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

INTRODUCTION

1. These explanatory notes relate to the Planning and Compulsory Purchase Act 2004 which received Royal Assent on 13th May 2004. They have been prepared by the Office of the Deputy Prime Minister in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

3. The Act extends to England and Wales with certain provisions extending to Scotland.

SUMMARY

4. The Planning and Compulsory Purchase Act 2004 is a key element of the Government's agenda for speeding up the planning system. The provisions introduce powers which allow for the reform and speeding up of the plans system and an increase in the predictability of planning decisions, the speeding up of the handling of major infrastructure projects and the need for simplified planning zones to be identified in the strategic plan for a region or in relation to Wales. The Act also provides for a number of reforms to make the handling of planning applications by both central government and local authorities quicker and more efficient. There are also provisions to make the planning Acts bind the Crown, fulfilling a long-standing commitment to end the Crown's immunity from the planning system. The provisions relating to compulsory purchase powers and compensation will liberalise the compulsory purchase and compensation regimes. They support policies relating to investment in major infrastructure and regeneration.

BACKGROUND

5. The aim of the Act is to give effect to the Government's policy on the reform of the planning system, the principal features of which were set out in the policy statement *Sustainable Communities – Delivering through Planning* which was published in July 2002. That paper took forward proposals that were outlined in the Green Paper *Planning: Delivering a Fundamental Change,* published in December 2001. The policy on reform of the compulsory purchase system was set out in the Green Paper daughter document *Compulsory Purchase and Compensation: delivering a fundamental change* published in December 2001 and confirmed in the policy statement *Compulsory Purchase Powers, Procedures and Compensation: the way*

forward published in July 2002.

6. In relation to Wales, planning is an area in respect of which functions are devolved to the National Assembly for Wales. The Assembly Government published its own consultation paper: *Planning Delivering for Wales* in January 2002. The Act gives effect to the Assembly Government's policy, formulated in the light of responses to the consultation document, as announced by the Assembly Minister for Environment in November 2002.

THE ACT

7. The Act consists of 9 parts. These are:

- Part 1 – Regional Functions
- Part 2 – Local Development
- Part 3 – Development
- Part 4 – Development Control
- Part 5 – Correction of Errors
- Part 6 – Wales
- Part 7 – Crown Application of Planning Acts
- Part 8 – Compulsory Purchase
- Part 9 - Miscellaneous and General

OVERVIEW

8. Part 1 (which applies only to England) provides that there will be a regional spatial strategy (RSS) for each region. Such regional planning guidance (RPG) as is prescribed by the Secretary of State will become the RSS. In addition, the Secretary of State has power to recognise a body as the regional planning body (RPB) for a region. The RPB must keep the RSS under review and monitor and report on its implementation. The RPB must seek advice from county councils and other types of authorities with strategic planning expertise about keeping the RSS under review and monitoring its implementation and preparing draft revisions of the RSS, and these authorities must provide the advice. The RPB must prepare a draft revision of the RSS when it appears to be necessary or expedient to do so, or at such time as is prescribed. Where the RPB decides to prepare different policies for different areas within the region, the detailed proposals must first be made by an authority with strategic planning expertise. The RPB must prepare, publish and comply with a statement of its polices for involving persons with an interest in preparing draft revisions. The Part makes general provision covering the preparation of draft revisions of the RSS, their submission to the Secretary of State and the holding of examinations in public of draft revisions. The Secretary of State has various default powers and may exercise functions of the RPB where there is no such recognised body in a region. The Secretary of State may by regulations make provision in connection with the exercise by any person of functions under this Part.

9. Part 2 (which also applies only to England) provides for the preparation of local development documents (LDDs). These will replace local plans, unitary development plans and structure plans. Every local planning authority (as defined in the Part) must prepare and maintain a local development scheme. A county council in respect of any part of their area for which there is a district council must prepare and maintain a minerals and waste development scheme.

10. These schemes will set out what LDDs the authority will prepare, their timetable for preparation and whether they are to be prepared jointly with one or more other authorities. County councils in respect of any part of their area for which there is a district council will be able to participate in the preparation of LDDs concerning matters other than minerals and waste by entering a joint committee with one or more local planning authorities. LDDs must be prepared in accordance with the relevant scheme and must be in general conformity with the RSS or the spatial development strategy for London, as appropriate. The Part makes general provision as to the preparation, withdrawal, adoption and approval of LDDs and the examination of development plan documents. The Secretary of State has powers of intervention and may by regulations make provision in connection with the exercise by any person of functions under this Part.

11. Part 3 deals with development. It updates the definition of the development plan to take account of the changes to the planning system made by the Act. It also imposes on those with plan-making functions under Parts 1, 2 and 6 a duty to exercise their functions with the objective of contributing to the achievement of sustainable development.

12. Part 4 deals with development control. Local planning authorities will be able to introduce local permitted development rights by way of local development orders. The Secretary of State will be able to make development orders and regulations prescribing the procedure for making applications for planning permission and certain consents; to prescribe fees and charges for a wider range of planning functions; and set a timetable for "called in" and recovered appeals and connected decisions. The Part provides that local planning authorities may decline to determine applications. It also changes the duration of planning permission and consents. It deals with major infrastructure projects in England, in relation to which the Secretary of State - if he considers the development to be of national or regional importance - may direct that a planning application must be referred to him rather than dealt with by the local planning authority. The Part introduces a new scheme of planning contributions to replace existing provisions relating to planning obligations. The Part amends the provisions for simplified planning zones contained in the Town and Country Planning Act 1990 so that they can only be made where the need for such a zone has been identified in the RSS (or, in relation to Wales, where criteria prescribed by the National Assembly are met). It provides local planning authorities with a new enforcement power to serve temporary stop notices. It introduces a duty for persons or bodies which are required to be consulted to respond to consultation requests within a specified time. It also brings the creation of additional floorspace within buildings under planning control.

13. Part 5 deals with the correction of errors. The Secretary of State or an

inspector may, subject to various conditions, correct errors contained in decision letters where a decision document is issued which contains a correctable error. The Secretary of State or the inspector may correct the letter where he is requested to do so in writing or where he writes to the applicant explaining that he is considering making a correction. The applicant (and, if the applicant is not the owner of the land, the owner of the land as well) must agree to the correction.

14. Part 6 contains Wales-specific sections. It reforms the development plan system in Wales, where a single-tier system of local government and a uniform pattern of unitary development plans were introduced by the Local Government (Wales) Act 1994. The basic pattern of development plans (to be known as local development plans) is to be retained. Each local planning authority in Wales will be required to prepare a local development plan, to review it at intervals and to revise it as necessary. Local development plans will be simpler, more concise documents than the present unitary development plans and will focus on the authority's objectives for the use and development of land in their area and their general policies for implementing them (but with scope for more detailed policies in key localities).

15. Procedures for preparing and revising plans will be simplified. Public participation in formulating plans and expedition in taking them through to adoption are to be maximised through community involvement schemes and timetables agreed between the local planning authority and the National Assembly for Wales (or, if agreement cannot be reached, determined by the Assembly). A shift in the focus of an independent examination of the local development plan towards its overall soundness is intended to encourage examinations to become less adversarial. Provision is also made for the National Assembly for Wales to prepare and publish a national spatial plan for Wales (the "Wales Spatial Plan") to which local planning authorities will be required to have regard when preparing their plans.

16. Part 7 Chapter 1 (sections 79 - 89) ends Crown immunity in the planning system and makes special provision in relation to certain planning applications by or on behalf of the Crown and in respect of enforcement of planning control in relation to the Crown in England and Wales.

17. Part 7 Chapter 2 (sections 90 to 98) makes similar substantive provision for the Scottish planning Acts as does Chapter 1 for England and Wales. The drafting and terminology may differ from that in Chapter 1 because of differences in the text and terminology of the Scottish legislation.

18. The only provisions not carried through are those for transitional arrangements to the Scottish hazardous substances Act and for Notices of Proposed Development. These will be made by order of the Scottish Ministers using the power in section 119(2).

19. Part 8 amends the existing power of local authorities, joint planning boards and National Park authorities under section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily land which is suitable for and required in order to secure the carrying out of development, re-development or improvement. They will be able to acquire land by compulsory purchase if they think that it will facilitate the carrying out of development, re-development or improvement on or in

relation to the land, on condition that such acquisition will be of economic, social or environmental benefit to their area.

20. This Part also amends procedural provisions in the Acquisition of Land Act 1981 for authorising the compulsory purchase of land. A wider category of persons with an interest in land will be entitled to have their objections to the authorisation heard. There is to be a written representations procedure for considering objections to compulsory purchase authorisation when all objectors entitled to be heard consent. There is to be a power to authorise compulsory purchase in stages and, in the case of unopposed compulsory purchase orders which are not made on behalf of a Minister or the National Assembly for Wales for the confirming authority to transfer its determination to the acquiring authority. Further provisions in this Part enable an acquiring authority to requisition for information as to the ownership and occupation of land in certain cases.

21. The Part also contains provisions relating to compensation in respect of land that is compulsorily purchased. These set out the date on which property is to be valued for compensation purposes. In addition, a new statutory scheme is introduced which, subject to certain exceptions, provides for "loss payments" for those owners and occupiers who are not entitled to receive payments under the home loss scheme set out in sections 29 to 33 of the Land Compensation Act 1973.

22. Part 9 deals with miscellaneous and general issues.

TERRITORIAL APPLICATION: WALES AND SCOTLAND

23. Parts 1 and 2 apply only to England and Part 6 applies only to Wales. Part 7 Chapter 1 applies to England and Wales and Part 7 Chapter 2 applies to Scotland. Otherwise, provisions apply (unless otherwise indicated) to both England and Wales. References in these Notes to the Secretary of State are therefore intended (other than in Parts 1 and 2 or where the context otherwise requires) to refer also to the National Assembly for Wales in relation to Wales.

COMMENTARY ON SECTIONS

PART 1: REGIONAL FUNCTIONS

Section 1: Regional spatial strategy

24. Section 1 provides for a regional spatial strategy (RSS) in every region other than London. The RSS must set out the Secretary of State's policies (however expressed) in relation to the development and use of land in the region. These policies must be concerned with the use and development of land, but they need not be directly related to the grant or refusal of planning permission. They could include, for example, congestion charging policies. The RSS can include different policies for different areas within the region.

25. Existing regional planning guidance issued by the Secretary of State will become the RSS. But it is only the regional planning guidance which the Secretary of State prescribes in regulations which will become the RSS. This is to enable the Secretary of State to decide, where there is a range of regional planning guidance in a

region, which should become the RSS.

Section 2: Regional planning bodies

26. Section 2 enables the Secretary of State to recognise a body as the regional planning body (RPB) for a region (and to withdraw that recognition). The Secretary of State must not recognise a body as the RPB unless at least 60% of its members are members of county councils or local planning authorities. Where there is no such body the Secretary of State may himself exercise those functions of an RPB which he thinks appropriate. But it would not be appropriate, for example, for the Secretary of State to report to himself under section 3 on the implementation of the RSS.

27. A change in the membership of a body which is not incorporated does not affect the validity of the Secretary of State's recognition of that body as an RPB. This will prevent the need for the Secretary of State to issue a new direction recognising a body as the RPB every time a member of an unincorporated RPB is replaced.

Section 3: RPB: general functions

28. Section 3 defines the general functions of the RPB. In particular, the RPB must keep the RSS and matters affecting development in its region under review. It must also monitor and report on the implementation of the RSS.

Section 4: Assistance from certain local authorities

29. This section requires an RPB to seek advice from county councils and other types of authorities with strategic planning expertise in keeping the RSS under review and monitoring its implementation and preparing draft revisions of the RSS. These authorities must give this advice. The RPB may make arrangements with these authorities and district councils for the authority or council to discharge functions on its behalf. The section allows the RPB to reimburse an authority for any expenditure incurred under such an arrangement.

Section 5: RSS revision

30. Section 5 explains when a draft revision of the RSS is to be prepared and what matters the RPB must consider when preparing a revision. Along with the draft revision the RPB must prepare, publish and submit a sustainability appraisal of the draft revision, together with any other documents prescribed in regulations, to the Secretary of State. Where the RPB decides to prepare different policies for different areas within the region, the detailed proposals must first be made by an authority with strategic planning expertise. The RPB may withdraw a draft revision at any time before it submits it to the Secretary of State.

Section 6: RSS: community involvement

31. Section 6 requires the RPB to prepare, publish and comply with a statement of its policy for involving interested parties in its functions in relation to preparing a draft RSS revision.

Sections 7-10: RSS

32. These sections set out the Secretary of State's functions in relation to a draft revision of an RSS and provide, as part of the consultation process, for the holding of

an examination in public.

33. Following submission of a draft revision to the Secretary of State, anyone may make representations on the draft and the Secretary of State may arrange for an examination in public. It is the Secretary of State's intention that it will only be in the exceptional circumstances of a minor revision, and subject to the criteria set out in section 7(4), that there will not be an examination. The examination is held before a person appointed by the Secretary of State who must report his findings to the Secretary of State. No one has a right to be heard at the examination. The Secretary of State must consider the report of the examination together with any representations made on the draft RSS (to the extent that these have not already been considered during the course of an examination) before publishing any changes he proposes to make with the reasons for them. After considering any representations on the draft changes, the Secretary of State must publish the revision to the RSS with reasons for any changes unless he withdraws it.

34. The Secretary of State may direct an RPB to prepare a draft revision of the RSS and may specify which aspects of the RSS are to be revised and within what time frame. Where the RPB fails to act in accordance with such a direction, or where the RPB fails to comply with certain regulations made by the Secretary of State, the Secretary of State may prepare a draft revision and make regulations as to the manner in which this will occur. The Secretary of State may revoke all or parts of an RSS if he thinks it necessary to do so.

Section 11 - 12: Regulations and Supplementary

35. Section 11 gives the Secretary of State power to make regulations in connection with the exercise by any person of functions under Part 1. Section 12 provides that the Secretary of State for the purposes of Part 1 is that Secretary of State with general responsibility for planning policy. (The only exception is in relation to national policies and advice contained in guidance to which an RPB must have regard in preparing draft RSS revisions, which may be issued by any Secretary of State.) It defines a region in accordance with the Regional Development Agencies Act 1998.

PART 2: LOCAL DEVELOPMENT

Section 13: Survey of area

36. Section 13 provides for the survey function of local planning authorities. An authority must keep under review matters which are likely to affect the development of their area or the planning of its development. An authority may also keep matters in any neighbouring area under review, to the extent that those matters might affect the area of the authority, and in doing so they must consult the authority for the neighbouring area concerned.

Section 14: Survey of area: county councils

37. Section 14 provides for the survey function of county councils. County councils are to keep matters relating to minerals and waste development under review, as well as certain matters which are required to be kept under review under section 13. The Secretary of State may make regulations requiring or may direct a county council

to keep certain matters under review and to make the results of the review available to such persons as he specifies. With regard to this latter function it is immaterial whether the matters relate to minerals and waste development.

Section 15: Local development scheme

38. Section 15 sets out the roles of the local planning authority and the Secretary of State in relation to an authority's local development scheme. Every local planning authority must prepare and maintain a local development scheme specifying the documents that will be local development documents, their subject matter and area and the timetable for their preparation and revision. The local planning authority must submit their local development scheme to the Secretary of State who can direct changes to the scheme as he thinks appropriate. He can also make regulations for bringing the scheme into effect.

Section 16: Minerals and waste development scheme

39. Section 16 provides for county councils to prepare and maintain minerals and waste development schemes and explains the way in which Part 2 of the Act applies to those schemes. The major difference between a local development scheme and a minerals and waste development scheme is that the provisions in Part 2 on joint committees will not apply to documents prepared under the latter.

Section 17: Local development documents

40. Section 17 makes provision relating to local development documents (LDDs). A local planning authority must include as LDDs in their local development scheme those documents which are prescribed and their statement of community involvement. The LDDs together must set out the authority's policies relating to the development and use of land in their area. In the case of LDDs included in a minerals and waste development scheme, the LDDs together must also set out the authority's policies relating to minerals and waste development. The Secretary of State may prescribe the form and content of LDDs and which descriptions of those documents are development plan documents (which are to be subject to the process of independent examination and which will form part of the authority's development plan).

Section 18: Statement of community involvement

41. Section 18 defines a local planning authority's statement of community involvement as a statement of their policy for involving interested parties in matters relating to development in their area. The statement will apply to the preparation and revision of LDDs and to the exercise of the authority's functions in relation to development control. The statement will be subject to independent examination as if it were a development plan document.

Section 19: Preparation of local development documents

42. Section 19 sets out the requirements for preparing LDDs. The local planning authority must prepare each LDD in accordance with their local development scheme. The authority must have regard to the matters listed in the section, including national policies, the RSS for their region and their community strategy, and must carry out a sustainability appraisal of the proposals in each document. Once the authority have

adopted their statement of community involvement they must comply with it in preparing any local development document.

Section 20: Independent examination

43. Section 20 requires the local planning authority to submit every development plan document to the Secretary of State for independent examination and provides for the arrangements and procedures for the examination. The purpose of the examination will be to determine whether the development plan document is sound and whether it satisfies the requirements relating to its preparation. Any person who makes representations which ask for any matter in the development plan document to be changed has a right to appear in person at the examination. The examination must be carried out by a person appointed by the Secretary of State and that person must make recommendations, which the local planning authority must publish.

Section 21: Intervention by Secretary of State

44. Section 21 allows the Secretary of State, if he thinks an LDD is unsatisfactory, to direct a local planning authority to modify the LDD before it is adopted. It also allows the Secretary of State to direct that a development plan document or any part of it is submitted to him for his approval. If an independent examination of that document is already in process, the person appointed to carry out that examination is required, if he has not already made his recommendations, to report to the Secretary of State, who must publish the person's recommendations. If the Secretary of State's direction is given before the document has been submitted for examination, the Secretary of State is required to hold an examination.

Sections 22-26: Withdrawal, adoption, conformity with regional strategy, revocation and revision of LDDs

45. Sections 22 to 26 deal with the arrangements for LDDs to be withdrawn, adopted, checked for conformity with regional strategy, revoked and revised. A local planning authority can withdraw an LDD at any time before they adopt it. But an authority cannot withdraw a development plan document once it has been submitted for independent examination unless the person carrying out the examination so recommends or the Secretary of State directs the document to be withdrawn. An authority may adopt an LDD which is not a development plan document with or without changes. But it can only adopt a development plan document in accordance with the recommendations of the person appointed to hold the independent examination.

46. LDDs must be in general conformity with the RSS or the Mayor of London's spatial development strategy (as appropriate). (In relation to development plan documents, a local planning authority must request the opinion of the RPB or the Mayor, as applicable, as to the conformity of those documents with the RSS or spatial development strategy.) If the RPB or the Mayor does not believe the LDD to be in general conformity with the appropriate regional strategy, its or his opinion will be treated as a representation seeking a change, and it or he will accordingly have the right to appear in person at the examination. The Secretary of State may, however, direct that the RPB's opinion should be ignored.

47. The Secretary of State may revoke an LDD if an authority ask him to do so. He may also prescribe types of LDD that an authority may revoke without reference to him.

48. An authority may prepare a revision of an LDD at any time, and must prepare a revision if the Secretary of State so directs, adhering to any timetable he sets. Revisions to LDDs must comply with the same requirements as those which apply to the preparation of LDDs.

Section 27: Secretary of State's default powers

49. Section 27 contains default powers for the Secretary of State to prepare or revise development plan documents if he thinks the local planning authority are failing properly to carry out these functions themselves. The authority must reimburse the Secretary of State for any expenditure he incurs in exercising these powers.

Section 28: Joint local development documents

50. Section 28 enables and sets out the arrangements for two or more local planning authorities jointly to prepare an LDD. If an authority withdraw from an agreement to prepare an LDD jointly, it will be possible for the remaining authority or authorities to continue with the preparation of the LDD provided that the document satisfies the conditions required for it to be treated as a "corresponding document".

Section 29-31: Joint committees

51. Sections 29-31 contain provisions for joint committees of one or more local planning authorities and one or more county councils in whose area(s) there are district councils. The Secretary of State may by order constitute a joint committee to be the local planning authority for such area and in relation to such matters as the constituent authorities agree. Provision is also made to enable the joint committee to exercise additional functions where the constituent authorities agree. If a joint committee breaks down, provision is made to enable successor authorities (authorities which were constituent authorities of the joint committee or a successor joint committee) to preserve the effect of the local development scheme or document provided that the scheme or document satisfies the conditions for treatment as a "corresponding" scheme or document.

Section 32: Exclusion of certain representations

52. Section 32 allows the Secretary of State or a local planning authority to disregard representations in relation to an LDD if, in substance, such representations are made in respect of anything that is done or proposed under certain orders or schemes made under the Highways (Miscellaneous Provisions) Act 1961, the Highways Act 1971, the Highways Act 1980, or the New Towns Act 1981. Those Acts set out specific procedures for considering the representations and objections concerned.

Section 33: Urban development corporations

53. Section 33 allows the Secretary of State to direct that Part 2 of the Act does not apply to the area of an urban development corporation. If such a direction is made the local planning authority will not be required to prepare a local development

scheme and local development documents etc in respect of that area.

Section 34: Guidance

54. Section 34 requires a local planning authority to have regard to any guidance issued by the Secretary of State when exercising any function under Part 2.

Section 35: Annual monitoring report

55. Section 35 requires local planning authorities to report annually to the Secretary of State on the implementation of their local development scheme and whether the policies in the local development documents are being achieved. The section also provides powers for the Secretary of State to make regulations prescribing what information an annual report must contain, the period it must cover, when it must be made and the form it must take.

Section 36: Regulations

56. Section 36 gives the Secretary of State power to make regulations in connection with the exercise by any person of functions under Part 2.

Section 37: Interpretation

57. Section 37 defines various terms used in Part 2.

PART 3: DEVELOPMENT

Section 38: Development Plan

58. Section 38 defines the development plan by reference to the simplified hierarchy of plans and documents created by this Act. It also applies the definition to existing relevant legislation.

Section 39: Sustainable development

59. Section 39 imposes a statutory duty on persons and bodies responsible for preparing RSSs and LDDs in England, and the Wales Spatial Plan and local development plans in Wales. It applies therefore to RPBs and local planning authorities in England and local planning authorities in Wales. It also applies where necessary to the Secretary of State in England and the National Assembly for Wales.

60. In exercising those functions, the persons or bodies concerned must do so with the objective of contributing to the achievement of sustainable development. The persons or bodies therefore need to consider how the policies and plans set out in those documents will contribute to this objective. In doing so, they must have regard to policies and guidance on sustainable development issued by the Secretary of State or the National Assembly of Wales.

PART 4: DEVELOPMENT CONTROL

Section 40: Local development orders

61. By providing for local permitted development rights, section 40 introduces a new procedure to allow local planning authorities to expand on the permitted development rights set nationally by way of development orders. A local development

order (LDO) may be made solely to implement policies in one or more development plan documents (or, in Wales, the local development plan). Schedule 1 (which inserts a new Schedule 4A into the Town and Country Planning Act 1990) specifies that the Secretary of State may prescribe the procedure for the making of an LDO, including publicity and consultation requirements.

62. Schedule 1 also allows the Secretary of State (or the National Assembly for Wales) to set out matters which must be included in the annual report by local authorities on the extent to which a LDO is achieving its purposes. It also allows the Secretary of State (or the Assembly) to prescribe the form and content of that report.

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

63. This section introduces a new section (61D) in the Town and Country Planning Act 1990. It enables the Secretary of State to include in a development order, and local planning authorities to include in any LDO, permission for the completion of development for which planning permission is granted by the development order or LDO and which has been started but not completed before that planning permission is withdrawn.

Section 42: Applications for planning permission and certain consents

64. Section 42 amends the powers to make secondary legislation prescribing the form of applications for planning permission and certain consents. It enables a development order to make provision for the procedure for applications for planning permission. This replaces the power in the Town and Country Planning Act 1990 for the Secretary of State to prescribe the procedure by regulations. It also provides new powers to prescribe the form of applications for consent under tree preservation orders, for the display of advertisements and for listed building and conservation area consents.

65. This section also requires applications for planning permission for development to be accompanied by a "design statement", or an "access statement", or both. The contents of the statements, and the types of development to which they will apply, would be prescribed by regulations or in a development order.

Section 43: Power to decline to determine applications

66. Section 43 extends a local planning authority's existing powers to decline to determine applications for planning permission. It also applies to applications for listed building consent and conservation area consent and the prior approval of a local planning authority for development which is permitted by virtue of a development order.

67. A local planning authority's existing powers allow it to decline to determine an application for planning permission which is the same or substantially the same as an application which, within the previous two years, the Secretary of State has called in and refused, or which the Secretary of State has dismissed on appeal.

68. The section allows a local planning authority to refuse to determine a planning application where it has refused two similar applications and there has been no appeal

to the Secretary of State in the two year period preceding the submission of the application.

69. In addition, the section allows an authority to decline to determine an application if they think that it is similar to another application which has not been finally determined (either by the authority or on appeal by the Secretary of State).

Section 44: Major infrastructure projects

70. Section 44 applies only to England and provides for sections 76A and 76B to be inserted in the Town and Country Planning Act 1990. It allows the Secretary of State to call in any application for planning permission, or an application for the approval of a local planning authority required under a development order, if he thinks that the development to which the application relates is of national or regional importance. Other related applications must also be referred to him. The Secretary of State must appoint an inspector to consider the application. The Secretary of State himself, rather than the local planning authority, will make the decision, based on the advice of an inspector.

71. Consideration of any application referred to the Secretary of State may be made either by a single inspector as at present, or by a lead inspector and a number of additional inspectors appointed by the Secretary of State. It enables additional inspectors to hear evidence on matters as directed by the lead inspector but independently from him. Each additional inspector must report to the lead inspector on the matter he is appointed to consider. In every case the lead inspector must report to the Secretary of State on his consideration of the application and the consideration of any additional inspector.

Section 45: Simplified planning zones

72. Section 45 amends the provisions in the Town and Country Planning Act 1990 regarding the power available to local planning authorities to make simplified planning zones. It is intended to facilitate the designation by local planning authorities of simplified planning zones where the need for such areas has first been identified in the regional spatial strategy (or in the spatial development strategy in London, or by the National Assembly for Wales). An authority must make a simplified planning zone if directed to do so by the Secretary of State (or the Assembly).

Section 46: Planning contribution

73. Section 46 empowers the Secretary of State to make regulations which will enable planning contributions to be made in relation to the development or use of land in the area of a local planning authority. The local planning authority could be required by the regulations to set out in a document:

- which developments and uses they will seek contributions for;
- where they will not seek a contribution;
- the purposes to which receipts from contributions may be made, either in whole or in part;

- the criteria for determining the value of the contribution.

The contributor may make a contribution either by the optional planning charge ('the prescribed means') or by a means agreed by negotiation (the 'relevant requirements'), or by a combination of both. The prescribed means could consist of the payment of a sum, or the provision of a benefit in kind, or a combination of both. Section 46 also provides for regulations to prescribe circumstances in which the contribution, if made by the prescribed means, may not also be made by meeting the relevant requirements, and vice versa.

Section 122(5)(a) and 122(6) provide that any regulations made under Section 46 should be subject to the affirmative resolution procedure.

Section 47: Planning contribution: regulations

74. Section 47 sets out the range of powers in the regulations for defining the scope of contributions. It allows the Secretary of State to provide:

- maximum and minimum contributions via the prescribed means; and to periodically adjust the criteria by reference to which the value of a contribution made by the prescribed means is to be determined;
- a requirement to publish an annual report in relation to planning contributions;
- the procedure for preparing the document referred to above (in which the local planning authority sets out matters relating to planning contributions), where this is not a development plan document, and the circumstances in which the Secretary of State might take steps in relation to its preparation;
- provisions relating to enforcement, modification and discharge of planning contributions;
- a provision requiring that the local authority may only spend receipts from prescribed means on matters identified in the document referred to above;
- a provision enabling the terms of the planning contribution to be set out in writing.
- a provision to allow the Secretary of State to make different provision in different areas or local authorities.

Section 48: Planning contribution: Wales

75. Section 48 sets out the terms for operating planning contributions in Wales. It:

- confers on the National Assembly for Wales the same powers in relation to planning contributions as the Secretary of State has for England;
- substitutes the local development plan for any reference to the development plan document.

Section 49: Development to include certain internal operations

76. Section 49 amends the definition of development in Section 55(2) of the Town and Country Planning Act 1990 so as to bring the creation of additional floorspace within buildings under planning control. Secondary legislation will enable the

Secretary of State, by development order, to bring specified proposals for the provision of additional floorspace in existing buildings within the definition of "development".

Section 50: Appeal made: functions of local planning authority

77. Section 50 inserts a new section 78A into the Town and Country Planning Act 1990. Its intention is to allow a short period of dual jurisdiction between the Secretary of State and the local planning authority where an appeal has been made against non-determination of a planning application by that authority.

78. This provision applies where an applicant appeals to the Secretary of State on the grounds that the local planning authority have not determined his planning application within the prescribed period (8 weeks). Once an appeal has been made, jurisdiction to decide whether to grant planning permission passes to the Secretary of State. The local planning authority cannot determine the application, even in circumstances where the local planning authority would have been in a position to do so shortly after the prescribed period.

79. The purpose of this new section is to allow an additional period of time (to be prescribed by the development order) in which the local planning authority could still issue its decision even though an appeal has been lodged. The period of "dual jurisdiction" would have effect where an appeal against non-determination has been lodged after the 8 week deadline.

80. In such cases the appeal will progress under the usual procedures - for example if the local planning authority refuse planning permission, then the appeal (against non-determination) would become an appeal against refusal. If the local planning authority grant permission, the appellant may withdraw the appeal, proceed with the appeal or revise the grounds of appeal (for example, an appeal against conditions which may have been imposed).

Section 51: Duration of permission and consent

81. Section 51 amends sections 73, 91 and 92 of the Town and Country Planning Act 1990 and sections 18 and 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It reduces the period of validity of a planning permission, a listed building consent and a conservation area consent from five to three years. But local planning authorities may still direct longer or shorter periods where this would be appropriate. It also prevents an extension to the agreed period of validity without the submission of a new application.

Section 52: Temporary Stop Notice

82. Section 52 inserts new sections 171E - 171H into the Town and Country Planning Act 1990. It provides local planning authorities with a new discretionary power to serve temporary stop notices to halt breaches of planning control for a period of up to 28 days. It gives them the means to prevent unauthorised development at an early stage without first having had to issue an enforcement notice. It allows them up to 28 days to decide whether further enforcement action is appropriate and what that action should be, without the breach intensifying by being allowed to continue.

83. The new sections set out how the notice must be issued, what the notice should say about the activities that should stop, and on whom the notice should be served. The temporary stop notice has effect immediately but ceases to have effect after 28 days, unless it is withdrawn earlier. It also sets out what the offences are for contravening a temporary stop notice and the arrangements for compensation.

84. There is also provision for the Secretary of State to prescribe in regulations other activities that a temporary stop notice shall not apply to, even though those activities are in breach of planning control. Regulations may set out these activities either by describing them or by setting out circumstances when an activity cannot be prohibited by a temporary stop notice. This section also sets out when second or subsequent temporary stop notices can be used.

Section 53: Fees and charges

85. Section 53 amends section 303 of the Town and Country Planning Act 1990. Section 303 enables the Secretary of State to prescribe planning fees for applications made to local planning authorities under the planning Acts (by instrument subject to affirmative resolution). The planning Acts are the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990. The section widens the scope of that power so as to enable the Secretary of State to provide for the payment of both charges and fees relating to planning applications and other functions of local planning authorities. The section also widens the scope for how the charge or fee is set, including the provision to allow local planning authorities to set their own fees, subject to the provision that taking one year with another they do not make a profit. The section allows the Secretary of State to prescribe that no charge or fee is payable in relation to specific activities.

Section 54: Duty to respond to consultation

86. Section 54 introduces a requirement that those persons or bodies which are required to be consulted by the Secretary of State, the National Assembly for Wales or a local planning authority (as the case may be) before the grant of any permission, approval or consent under the planning Acts must respond to consultation requests within a prescribed period. It also applies to consultation by any other person prior to an application for any permission, approval or consent. Secondary legislation will specify to which consultation requirements the duty to respond will apply and the prescribed period.

87. The section also gives the Secretary of State power to require reports on the performance of consultees in meeting their response deadlines.

Section 55: Time in which Secretary of State to take decisions

88. Section 55 and Schedule 2 require that the Secretary of State must set a timetable for his decisions on "called in" planning applications and recovered appeals, together with any other decisions for which he is responsible and which are connected to those decisions. The Secretary of State is required to tell parties which timetable applies to the decision in question. At this stage he is able to vary the standard timetable if necessary for the purposes of the decision. He will also be able to revise a

timetable subsequently if events arise which prevent the set timetable from being met. Where the Secretary of State fails to meet a timetable he must give reasons for that failure. The Secretary of State will be required to report to Parliament each year on his performance under these provisions. This section does not apply to decisions in relation to which the function has been transferred to the National Assembly for Wales.

PART 5: CORRECTION OF ERRORS

Sections 56-59: Correction of errors in decisions

89. These sections deal with the introduction of a "slip rule" for certain decisions made by the Secretary of State or an inspector under the planning Acts. The Secretary of State and planning inspectors will have power, subject to various conditions, to correct specified types of errors contained in decision letters.

90. This section applies if the Secretary of State or an inspector issues a decision document which contains a correctable error. "Correctable error" is defined as an error which is contained in any part of the decision document which records the decision but which is not part of any reasons given for the decision. The Secretary of State or the inspector may correct the error where he is requested to do so in writing, or where he has written to the applicant explaining that he is considering making a correction.

Section 57: Correction notice

91. Section 57 provides that the exercise of the power of correction will be by written notice (a "correction notice") which will either specify the correction which has been made or give notice that the power to correct the decision has not been used. The section also specifies on whom the correction notice or decision not to correct must be served.

Section 58: Effect of correction

92. Section 58 sets out the status of decisions which have been corrected and of decisions where it has been decided not to make a correction. Where a correction to the original decision is made, the original decision will be treated as though it had never been made. The corrected decision will be treated as having been made on the date the relevant correction is made and the statutory period for challenging the corrected decision will start to run from that date. Any person wishing to challenge the decision is therefore not prejudiced by the time taken to correct the decision. Where a decision not to correct has been made, the original decision will stand and the statutory period for challenge will be unaffected.

PART 6: WALES

Section 60: Wales Spatial Plan

93. Section 60 introduces a statutory footing for the National Assembly for Wales to prepare, approve and publish a spatial plan for Wales, the Wales Spatial Plan (WSP). The WSP will set out such policies as the Assembly considers appropriate in relation to the development and use of land in Wales. The Assembly is required to

carry out consultation in making the WSP. The Assembly must not delegate the function of approving the WSP (which will thus require the approval of the Assembly in plenary session). The Assembly will be required to keep the WSP under review and to revise it when necessary.

Section 61: Survey

94. Section 61 sets out matters which local planning authorities must keep under review as these matters may affect the development of their area or the planning of its development. It replaces the existing survey functions of local planning authorities as set out in sections 11 and 30 of the Town and Country Planning Act 1990.

Section 62: Local development plan

95. Section 62 makes provision for local planning authorities to prepare local development plans (LDPs) setting out their objectives in relation to the use and development of land in their area and their general policies for the implementation of those objectives. More detailed policies for specific areas may also be included. The section sets out matters, including the WSP, to which authorities are to have regard when preparing LDPs. LDPs must be subjected to a sustainability appraisal. The National Assembly for Wales may make regulations about the form and content of LDPs.

Section 63: Preparation requirements

96. Section 63 requires LDPs to be prepared in accordance with a community involvement scheme and a timetable. It defines a community involvement scheme as the local planning authority's policy for involving other persons in the authority's functions under this Part. It requires the authority and the Assembly to attempt to agree the terms of the scheme and timetable and provides a power of direction for the Assembly where agreement is not possible.

Section 64: Independent examination

97. This section requires the authority to submit their LDP to the Assembly for independent examination by a person appointed by the Assembly. It states that the purpose of the examination is to examine whether an LDP meets the statutory requirements relating to its content and preparation and whether it is sound.

Section 65: Intervention by Assembly

98. Section 65 allows the Assembly to intervene if it believes that an LDP is unsatisfactory. In such a situation, if the LDP has not been adopted, the Assembly may direct that an authority must modify its LDP. The Assembly may also call the LDP in for approval by it. If an independent examination of the called in LDP is already in process, the person appointed to carry out that examination is required to report to the Assembly, which must publish the person's recommendations. If the Assembly's direction is given before the document has been submitted for examination, it is required to hold an examination.

Section 66: Withdrawal of local development plan

99. Section 66 enables a local planning authority to withdraw an LDP before it is

adopted. However, if the LDP has been submitted for independent examination, it can be withdrawn only on the recommendation of the person carrying out that examination or following a direction by the Assembly.

Section 67: Adoption of local development plan

100. Section 67 provides for LDPs to be formally adopted by local planning authorities, either as originally prepared or with modifications (in accordance with the recommendation of the person who carried out the independent examination). The Assembly may direct the authority not to adopt an LDP.

Section 68: Revocation of local development plan

101. Section 68 enables the Assembly to revoke an adopted LDP at the request of a local planning authority.

Section 69: Review of local development plan

102. Section 69 requires a local planning authority to review an LDP at such times as the Assembly may prescribe and to report to the Assembly on the findings of the review.

Section 70: Revision of local development plan

103. Section 70 empowers a local planning authority to revise an LDP at any time. If a review under section 69 indicates that they should do so, or they are directed to do so by the Assembly, then they must carry out a revision. The procedures relating to preparation of an LDP also apply to revisions.

Section 71: Assembly's default power

104. Section 71 enables the Assembly to prepare, revise or approve an LDP if it believes the local planning authority is failing properly to carry out the function itself. The authority must reimburse the Assembly for any expenditure it incurs in exercising these powers.

Section 72: Joint local development plans

105. Section 72 enables two or more local planning authorities jointly to prepare an LDP and sets out the arrangements which are to apply in such a case. If an authority withdraw from an agreement to prepare an LDP jointly, it will be possible for the remaining authority or authorities to continue with the preparation of the LDD provided that the LDP satisfies the conditions required for it to be treated as a "corresponding document".

Section 73: Exclusions of certain representations

106. Section 73 reproduces in relation to the making of LDPs by local planning authorities in Wales the effect of section 32 in relation to local development documents.

Section 76: Annual monitoring report

107. Section 76 requires a local planning authority to report annually to the Assembly on the extent to which the objectives set in the LDP are being achieved. It provides a power for the Assembly to prescribe in regulations the timing, form and

content of the report.

PART 7: CROWN APPLICATION OF PLANNING ACTS

Section 79: Crown application of planning Acts

108. This section makes each of the planning Acts bind the Crown, subject to certain provisions and exceptions. The planning Acts are the Town and Country Planning Act 1990 ("the principal Act"), the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the listed buildings Act") and the Planning (Hazardous Substances) Act 1990 ("the hazardous substances Act"). Section 79 also introduces Schedule 3, which amends the planning Acts to take account of Crown application.

Section 80: Special provision relating to national security

109. Section 80 deals with the arrangements for planning inquiries where matters of national security are at issue. It adds eight new subsections to section 321 of the principal Act and a new section 321A. Section 321 provides that all oral evidence at planning inquiries must be heard in public, and that documents must be open to public inspection. There is, however, an exception. This is when there would be public disclosure of information relating to national security or to the security of any premises or property, and that public disclosure would be contrary to the national interest. The new provisions provide for the appointment and functions of a special advocate to represent the interest of those people who are prevented from seeing the sensitive material. They also provide for the payment of the special advocate, whether or not an inquiry takes place. The remainder of section 80 repeats these provisions for the listed buildings Act and the hazardous substances Act.

Section 81: Special provision relating to national security: Wales

110. Section 81 sets out how the arrangements as described in section 80 will differ for inquiries in Wales, again set out three times, once for each of the planning Acts.

Section 82: Urgent Crown development

111. Section 82 contains the urgency procedures for Crown applications. It provides that where the appropriate authority (as defined in section 293 of the principal Act) certifies that the development is of national importance and that it is necessary that the development is carried out urgently, the appropriate authority may apply directly to the Secretary of State instead of to the local planning authority. The appropriate authority must provide the Secretary of State with all the necessary documentation, including an environmental statement, if required. The application is to be treated as if it were a "called-in" application. This will mean that the Inquiries Procedure Rules apply, enabling complementary changes to the Rules to be made to shorten the period leading up to the public inquiry.

Section 83: Urgent works relating to Crown land

112. This section provides for a procedure for works to Crown land under the listed buildings Act that is an almost identical procedure to that under section 82. This provision is designed for development works to listed buildings, not for repairs or

remedial works.

Section 84: Enforcement in relation to Crown land

113. This section provides that the Crown should remain immune from prosecution for any offence under the planning Acts. Local planning authorities will be able to initiate enforcement action by serving enforcement notices or issuing revocation orders etc, but will not be able to enforce them by entering land, bringing proceedings or making applications to the court without the permission of the appropriate authority.

Section 85: Tree preservation orders affecting land where the Forestry Commissioners interested

114. Section 85 provides that any tree preservation orders made on land placed at the disposal of the Forestry Commission do not apply to prevent forestry operations undertaken by the Commission.

Section 86: Trees in conservation areas: acts of Crown

115. Section 86 prohibits the Crown from doing any act to a tree in a conservation area which might be prohibited by a tree preservation order, unless it serves notice of its intention on the local planning authority and does the act either with the consent of the authority or between six weeks and two years after the date of the notice.

Section 87: Old mining permissions

116. This section deals with old mining permissions granted in the period 1943-1948 that were validated by the 1947 Town and County Planning Act. The section enables Crown bodies holding such permissions to have the opportunity to register such permissions and apply for the determination of new conditions, on the same terms that applied to all other permissions when the Planning and Compensation Act 1991 was implemented.

Section 88: Subordinate legislation

117. Section 88 provides the Secretary of State with a power to make an order to simplify the application of existing planning subordinate legislation to the Crown, with or without modifications.

Section 89: Crown application: transitional

118. This section introduces Schedule 4 which makes transitional provisions to deal with Notices of Proposed Development submitted by the Crown to the local planning authority in accordance with the guidelines set out in DOE Circular 18/84.

Section 90: Crown application of Scottish planning Acts

119. Section 90 creates an equivalent provision to section 79 for the principal Scottish planning Act, the Scottish listed buildings Act and Scottish hazardous substances Act, with the exception of the transitional arrangements for hazardous substances. The Scottish Executive intend that corresponding transitional provisions will be made by subordinate legislation in Scotland. Section 90 also introduces Schedule 5, which amends the Scottish planning Acts to take account of Crown

application.

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

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

Section 92: Urgent Crown development: Scotland

121. Section 92 provides for similar procedures to those set out in section 82 in relation to the Scottish principal planning Act.

Section 93: Urgent works relating to Crown land: Scotland

122. Section 93 provides for similar procedures to those set out in section 83 in relation to the Scottish listed buildings Act.

Section 94: Enforcement in relation to Crown land: Scotland

123. Section 94 makes amendments to Scottish planning legislation along the same lines as section 84. It introduces new sections 245A (Enforcement in relation to the Crown) and 245B (References to an interest in land) to the principal Scottish planning Act. It also introduces equivalent amendments to the Scottish listed buildings Act (new sections 73D and 73E) and the Scottish hazardous substances Act (new sections 30B and 30C).

Section 95: Tree preservation orders: Scotland

124. Section 95 amends section 162 of the principal Scottish planning Act in a virtually identical way to the amendment of section 200 of the principal Act under section 85.

Section 96: Trees in conservation areas in Scotland: acts of Crown

125. Section 96 amends section 172 of the principal Scottish planning Act in a virtually identical way to the amendment of section 211 of the principal Act under section 86.

Section 97: Old mining permissions: Scotland

126. Section 97 makes changes to Scottish planning legislation similar to those made by section 87 for England and Wales.

Section 98: Subordinate legislation: Scotland

127. Section 98 provides a similar power to the Scottish Ministers to that provided by section 88 for the Secretary of State.

PART 8: COMPULSORY PURCHASE

Section 99: Compulsory acquisition of land for development etc

128. Section 99 amends the basis upon which a local authority may acquire land compulsorily for the carrying out of development, redevelopment or improvement. The authority will be able to acquire land if they think the carrying out of development, re-development or improvement is likely to be of economic, social or environmental benefit to their area. A local authority is defined by section 226(8) of the Town and Country Planning Act 1990 as a council of a county, county borough, district or London borough. A joint planning board and a National Park authority may exercise the same power.

Section 100: Procedure for authorisation by authority other than a Minister

129. Section 100 amends the procedure for the making and confirmation of non-ministerial compulsory purchase orders set out in the Acquisition of Land Act 1981 to achieve the following :

- extend the categories of persons with interests in land who are entitled to be served with notice of the making of the order and who have a right to have any objections heard at a public local inquiry;
- require the fixing of notices of the making of an order on or near the order land;
- provide for objections to an order to be considered by means of written representations in accordance with a prescribed procedure (as an alternative to an inquiry or hearing) where all those with remaining objections consent, and to provide for awards of costs where the written representations procedure is followed;
- allow confirmation of orders in stages; and
- extend the existing requirement to give notice of confirmation of an order to include fixing a notice on or near the order land.

130. The intention behind all these changes is to make the statutory procedures fairer and quicker.

Section 101: Procedure for authorisation by a Minister

131. Section 101 amends the procedure for the preparation in draft and the making of a ministerial compulsory purchase order under Schedule 1 to the Acquisition of Land Act 1981 in a similar manner to the amendments in section 100 for the making and confirmation of non-ministerial compulsory purchase orders, other than provision for an award of costs.

Section 102: Confirmation by acquiring authority

132. Section 102 inserts a new section 14A into the Acquisition of Land Act 1981 to enable the confirming authority for a compulsory purchase order to transfer the decision whether or not to confirm to the acquiring authority. This power may only be exercised if there are no objections to the order and certain other specified conditions are met. This is intended to help to speed up the confirmation of unopposed compulsory purchase orders, and should be particularly helpful in situations where, as part of a wider land assembly exercise, an acquiring authority needs to exercise its compulsory purchase powers in order to acquire title to land in unknown ownership.

Section 103: Assessment of compensation: valuation date

133. Section 103 amends the Land Compensation Act 1961 which sets out the basic rules for assessing compensation on the compulsory purchase of land. It inserts a new section 5A which sets out the date on which the value of the land is to be assessed for the purpose of determining the amount of compensation payable.

Section 104: Compensation: advance payments to mortgagees

134. Section 104 inserts three new sections (52ZA, 52ZB and 52ZC) into the Land Compensation Act 1973 (the 1973 Act). These new sections make it possible for advance payments of the compensation due to a claimant following the compulsory purchase of his land to be paid direct to his mortgagee where appropriate.

Section 105: Power to require information

135. Section 105 inserts two new sections into the Acquisition of Land Act 1981.

136. New section 5A gives an acquiring authority the power to require it to be provided with the names and addresses of those who own, occupy or are believed to have an interest in land if the authority has a statutory power to acquire compulsorily. The power may only be exercised for the purpose of enabling the authority to acquire the land. Such a power will enable an acquiring authority to ascertain ownership and occupation of land for the purpose of early negotiations for purchase by agreement and for service of notices on the appropriate persons set out in sections 98 and 99 in any subsequent exercise of compulsory purchase powers.

137. New section 5B makes failure to provide such information without reasonable excuse or knowingly to provide materially false information an offence. Conviction can result in a fine on level 5 on the standard scale (currently £5,000 maximum).

Sections 106-109: Loss payments

138. Sections 106 to 109 introduce a new statutory scheme in the Land Compensation Act 1973, which will operate in addition to the home loss scheme set out in that Act. It replaces the existing farm loss payments scheme. The new provisions allow for "loss payments" to be made to those who have a certain interest in property, but who are not entitled to receive home loss payments under the home loss scheme set out in sections 29 to 33 of the 1973 Act.

Section 106: Basic loss payment

139. Section 106 introduces a new section 33A to the Land Compensation Act

1973. This new section provides that a person who is an owner or tenant of property that is compulsorily acquired (and who has held that interest for no less than a year) is entitled to a payment called a "basic loss payment". This payment will be made in addition to the compensation paid for the value of his or her interest in the property and his or her disturbance costs. The amount of this payment is to be assessed at the rate of 7.5% of the value of the person's interest, subject to a maximum of £75,000. If the person is entitled to a home loss payment in respect of any part of the property which is a dwelling, the value of the interest in the dwelling part of the property must be deducted from the value of the interest in the whole when assessing the basic loss payment.

140. The basic loss payment will not be available in respect of compulsory acquisitions which are made before these provisions of the Act are brought into force.

Section 107: Occupier's loss payment

141. Section 107 inserts a new section 33B and a new section 33C into the Land Compensation Act 1973. Section 33B relates to occupiers of agricultural land that is compulsorily acquired. Section 33C relates to occupiers of non-agricultural land that is compulsorily acquired. Both sections provide for the payment of what is called an "occupier's loss payment" (in addition to the basic loss payment) to any person who satisfies the conditions for the basic loss payment and who has also occupied the land being acquired for a period of no less than a year. The amount of the payment is assessed at a rate of 2.5% of the value of the occupier's interest, or on the basis of a formula based on the area of the land or the floor space of the building being acquired, whichever gives the greatest figure, in each case subject to a maximum of £25,000. Again, if part of the property is a dwelling in respect of which the person could claim a home loss payment, the value of the interest in the dwelling must be deducted from the value of the interest in the whole when assessing the occupier's loss payment.

142. The occupier's loss payment will not be available in respect of compulsory acquisitions which are made before these provisions of the Act are brought into force.

Section 108: Loss payments: exclusions

143. Section 108 inserts a new section 33D into the Land Compensation Act 1973 which excludes entitlement to loss payments in certain situations. These are where an acquiring authority has exercised its compulsory purchase powers as a result of a failure to comply with the requirements of one of the notices specified in this section, or as a result of a person having had one of the specified orders served upon him. These notices and orders deal with the neglect of property. The purpose of this section is therefore to prevent those whose neglect has prompted a compulsory purchase order from benefiting from that neglect.

Section 109: Loss payments: supplementary

144. Section 109 inserts sections 33E to 33K into the Land Compensation Act 1973. It sets out the supplementary provisions required to operate the loss payment scheme, covering: the arrangements for making a claim; who can make a claim if the person who is entitled to do so is insolvent or dies; situations of dual entitlement to

both an occupier's loss payment in respect of agricultural land and a payment by virtue of the Agriculture (Miscellaneous Provisions) Act 1968 (which deals with additional payments consequent on compulsory acquisition of agricultural holding); date of payment by acquiring authorities, advances of payment and interest and acquisitions by agreement between an authority and a person entitled to a loss payment.

145. The Secretary of State may make regulations to amend any of the figures or percentages specified in the newly inserted sections of the 1973 Act. For any changes to percentages or to amounts not based on changes in the value of money or land, the regulations would be subject to the affirmative resolution procedure in Parliament.

Section 110: Corresponding amendments of other enactments

146. Section 110 is applicable to an enactment in which provision is made for the compulsory acquisition of an interest in land, or the interference with or affectation of any right in relation to land, or for the payment of compensation as a result. The Secretary of State may by order amend such an enactment so that its provisions correspond to or apply those contained in Part 8 of the Act. Any such orders would be subject to the affirmative resolution procedure in Parliament.

PART 9: MISCELLANEOUS AND GENERAL

Section 113: Validity of strategies, plans and documents

147. The purpose of this section is to prescribe the procedure to be followed in relation to a challenge to any of the specified documents (including a revision of an RSS, the WSP, a development plan document or an LDP). It also sets out the circumstances in which such a challenge may be made. These are when a specified document is in some respect outside the scope of the powers under which it should have been made; and/or where a procedural requirement has not been complied with in relation to a document.

Section 114: Examinations

148. Section 114 defines independent examinations under Part 2 or Part 6 of the Act as statutory inquiries. This means that the Tribunals and Inquiries Act 1992 will apply to such examinations and thus that the Lord Chancellor is able to make procedural rules in relation to them.

Section 115: Grants for advice and assistance

149. Section 115 introduces a new section into the Town and Country Planning Act 1990 to allow the Secretary of State or the National Assembly for Wales to give grants to bodies, such as Planning Aid, which provide advice and assistance on all aspects of the planning process.

Section 117: Interpretation

150. Section 117 provides that expressions used in the Act (unless otherwise indicated) are to have the same meaning as expressions used in the planning Acts.

Section 118: Amendments

151. This section introduces Schedules 6 and 7. Schedule 6 makes amendments to the planning Acts; Schedule 7 makes amendments to other legislation. All these amendments are consequential upon the provisions of the Act.

Section 119: Transitionals

152. This sections introduces Schedule 8, which sets out transitional arrangements. These arrangements concern various plans made under the Town and Country Planning Act 1990 and will have effect from the commencement of the relevant provisions of the Act until either the end of the three year transitional period or the adoption, publication or approval of a new policy to replace the relevant plan. Section 119 also gives the Scottish Ministers a power to make an order containing transitional provisions for Crown development under the current arrangements and for the Scottish hazardous substances Act.

Section 122: Regulations and orders

153. Section 122 refers to the requirement for subordinate legislation to be exercised by statutory instrument. It also enables such subordinate legislation to include supplementary, incidental, consequential, saving or transitional provisions.

COMMENCEMENT

154. Section 121 enables the Secretary of State to bring the provisions of the Act (except section 115 and the provisions specified in subsections (4), (5) and (6)) into force on such day as he appoints. In relation to the bringing into force of certain provisions he is required to consult the National Assembly for Wales or the Scottish Ministers. The Assembly will bring into force by order the provisions of Part 6. The Scottish Ministers will bring into force by order the provisions listed in subsection (4).

155. Section 115 came into force upon Royal Assent. Without the new power the Secretary of State (or the Assembly) was not able to fund the entire range of work undertaken by bodies such as Planning Aid. The commencement of this provision on Royal Assent ensured that a suitable funding mechanism would be in place as soon as possible.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	4 December 2002	Vol. 395 Col 910
Second Reading	17 December 2002	Vol. 396 Col 729
Committee	9 January 2003 - 28 January 2003	Hansard Standing Committee G

Motion to carry over	10 June 2003	Vol. 406 Col 543
Motion to extend proceedings	10 June 2003	Vol. 406 Col 572
Motion to recommit	10 June 2003	Vol. 406 Col 599
Recommittal	14 October 2003 - 23 October 2003	Hansard Standing Committee A
Reintroduction	1 December 2003	Vol. 415 Col 238
Report and Third Reading	8 December 2003 9 December 2003	Vol. 415 Col 783 Vol. 415 Col 932
House of Lords		
Introduction	10 December 2003	Vol. 655 Col 756
Second reading	6 January 2004	Vol. 656 Col 98
Committee	20 January 2004 22 January 2004 27 January 2004 29 January 2004 2 February 2004 5 February 2004	Vol. 656 Col 918 Vol. 656 Col 1146 Vol. 657 Col 100 Vol. 657 Col 323 Vol. 657 Col 486 Vol 657 Col 849
Report	24 February 2004-05-19 1 March 2004-05-19 16 March 2004	Vol. 658 Col 130 Vol. 658 Col 451 Vol. 658 Col 230
Third Reading	25 March 2004	Vol. 259 Col 866
House of Commons		
Commons Consideration of Lords Amendments	19 April 2004	Vol. 420 Col 38
House of Lords		
Lords Consideration of Commons Amendments	26 April 2004	Vol. 660 Col 562
House of Commons		
Commons Consideration of Lords Message	29 April 2004	Vol. 420 Col 1036
House of Lords		
Lords consideration of Commons Amendments	11 May 2004	Vol. 661 Col 151

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

House of Commons		
Commons Consideration of Lords Amendments	12 May 2004	Vol. 421 Col 414

Royal Assent - 13 May 2004

House of Commons Vol. 421 Col 536
House of Lords Vol. 661 Col 506

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