



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 9

#### MISCELLANEOUS AND GENERAL

##### *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.

#### **Commencement Information**

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| <b>I1</b> | S. 118 in force at 6.8.2004 for specified purposes by <a href="#">S.I. 2004/2097, art. 2</a>                         |
| <b>I2</b> | S. 118(1)(3)(4) in force at 28.9.2004 in so far as not already in force by <a href="#">S.I. 2004/2202, art. 3(c)</a> |
| <b>I3</b> | S. 118(2) in force at 28.9.2004 for specified purposes by <a href="#">S.I. 2004/2202, art. 3(c)</a>                  |
| <b>I4</b> | S. 118(2) in force at 12.6.2006 for specified purposes for S. by <a href="#">S.S.I. 2006/268, art. 3(d)</a>          |

#### **119 Transitionals**

- (1) Schedule 8 contains transitional provisions relating to Parts 1 and 2.

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- (2) The Scottish Ministers may by order make such transitional provision for Scotland, corresponding to the provisions of Schedule 4 and to section 30B of the hazardous substances Act (inserted by section 79(3)), as they consider necessary or expedient.

#### Commencement Information

- I5** S. 119(1) in force at 6.8.2004 for specified purposes by S.I. 2004/2097, **art. 2**  
**I6** S. 119(1) in force at 28.9.2004 for E. so far as not already in force by S.I. 2004/2202, **art. 2(g)**  
**I7** S. 119(2) in force at 20.3.2006 by S.S.I. 2006/101, **art. 2**

## 120 Repeals

Schedule 9 contains repeals.

#### Commencement Information

- I8** S. 120 in force at 6.8.2004 for specified purposes by S.I. 2004/2097, **art. 2**  
**I9** S. 120 in force at 28.9.2004 for specified purposes for E.W. by S.I. 2004/2202, **art. 3(d)**  
**I10** S. 120 in force at 12.6.2006 for specified purposes for S. by S.S.I. 2006/268, **art. 3(e)**

## 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.

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- (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.

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