



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### 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;

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- (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;

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- (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
  - (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.

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## 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.