

### *General*

### **36 Regulations**

(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.

### **37 Interpretation**

- (1) Local development scheme must be construed in accordance with section 15.
- (2) Local development document must be construed in accordance with section 17.
- (3) A development plan document is a document which—
  - (a) is a local development document, and
  - (b) forms part of the development plan.
- (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.
- (6) RSS and RPB must be construed in accordance with Part 1.
- (7) This section applies for the purposes of this Part.

## **PART 3**

### **DEVELOPMENT**

#### *Development plan*

### **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, and
  - (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area.
- (3) For the purposes of any other area in England the development plan is—
- (a) the regional spatial strategy for the region in which the area is situated, and
  - (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area.
- (4) For the purposes of any area in Wales the development plan is the local development plan adopted or approved in relation to that area.
- (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 be adopted, approved or published (as the case may be).
- (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.

*Sustainable development***39 Sustainable development**

- (1) This section applies to any person who or body which exercises any function—
- (a) under Part 1 in relation to a regional spatial strategy;
  - (b) under Part 2 in relation to local development documents;
  - (c) under Part 6 in relation to the Wales Spatial Plan or a local development plan.
- (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)(a) and (b);
  - (b) the National Assembly for Wales for the purposes of subsection (1)(c).

## PART 4

### DEVELOPMENT CONTROL

#### *Local development orders*

#### **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) section 57(3) (extent of permission granted by development order);
  - (c) section 58(1)(a) (grant of planning permission by development order);
  - (d) section 77(1) (certain applications to be referred to the Secretary of State);
  - (e) section 78(1)(c) (right of appeal in relation to certain planning decisions);
  - (f) section 88(9) (grant of planning permission in enterprise zone);
  - (g) section 91(4)(a) (no limit to duration of planning permission granted by development order);
  - (h) section 108 (compensation for refusal of planning permission formerly granted by development order);
  - (i) section 109(6) (apportionment of compensation for depreciation);
  - (j) section 253(2)(c) (cases in which certain procedures may be carried out in anticipation of planning permission);
  - (k) section 264(5)(b) (land treated not as operational land);
  - (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.

#### *Revision of development orders*

### **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.”

### *Applications*

## **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),”.

### **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;

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*Status: This is the original version (as it was originally enacted).*

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(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.

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- (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.

#### *Major infrastructure projects*

#### **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—



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- (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.”

### *Simplified planning zones*

## **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—

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- “(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

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- (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.”

### *Planning contribution*

## **46 Planning contribution**

- (1) The Secretary of State may, by regulations, make provision for the making of a planning contribution in relation to the development or use of land in the area of a local planning authority.
- (2) The contribution may be made—
  - (a) by the prescribed means,
  - (b) by compliance with the relevant requirements, or
  - (c) by a combination of such means and compliance.
- (3) The regulations may require the local planning authority to include in a development plan document (or in such other document as is prescribed)—
  - (a) a statement of the developments or uses or descriptions of development or use in relation to which they will consider accepting a planning contribution;
  - (b) a statement of the matters relating to development or use in relation to which they will not consider accepting a contribution by the prescribed means;
  - (c) the purposes to which receipts from payments made in respect of contributions are (in whole or in part) to be put;
  - (d) the criteria by reference to which the value of a contribution made by the prescribed means is to be determined.
- (4) The regulations may make provision as to circumstances in which—
  - (a) except in the case of a contribution to which subsection (3)(b) applies, the person making the contribution (the contributor) must state the form in which he will make the contribution;
  - (b) the contribution may not be made by compliance with the relevant requirements if it is made by the prescribed means;
  - (c) the contribution may not be made by the prescribed means if it is made by compliance with the relevant requirements;
  - (d) a contribution must not be made.
- (5) The prescribed means are—
  - (a) the payment of a sum the amount and terms of payment of which are determined in accordance with criteria published by the local planning authority for the purposes of subsection (3)(d),
  - (b) the provision of a benefit in kind the value of which is so determined, or

- (c) a combination of such payment and provision.
- (6) The relevant requirements are such requirements relating to the development or use as are—
  - (a) prescribed for the purposes of this section, and
  - (b) included as part of the terms of the contribution,and may include a requirement to make a payment of a sum.
- (7) Development plan document must be construed in accordance with section 37(3).

#### **47 Planning contribution: regulations**

- (1) This section applies for the purpose of regulations made under section 46.
- (2) Maximum and minimum amounts may be prescribed in relation to a payment falling within section 46(5)(a).
- (3) Provision may be made to enable periodic adjustment of the criteria mentioned in section 46(3)(d).
- (4) The local planning authority may be required to publish an annual report containing such information in relation to the planning contribution as is prescribed.
- (5) If a document is prescribed for the purposes of section 46(3) the regulations may prescribe—
  - (a) the procedure for its preparation and the time at which it must be published;
  - (b) the circumstances in which and the procedure by which the Secretary of State may take steps in relation to the preparation of the document.
- (6) Provision may be made for the enforcement by the local planning authority of the terms of a planning contribution including provision—
  - (a) for a person obstructing the taking of such steps as are prescribed to be guilty of an offence punishable by a fine not exceeding level 3 on the standard scale;
  - (b) for a person deriving title to the land from the contributor to be bound by the terms of the contribution;
  - (c) for a condition to be attached to any planning permission relating to the land requiring the contribution to be made before any development is started;
  - (d) for the enforcement of a planning contribution in respect of land which is Crown land within the meaning of section 293(1) of the principal Act.
- (7) The regulations may—
  - (a) require the local planning authority to apply receipts from planning contributions made by the prescribed means only to purposes mentioned in section 46(3)(c);
  - (b) make provision for setting out in writing the terms of the planning contribution;
  - (c) make provision in relation to the modification or discharge of a planning contribution.
- (8) The regulations may—
  - (a) make different provision in relation to the areas of different local planning authorities or different descriptions of local planning authority;

- (b) exclude their application (in whole or in part) in relation to the area of one or more local planning authorities or descriptions of local planning authority.

#### **48 Planning contribution: Wales**

In relation to land in Wales, sections 46 and 47 apply subject to the following modifications—

- (a) references to the Secretary of State must be construed as references to the National Assembly for Wales;
- (b) the reference to a development plan document must be construed as a reference to a local development plan (within the meaning of section 62).

#### *Miscellaneous*

#### **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.

#### **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).

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- (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).

## **51 Duration of permission and consent**

- (1) Section 91 of the principal Act (limit on duration of planning permission) is amended as follows—
  - (a) in subsections (1)(a) and (3) for the words “five years” there is substituted “three years”;
  - (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) In section 92 of that Act (outline planning permission)—
  - (a) in subsection (2)(b) sub-paragraph (i) is omitted;
  - (b) in subsection (2)(b) in sub-paragraph (ii) the words “if later” are omitted;
  - (c) in subsection (4) “five years” is omitted.
- (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.

## 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.”

### **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.

## **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.

## **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).

## **PART 5**

### CORRECTION OF ERRORS

## **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),
  - (b) he informs the local planning authority of that fact, and
  - (c) he obtains the appropriate consent.
- (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) The appropriate consent is—
- (a) the consent in writing of the applicant;
  - (b) if the applicant is not the owner of the land in respect of which the decision was made, the consent in writing of both the applicant and the owner.
- (7) But consent is not appropriate consent if it is given subject to a condition.

## **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.

## **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.

## **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.
- (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.

## **PART 6**

### **WALES**

#### *Spatial plan*

## **60 Wales Spatial Plan**

- (1) There must be a spatial plan for Wales to be known as the “Wales Spatial Plan”.

- (2) The Wales Spatial Plan must set out such of the policies (however expressed) of the National Assembly for Wales as it thinks appropriate in relation to the development and use of land in Wales.
- (3) The Assembly must—
  - (a) prepare and publish the Plan;
  - (b) keep under review the Plan;
  - (c) consider from time to time whether it should be revised.
- (4) If the Assembly revises the Plan, it must publish (as it considers appropriate)—
  - (a) the whole Plan as revised, or
  - (b) the revised parts.
- (5) The Assembly must consult such persons or bodies as it considers appropriate in preparing or revising the Plan.
- (6) The Plan and any revision of it must be approved by the Assembly.
- (7) The Assembly must not delegate its function under subsection (6).

### *Survey*

## **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;
  - (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.



## Plans

### 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.
- (4) Regulations under this section may prescribe the form and content of the plan.
- (5) In preparing a local development plan the authority must have regard to—
  - (a) current national policies;
  - (b) the Wales Spatial Plan;
  - (c) the RSS for any region which adjoins the area of the authority;
  - (d) the community strategy prepared by the authority;
  - (e) the community strategy for any other authority whose area comprises any part of the area of the local planning authority;
  - (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.
- (7) The community strategy is the strategy prepared by an authority under section 4 of the Local Government Act 2000 (c. 22).
- (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.

### 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.

#### **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.

## **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).

## **66 Withdrawal of local development plan**

- (1) A local planning authority may at any time before a local development plan is adopted under section 67 withdraw the plan.
- (2) But subsection (1) does not apply to a local development plan at any time after the plan has been submitted for independent examination under section 64 unless—

- (a) the person carrying out the examination recommends that the plan is withdrawn and that recommendation is not overruled by a direction given by the Assembly, or
- (b) the Assembly directs that the plan must be withdrawn.

### **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.

### **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.

### **69 Review of local development plan**

- (1) A local planning authority must carry out a review of their local development plan at such times as the Assembly prescribes.
- (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.

### **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.

## **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).

## **72 Joint local development plans**

- (1) Two or more local planning authorities may agree to prepare a joint local development plan.
- (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 (1) in connection with a joint local development plan.
- (4) Subsections (5) to (7) apply if a local planning authority withdraw from an agreement mentioned in subsection (1).
- (5) Any step taken in relation to the plan must be treated as a step taken by—
  - (a) an authority which was a party to the agreement for the purposes of any corresponding plan prepared by them;
  - (b) two or more other authorities who 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 agreement relates must be suspended.
- (7) If before the end of the period prescribed for the purposes of this subsection an authority 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;

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- (b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.
- (8) A joint local development plan is a local development plan prepared jointly by two or more local planning authorities.

### *Miscellaneous*

#### **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.

#### **74 Urban development corporations**

The Assembly may direct that this Part (except section 60) does not apply to the area of an urban development corporation.

#### **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.

#### **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.

## General

### 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.

### 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) A National Park authority is the local planning authority for the whole of its area and subsection (2) must be construed subject to that.
- (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.

**PART 7**

## CROWN APPLICATION OF PLANNING ACTS

**CHAPTER 1**

## ENGLAND AND WALES

*Crown application***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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.

### *National security*

## **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.

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- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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).”

## **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—

### *“Local inquiries: Wales*

- 8 (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.

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- (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—

*“Local inquiries: Wales*

- 8 (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.”

*Urgent development and works*

## **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—

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- (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—

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“(i) any decision on an application for planning permission under section 293A.”

### **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.



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- (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.”

### *Enforcement*

#### **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.

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- (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.

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- (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.”

### *Trees*

## **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

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(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.”

## **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.”

### *Miscellaneous*

## **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.

## **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.

## **89 Crown application: transitional**

Schedule 4 (which makes transitional provisions in consequence of the application to the Crown of the planning Acts) has effect.

## **CHAPTER 2**

### **SCOTLAND**

#### *Crown application*

## **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,

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- (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.

*National security*

**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.

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- (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.”

### *Urgent development and works*

## 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.”

### 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.”

### *Enforcement*

#### **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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.”

### *Trees*

## **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

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(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.”

## 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.”

### *Miscellaneous*

## 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.

**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.

**PART 8**

## COMPULSORY PURCHASE

*Acquisition of land for development***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.

*Authorisation of compulsory acquisition***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

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- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.

## **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

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- (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 treated 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;

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- (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.

## **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.

#### *Valuation date*

### **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,

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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.”

#### *Advance payments*

### **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 reinstatement).
- (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).”

### *Information*

## **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.”

### *Loss payments*

## **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.

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- (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.

## 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—
- he has a qualifying interest in land for the purposes of section 33A,
  - the land is agricultural land,
  - the interest is acquired compulsorily, and
  - 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—
- 2.5% of the value of his interest;
  - the land amount;
  - 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—

<i>Area of the land</i>	<i>Amount per hectare</i>
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.

### 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).

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- (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.

## 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;

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- (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.

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- (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.”

### *Corresponding amendments of other enactments*

#### **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.

## **PART 9**

### MISCELLANEOUS AND GENERAL

#### *Crown*

#### **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.

#### *Parliament*

#### **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.

*Miscellaneous***113 Validity of strategies, plans and documents**

- (1) This section applies to—
- (a) a revision of the regional spatial strategy;
  - (b) the Wales Spatial Plan;
  - (c) a development plan document;
  - (d) a local development plan;
  - (e) a revision of a document mentioned in paragraph (b), (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.
- (4) But the application must be made not later than the end of the period of six weeks starting with the relevant date.
- (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.
- (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 quash the relevant document—
- (a) wholly or in part;
  - (b) generally or as it affects the property of the applicant.
- (8) An interim order has effect until the proceedings are finally determined.
- (9) The appropriate power is—
- (a) Part 1 of this Act in the case of a revision of the regional spatial strategy;
  - (b) section 60 above in the case of the Wales Spatial Plan or any revision of it;
  - (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 spatial strategy, the date when the Secretary of State publishes the revised strategy under section 9(6) above;
  - (b) for the purposes of the Wales Spatial Plan (or a revision of it), the date when it is approved by the National Assembly for Wales;
  - (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.

#### **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).

#### **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.”

## 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.
- (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.

## 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).

### *General*

## 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.

## **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.

## **120    Repeals**

Schedule 9 contains repeals.

## **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.
- (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

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- (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.

## **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 National Assembly for Wales 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) regulations made by the Secretary of State under section 46;
  - (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 National Assembly for Wales.
- (6) A statutory instrument mentioned in subsection (5)(a), (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.
- (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.

### **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.

### **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.

### **125 Short Title**

This Act may be cited as the Planning and Compulsory Purchase Act 2004.