

These notes refer to the Planning and Compulsory Purchase Act 2004 (c.5) which received Royal Assent on 13th May 2004

PLANNING AND COMPULSORY PURCHASE ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Crown Application of Planning Acts

Section 91: Special provision for certain circumstances where disclosure of information as to national security may occur: Scotland

120. **Section 91** introduces a new section 265A to the principal Scottish planning Act and applies it to the Scottish listed buildings and hazardous substances Acts. This new section has a similar effect to that of sections 321 and 321A of the principal planning Act in England and Wales as amended and introduced by section 80. The new section gives a concurrent power exercisable by either the Scottish Ministers or the Secretary of State to make directions restricting disclosure of specified evidence at inquiry. However, before the Scottish Ministers make such a direction, they are required to consult the Secretary of State. The concurrent power and consultation requirement reflect the fact that national security functions are reserved and planning functions are devolved. The Secretary of State and the Scottish Ministers are given powers to make rules as to the procedure to be followed respectively by them before giving a direction. In addition, the power to appoint special advocates in Scotland is conferred on the Lord Advocate to reflect the differences of the Scottish legal system.