Town and Country Planning Act 1990

1990 CHAPTER 8

PART I

PLANNING AUTHORITIES

Modifications etc. (not altering text)

C1 Pt. I (ss. 1–9) applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), s. 81, **Sch. 4**
PT. I (ss. 1-9) applied (23.11.1995) by 1961 c. 33, **s. 39(1)** (as amended (23.11.1995) by 1995 c. 25, s. 78, Sch. 10 para. 4 (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**)

1 Local planning authorities: general.

(1) In a non-metropolitan county—

(a) the council of a county is the county planning authority for the county, and

(b) the council of a district is the district planning authority for the district,

and references in the planning Acts to a local planning authority in relation to a non-metropolitan county shall be construed, subject to any express provision to the contrary, as references to both the county planning authority and the district planning authorities.

[F1(1A) Subsection (1) does not apply in relation to Wales.

F1(1B) In Wales—

(a) the local planning authority for a county is the county council; and

(b) the local planning authority for a county borough is the county borough council.**]**

(2) The council of a metropolitan district is the local planning authority for the district and the council of a London borough is the local planning authority for the borough.

(3) In England (exclusive of the metropolitan counties, Greater London and the Isles of Scilly) F2. . . all functions conferred on local planning authorities by or under the

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planning Acts shall be exercisable both by county planning authorities and district planning authorities.

(4) In this Act "mineral planning authority" means—

(a) in respect of a site in a non-metropolitan county, the county planning authority; and

(b) in respect of a site in a metropolitan district or London borough, the local planning authority.

[F3(4A) Subsection (4) does not apply in relation to Wales.

F3(4B) As to any site in Wales, the local planning authority is also the mineral planning authority.**]**

(5) This section has effect subject to any express provision to the contrary in the planning Acts and, in particular—

(a) **[**F4this section has**]** effect subject to **[**F5sections 4Ato**][**F6 8A**]** of this Act F7. . .; **[**F8and**]**

(b) subsections **[**F9(1) to (2)**]** have effect subject to sections 2 and 9; and

(c) subsection (3) has effect subject to F10. . . Schedule 1 (which contains provisions as to the exercise of certain functions under this Act by particular authorities and liaison between them).

[F11(6) The exercise, in relation to Wales, of functions conferred on local planning authorities is subject to F12. . . Schedule 1A.**]**

Textual Amendments

F1 S. 1(1A)(1B) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F2 Words in s. 1(3) repealed (3.4.1995) by 1994 c. 19, ss. 18(6), 66(8), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, arts. 4(1), 9(1), Sch. 2, **Sch. 5**

F3 S. 1(4A)(4B) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(4)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F4 Words in s. 1(5)(a) substituted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(6)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F5 Words in s. 1(5)(a) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(1)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F6 Word in s. 1(5)(a) substituted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 28**; S.I. 1993/2762, **art. 3**

F7 Words in s. 1(5)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F8 Word in s. 1(5)(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(1)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F9 Words in s. 1(5)(b) substituted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(6)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F10 Words in s. 1(5)(c) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F11 S. 1(6) added (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(5)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F12 Words in s. 1(6) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

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2 Joint planning boards.

(1) If it appears to the Secretary of State that it is expedient that a joint board should be established as the county planning authority for the areas or parts of the areas of any two or more county councils or as the district planning authority for the areas or parts of the areas of any two or more district councils, he may by order—

(a) constitute those areas or parts as a united district for the purposes of this Act; and

(b) constitute a joint board F13. . . as the county planning authority or, as the case may be, the district planning authority for that united district.

[F14(1A) Subsection (1) does not apply in relation to Wales.

F14(1B) If it appears to the Secretary of State that it is expedient that a joint board should be established as the local planning authority for two or more areas, each of which is the whole or part of a Welsh county or county borough, he may by order—

(a) constitute those areas or parts as a united district for the purposes of this Act; and

(b) constitute a joint board as the local planning authority for that united district.

F14(1C) A joint board constituted under subsection (1) or (1B) shall be known as a "joint planning board".**]**

[F15(1D) The areas that may be constituted as a united district for the purposes of this section shall not include the whole or any part of an area which is comprised in a National Park for which there is a National Park authority.**]**

(2) The Secretary of State shall not make **[**F16an order under subsection (1) or (1B)**]** except after holding a local inquiry unless all the councils concerned have consented to the making of the order.

(3) Where a joint planning board is constituted for a united district, references in the planning Acts to the area of a local planning authority—

(a) in relation to the board, shall be construed as references to that district; and

(b) in relation to any local planning authority being the council of a county **[**F17or county borough**]** or district of which part (but not the whole) is included in the united district, shall be construed as references to so much of the county **[**F17or county borough**]** or district as is not so included.

(4) A joint planning board constituted by an order under subsection (1) **[**F18or (1B)**]** shall consist of such number of members as may be determined by the order, to be appointed by the constituent councils.

(5) A joint planning board so constituted shall be a body corporate, with perpetual succession and a common seal.

(6) An order constituting a joint planning board and any order amending or revoking any order constituting a joint planning board—

(a) may, without prejudice to the provisions of section 241 of the M1Local Government Act 1972 (which authorises the application of the provisions of that Act to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent councils;

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(b) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and apportionment of liabilities;

(c) may contain such other provisions as appear to the Secretary of State to be expedient for enabling the board to exercise their functions; and

(d) may apply to the board, with any necessary modifications and adaptations, any of the provisions of sections 102 and 103 of the Local Government Act 1972.

[F19(6A) Section 241 of the M2Local Government Act 1972 shall be taken to authorise the application to a joint planning board, subject to any necessary modifications, of any provisions of **[**F20the Audit Commission Act 1998 except sections 11, 12, 44 to 47 and 51**]** (as well as of any provisions of the M3Local Government Act 1972) by such an order as is mentioned in subsection (6) above.**]**

(7) This section shall have effect subject to sections 5 to 9 of this Act F21. . ..

Textual Amendments

F13 Words in s. 2(1) repealed (3.4.1995) by 1994 c. 19, ss. 19(4)(a), 66(7)(8), Sch. 17 para. 13, **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, arts. 4(1), 9(1), Sch. 2, **Sch. 5**

F14 S. 2(1A)-(1C) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(1), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F15 S. 2(1D) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)** (with art. 2(2))

F16 Words in s. 2(2) substituted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(4)(b), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F17 Words in s. 2(3) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(4)(c), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F18 Words in s. 2(4)(d) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(4)(d), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F19 S. 2(6A) inserted (28.7.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 42** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 2**

F20 Words in s. 2(6A) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 19**

F21 Words in s. 2(7) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M1 1972 c. 70.

M2 1972 c. 70.

M3 1972 c. 70.

VALID FROM 06/04/2008

[F22**2A The Mayor of London: applications of potential strategic importance**

(1) Where an application to which this section applies is made to a local planning authority—

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(a) for planning permission (see section 70), or

(b) for planning permission without complying with conditions subject to which a previous planning permission was granted (see section 73),

the Mayor of London may direct that he is to be the local planning authority for the purposes of determining the application.

(2) The circumstances in which, and the conditions subject to which, the Mayor may give a direction under subsection (1) may be prescribed by, or by directions given under, an order under this section.

(3) This section applies to an application if—

(a) the land to which the application relates is in Greater London (but is not in an area of Greater London prescribed by an order under this section), and

(b) the application is an application of potential strategic importance.

(4) For the purposes of this section "application of potential strategic importance" is to be construed in accordance with an order under this section.

(5) So far as the context requires, in relation to—

(a) the determination of an application by virtue of this section, or

(b) the determination of a connected application by virtue of section 2B,

any reference in an enactment to a local planning authority or a hazardous substances authority includes a reference to the Mayor of London.

This subsection is subject to any provision made by an order under this section by virtue of section 2D(2).

(6) An order under this section—

(a) may make different provision for different cases or different areas, and

(b) may make provision for exceptions or exclusions.

(7) Sections 2B to 2D and 2F contain provisions supplementing this section.

Textual Amendments

F22 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

Modifications etc. (not altering text)

C2 S. 2A excluded (6.4.2008) by The Town and Country Planning (Mayor of London) Order 2008 (S.I. 2008/580), **art. 3**

VALID FROM 06/04/2008

2B Section 2A: supplementary provisions

(1) In deciding whether to give a direction under section 2A, the Mayor of London is to have regard to guidance issued by the Secretary of State.

(2) A direction under section 2A must include the Mayor of London's reasons for giving it.

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(3) If the Mayor of London gives a direction under section 2A, he must at that time send a copy of the direction to the applicant and to the Secretary of State.

(4) Subsection (5) applies where the Mayor of London—

(a) gives a direction under section 2A in the case of any application, and

(b) considers that an application falling within subsection (6) (the "connected application") is connected with that application.

(5) Where this subsection applies, the Mayor of London is to be—

(a) the local planning authority for the purposes of determining the connected application (in the case of an application falling within subsection (6)(a) or (b)), or

(b) the hazardous substances authority for the purposes of determining the connected application (in the case of an application falling within subsection (6)(c)).

(6) The applications are—

(a) an application for listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990,

(b) an application for conservation area consent under that Act,

(c) an application for hazardous substances consent under the Planning (Hazardous Substances) Act 1990.

(7) In subsection (6)—

(a) the reference to an application for listed building consent includes a reference to an application for the variation or discharge of conditions subject to which listed building consent has been granted, and

(b) the reference to an application for hazardous substances consent includes a reference to an application for hazardous substances consent without a condition subject to which a previous hazardous substances consent was granted.

(8) Section 38(1) of the Greater London Authority Act 1999 (delegation of functions by the Mayor) does not apply to—

(a) the function of giving a direction under section 2A(1),

(b) the function of determining an application by virtue of section 2A or this section.

Textual Amendments

F22 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

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2C Matters reserved for subsequent approval

(1) If the Mayor of London has—

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(a) given a direction under section 2A in relation to an application ("the original application"), and

(b) granted outline planning permission,

he may, on an application for subsequent approval of reserved matters, direct that the application is to be decided by the local planning authority to whom the original application was made.

(2) "Outline planning permission" has the meaning given by section 92(1).

(3) If the Mayor of London has—

(a) granted an application for listed building consent which is a connected application for the purposes of section 2B, and

(b) imposed conditions requiring specified details to be approved subsequently,

he may, on an application for subsequent approval, direct that the application is to be decided by the local planning authority to whom the connected application was made.

Textual Amendments

F22 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

VALID FROM 06/04/2008

2D Further provision about orders under section 2A

(1) An order under section 2A may make provision—

(a) in relation to applications to which section 2A applies,

(b) in relation to applications which are connected applications by virtue of section 2B,

(c) in relation to the procedures to be followed for or in connection with applications mentioned in paragraph (a) or (b),

(d) otherwise for the purpose of implementing or supplementing section 2A, 2B or 2C.

(2) The provision which may be made by virtue of subsection (1) includes the application of any enactment (with or without modification) in relation to cases where, by virtue of section 2A or 2B or an order under section 2A, the Mayor of London exercises a function that would otherwise have been exercisable by another body or person.

(3) Such provision may include, in particular, provision for the Mayor of London to exercise functions in relation to enforcement (instead of, or as well as, a local planning authority).**]**

Textual Amendments

F22 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

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[F23 2E Section 2A and planning obligations under section 106

(1) This section applies where the Mayor of London has given a direction under section 2A in relation to a planning application.

(2) Where this section applies, the function of agreeing a planning obligation related to the application is a function of the Mayor of London instead of a function of the local planning authority.

(3) In this section "planning obligation" means a planning obligation under section 106.

(4) The Mayor of London must consult the local planning authority before agreeing any planning obligation by virtue of this section.

(5) Any planning obligation entered into in relation to the application—

(a) is enforceable by the Mayor of London, and

(b) is also enforceable by the local planning authority.]

Textual Amendments

F23 S. 2E inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 32**, 59; S.I. 2008/582, **art. 2(a)**

VALID FROM 06/04/2008

[F24 2F Representation hearings

(1) This section applies to—

(a) an application in relation to which a direction has been given under section 2A, and

(b) an application which is a connected application for the purposes of section 2B.

(2) Before determining an application to which this section applies, the Mayor of London must give—

(a) the applicant, and

(b) the local planning authority to whom the application was made,

an opportunity to make oral representations at a hearing ("a representation hearing").

(3) The Mayor of London must prepare and publish a document setting out—

(a) the persons, in addition to the applicant and the local planning authority, who may make oral representations at a representation hearing,

(b) the procedures to be followed at a representation hearing,

(c) arrangements for identifying information which must be agreed by persons making oral representations at a representation hearing.

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(4) Each person who may make oral representations at a representation hearing must be given at least 14 days' notice of the hearing.

(5) The Secretary of State must by order make provision for Part 5A of the Local Government Act 1972 (public admission to meetings of principal councils, public access to documents, etc) to apply to—

(a) a representation hearing as it applies to a meeting of a principal council, and

(b) the Mayor of London in the conduct of a representation hearing as it applies to a principal council in the conduct of a meeting of that council.

(6) The application of Part 5A may be with such modifications as the Secretary of State considers necessary or expedient.**]**

Textual Amendments

F24 S. 2F inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 35**, 59; S.I. 2008/582, **art. 2(a)**

3 Joint planning committee for Greater London.

(1) The joint planning committee for Greater London established under section 5 of the [M4]Local Government Act 1985 shall continue to discharge the functions mentioned in subsection (2).

(2) The joint planning committee shall—

(a) consider and advise the local planning authorities in Greater London on matters of common interest relating to the planning and development of Greater London;

(b) inform the Secretary of State of the views of those authorities concerning such matters including any such matters as to which he has requested their advice;

(c) inform the local planning authorities for areas in the vicinity of Greater London, or any body on which those authorities and the local planning authorities in Greater London are represented, of the views of the local planning authorities in Greater London concerning any matters of common interest relating to the planning and development of Greater London and those areas;

and the committee may, if it thinks fit, contribute towards the expenses of any such body as is mentioned in paragraph (c).

(3) The expenses of the joint planning committee which have been incurred with the approval of at least two-thirds of the local planning authorities in Greater London shall be defrayed by those authorities in such proportions as they may decide or, in default of a decision by them, as the Secretary of State may determine.

(4) References in this section to the local planning authorities in Greater London are to the authorities which are local planning authorities for the purposes of Part II.

Marginal Citations

M4 1985 c. 51.

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F25 4 . . . . . .

Textual Amendments

F25 S. 4 repealed (1.4.1997) by 1995 c. 21, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

[F26 4A National Parks with National Park authorities.

(1) Where a National Park authority has been established for any area, this section, F27. . ., shall apply, as from such time as may be specified for the purposes of this section in the order establishing that authority, in relation to the Park for which it is the authority.

(2) Subject to subsections (4) and (5) below, the National Park authority for the Park shall be the sole local planning authority for the area of the Park and, accordingly—

(a) functions conferred by or under the planning Acts on a planning authority of any description (including the functions of a mineral planning authority under those Acts and under the M5Planning and Compensation Act 1991) shall, in relation to the Park, be functions of the National Park authority, and not of any other authority; and

(b) so much of the area of any other authority as is included in the Park shall be treated as excluded from any area for which that other authority is a planning authority of any description.

(3) For the purposes of subsection (2) above functions under the planning Acts which (apart from this section) are conferred—

(a) in relation to some areas on the county or district planning authorities for those areas, and

(b) in relation to other areas on the councils for those areas,

shall be treated, in relation to those other areas, as conferred on each of those councils as the local planning authority for their area.

(4) The functions of a local planning authority by virtue of sections 198 to 201, 206 to 209 and 211 to 215, so far as they are functions of a National Park authority by virtue of this section, shall be exercisable as respects any area which is or is included in an area for which there is a district council, concurrently with the National Park authority, by that council.

(5) For the purposes of any enactment relating to the functions of a district planning authority, the functions of a district council by virtue of subsection (4) above shall be deemed to be conferred on them as a district planning authority and as if the district were the area for which they are such an authority.**]**

Textual Amendments

F26 S. 4A inserted (19.9.1995) by 1995 c. 25, **ss. 67(1)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

F27 Words in s. 4A repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M5 1991 c. 34.

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5 The Broads.

(1) For the purposes of Chapter I of Part VIII and sections 249, 250, **[**[F28]and 300**]** and any other provision of this Act so far as it has effect for the purposes of those provisions, "local planning authority", in relation to land in the Broads, includes the Broads Authority.

(2) For the purposes of the provisions mentioned in subsection (3) the Broads Authority shall be the sole district planning authority for the Broads.

(3) The provisions referred to in subsection (2) are **[**[F29]Part II, sections**]** 62, **[**[F30]65, 69 to 72**]**, 76 to **[**[F31]79**]**, 91 to 95, 97 to 99, 102, 103, 106 **[**[F32]to 106B, 171C**]**, 172, 173, **[**[F33]173A**]** 178, 183, 184, **[**[F34]187A, 187B**]** 188, 191 to 197, 211 to **[**[F35]214, 215**]**, 219 to 221, 224, 294, 295, 297, 299, **[**[F36]299A**]** 301, **[**[F37]316 and 324(1) and (7)**]**.

Textual Amendments

F28 Word in s. 5(1) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(1)**; S.I. 1991/2905, art. 3, **Sch. 1** (subject to savings in art. 5)

F29 Words in s. 5(3) substituted (10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(a)**; S.I. 1991/2905, **art. 4**

F30 Words in s. 5(3) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(b)**; S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F31 Word in s. 5(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(c)**; S.I. 1991/2067, **art. 3** (subject to savings in art. 4)

F32 Words in s. 5(3) inserted (2.1.1992 so far as relating to the reference to s. 171C otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(d)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5); S.I. 1992/2831, **art. 2**

F33 Word in s. 5(3) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(e)**; S.I. 1992/2905, **art. 4** (with saving in art. 5)

F34 Words in s. 5(3) inserted (2.1.1992 so far as relating to the reference to s. 187B otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(f)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5) S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F35 Words in s. 5(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(g)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5)

F36 Word in s. 5(3) inserted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(h)**; S.I. 1991/2272, **art. 3(1)(c)**

F37 Words in 5(3) substituted (2.1.1992 for certain purposes otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(i)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5); S.I. 1992/1491, **art. 2**

6 Enterprise zones.

(1) An order under paragraph 5 of Schedule 32 to the [M6]Local Government, Planning and Land Act 1980 (designation of enterprise zone) may provide that the enterprise zone authority shall be the local planning authority for the zone for such purposes of the planning Acts and in relation to such kinds of development as may be specified in the order.

(2) Without prejudice to the generality of paragraph 15(1) of that Schedule (modification of orders by the Secretary of State), an order under that paragraph may provide that the enterprise zone authority shall be the local planning authority for the zone for different purposes of the planning Acts or in relation to different kinds of development.

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(3) Where such provision as is mentioned in subsection (1) or (2) is made by an order designating an enterprise zone or, as the case may be, an order modifying such an order, while the zone subsists the enterprise zone authority shall be, to the extent mentioned in the order (as it has effect subject to any such modifications) and to the extent that it is not already, the local planning authority for the zone in place of any authority who would otherwise be the local planning authority for the zone.

(4) The Secretary of State may by regulations make transitional and supplementary provision in relation to a provision of an order under paragraph 5 of that Schedule made by virtue of subsection (1).

(5) Such regulations may modify any provision of the planning Acts or any instrument made under any of them or may apply any such enactment or instrument (with or without modification) in making such transitional or supplementary provision.

Marginal Citations

M6 1980 c. 65.

7 Urban development areas.

(1) Where an order is made under subsection (1) of section 149 of the [M7]Local Government, Planning and Land Act 1980 (urban development corporation as planning authority), the urban development corporation specified in the order shall be the local planning authority for such area as may be so specified in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) Where an order under subsection (3)(a) of that section confers any functions on an urban development corporation in relation to any area the corporation shall have those functions in place of any authority (except the Secretary of State) who would otherwise have them in that area.

Modifications etc. (not altering text)

C3 S. 7 modified (30.3.2006) by London Olympic Games and Paralympic Games Act 2006 (c. 12), **ss. 5(3)(b)**, 40

Marginal Citations

M7 1980 c. 65.

8 Housing action areas.

(1) Where an order is made under subsection (1) of section 67 of the [M8]Housing Act 1988 (housing action trust as planning authority), the housing action trust specified in the order shall be the local planning authority for such area as may be so specified in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) Where an order under subsection (3)(a) of that section confers any functions on a housing action trust in relation to any area the trust shall have those functions in place

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of any authority (except the Secretary of State) who would otherwise have them in that area.

Marginal Citations

M8 1988 c. 50.

[F38 8A The Urban Regeneration Agency.

(1) Where a designation order under section 170 of the Leasehold Reform, Housing and Urban Development Act 1993 (power to make designation orders) makes such provision as is mentioned in subsection (1) of section 171 of that Act (Agency as local planning authority), the Urban Regeneration Agency shall be the local planning authority for such area as may be specified in the order in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) Where such an order makes such provision as is mentioned in subsection (3)(a) of section 171 of that Act, the Urban Regeneration Agency shall have the functions specified in the order for such area as may be so specified in place of any authority (except the Secretary of State) who would otherwise have them in that area.**]**

Textual Amendments

F38 S. 8A inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 29**; S.I. 1993/2762, **art. 3**

9 Power to make consequential and supplementary provision about authorities.

Regulations under this Act may make such provision consequential upon or supplementary to the provisions of sections 1 and 2 as appears to the Secretary of State to be necessary or expedient.

PART II

DEVELOPMENT PLANS

CHAPTER I

UNITARY DEVELOPMENT PLANS: METROPOLITAN AREAS INCLUDING LONDON

Modifications etc. (not altering text)

C4 Pt. II Ch. I (ss. 10-28): power to apply conferred (19.9.1995) by 1995 c. 25, **ss. 67(2)(a)(4)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Pt. II Ch. 1 (ss. 10-28) amended (1.5.1994) by S.I. 1994/1210, **art. 6(2)**

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Preliminary

10 Application of Chapter I to Greater London and metropolitan counties.

This Chapter applies, subject to section 28, to the area of any local planning authority in Greater London or a metropolitan county (other than any area in such a county which is part of a National Park).

[F39 10A Application of Chapter I in relation to Wales.

(1) This Chapter also applies to the area of any local planning authority in Wales.

(2) Subsections (3) and (4) apply where the area of a local planning authority in Wales includes—

(a) the whole or any part of an area prescribed under section 23B(2) in relation to a National Park, and

(b) other land.

(3) The provisions of this Chapter apply separately in relation to—

(a) the Park area or, if there is more than one, each Park area, and

(b) the remaining area.

(4) Any reference in any of the following sections of this Chapter to the area of the local planning authority (including any reference which falls to be so construed) shall be construed—

(a) in its application in relation to any Park area, as a reference to that Park area, and

(b) in its application in relation to the remaining area, as a reference to that area.

(5) In this section—

"the Park area", in relation to a National Park, means the part of the local planning authority's area which is within the area prescribed under section 23B(2) in relation to that Park or, where there is more than one such part, those parts taken as a whole;

"the remaining area" means the part of the local planning authority's area which is not within the area so prescribed in relation to any National Park.**]**

Textual Amendments

F39 S. 10A inserted (1.4.1996) by 1994 c. 19, **s. 20(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Surveys etc.

11 Survey of planning areas.

(1) The local planning authority—

(a) shall keep under review the matters which may be expected to affect the development of their area or the planning of its development; and

(b) may, if they think fit, institute a survey or surveys of their area or any part of their area for examining those matters.

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(2) Without prejudice to the generality of subsection (1), the matters to be kept under review or examined under that subsection shall include—

(a) the principal physical and economic characteristics of the area of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that area, of any neighbouring areas;

(b) the size, composition and distribution of the population of that area (whether resident or otherwise);

(c) without prejudice to paragraph (a), the communications, transport system and traffic of that area and, so far as they may be expected to affect that area, of any neighbouring areas;

(d) any considerations not mentioned in paragraphs (a), (b) and (c) which may be expected to affect any matters mentioned in them;

(e) such other matters as may be prescribed or as the Secretary of State may in a particular case direct;

(f) any changes already projected in any of the matters mentioned in any of paragraphs (a) to (e) and the effect which those changes are likely to have on the development of that area or the planning of such development.

(3) A local planning authority shall, for the purpose of discharging their functions under this section of keeping under review and examining any matters relating to the area of another such authority, consult with that other authority about those matters.

Preparation and adoption of unitary development plans

12 Preparation of unitary development plan.

(1) The local planning authority shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a unitary development plan.

(2) A unitary development plan shall comprise two parts.

(3) Part I of a unitary development plan shall consist of a written statement formulating the authority's general policies in respect of the development and **[**F40use of land in their area.

(3A) The policies shall, subject to subsection (3B), include policies in respect of—

(a) the conservation of the natural beauty and amenity of the land;

(b) the improvement of the physical environment; and

(c) the management of traffic.

(3B) Regulations under this section may prescribe the aspects of such development and use with which the general policies in Part I of a unitary development plan are to be concerned, in which case the policies shall be concerned with those aspects and no others.**]**

(4) Part II of a unitary development plan shall consist of—

(a) a written statement formulating in such detail as the authority think appropriate (and so as to be readily distinguishable from the other contents of the plan) their proposals for the development and F41. . . use of land in their area F41. . . ;

(b) a map showing those proposals on a geographical basis;

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(c) a reasoned justification of the general policies in Part I of the plan and of the proposals in Part II of it; and

(d) such diagrams, illustrations or other descriptive or explanatory matter in respect of the general policies in Part I of the plan or the proposals in Part II of it as the authority think appropriate or as may be prescribed.

(5) A unitary development plan shall also contain such other matters as may be prescribed or as the Secretary of State may in any particular case direct.

[F42(6) In formulating the general policies in Part I of a unitary development plan the authority shall have regard to—

(a) any regional or strategic planning guidance given by the Secretary of State to assist them in the preparation of the plan;

(b) current national policies;

(c) the resources likely to be available; and

(d) such other matters as the Secretary of State may prescribe or, in a particular case, direct.**]**

(7) The proposals in Part II of a unitary development plan shall be in general conformity with Part I.

[F43(7A) In formulating their proposals in Part II of a unitary development plan, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.**]**

(8) Part II of a unitary development plan may designate any part of the authority's area as an action area, that is to say, an area which they have selected for the commencement during a prescribed period of comprehensive treatment by development, redevelopment or improvement (or partly by one and partly by another method) and if an area is so designated that Part of the plan shall contain a description of the treatment proposed by the authority.

(9) In preparing a unitary development plan the authority shall take into account the provisions of any scheme under paragraph 3 of Schedule 32 to the M9Local Government, Planning and Land Act 1980 relating to land in their area which has been designated under that Schedule as an enterprise zone.

[F44(10) Regulations under this section may make different provision for different cases and shall be subject to any direction given, in a particular case, by the Secretary of State.**]**

[F45(11) Any provision made by regulations under this section in its application by virtue of section 10 may differ from that made under this section in its application by virtue of section 10A.**]**

Textual Amendments

F40 S. 12(3A)(3B) and preceding words substituted (25.11.1991 for certain purposes otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 para. 2(1)** (with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, **art. 4**

F41 Words in s. 12(4)(a) repealed (25.11.1991 for certain purposes otherwise 10.2.1992) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 2(2), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, art. 4, **Sch. 3**

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F42 S. 12(6) substituted (25.11.1991 for certain purposes otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 2(3) (with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, **art. 4**

F43 S. 12(7A) inserted (25.11.1991 for certain purposes otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 2(4) (with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, **art. 4**

F44 S. 12(10) inserted (25.11.1991 for certain purposes otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 2 (5)(with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, **art. 4**

F45 S. 12(11) added (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 2** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Modifications etc. (not altering text)

C5 S. 12(3A) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 7(1)**)

C6 S. 12(3A) modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 37**

Marginal Citations

M9 1980 c. 65.

[F46 12A Urban development corporations.

(1) The Secretary of State may direct that a unitary development plan—

(a) shall not be prepared; or

(b) shall not operate,

in relation to the area of an urban development corporation.

(2) The Secretary of State may direct that proposals for the alteration or replacement of a unitary development plan shall not be prepared in relation to the area of an urban development corporation.]

Textual Amendments

F46 S. 12A inserted (10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.3**(with s. 84(5)); S.I. 1991/2905, **art. 4**

[F47 13 Public participation.

(1) When preparing a unitary development plan for their area and before finally determining its contents the local planning authority shall—

(a) comply with—

(i) any requirements imposed by regulations made under section 26; and

(ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and

(b) consider any representations made in accordance with those regulations.

(2) Where the local planning authority have prepared a unitary development plan, before adopting it they shall—

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(a) make copies of it available for inspection at such places as may be prescribed by those regulations;

(b) send a copy to the Secretary of State; and

(c) comply with any requirements imposed by those regulations.

(3) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.

(4) In this section "the prescribed period" means such period as may be prescribed by or determined in accordance with regulations made under section 26 and in this Chapter "objections made in accordance with the regulations" means objections made—

(a) in accordance with regulations made under that section; and

(b) within the prescribed period.

(5) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.

(6) A unitary development plan shall not be adopted by the authority under section 15 until—

(a) after they have considered any objections made in accordance with the regulations; or

(b) if no such objections are made, after the expiry of the prescribed period.**]**

Textual Amendments

F47 S. 13 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para.4 (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

14 Withdrawal of unitary development plan.

(1) A unitary development plan may be withdrawn by the local planning authority at any time before it is adopted by the authority or approved by the Secretary of State and shall be withdrawn by the authority if the Secretary of State so directs.

(2) Where a unitary development plan is withdrawn the authority shall—

(a) withdraw the copies made available for inspection and sent to the Secretary of State under section **[**F48 13(2)**]**; and

(b) give notice that the plan has been withdrawn to every person who has made an objection to it.

F49 (3) . . . . . .

(4) Where a unitary development plan is withdrawn the copies of the plan shall be treated as never having been made available under section **[**F48 13(2)**]**.

Textual Amendments

F48 Word in s. 14(2)(4) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 para.5(a)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

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F49 S. 14(3) omitted (25.11.1991 for certain purposes) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 5(b)**; S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 27**, 84(6) Sch. 4 Pt. I, para. 5(b), Sch. 19 Pt.I (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, art. 4, **Sch.3**

15 Adoption of unitary development plan by local planning authority.

[F50(1) Subject to the following provisions of this section and sections 17 and 18, the local planning authority may by resolution adopt the unitary development plan, either as originally prepared or as modified so as to take account of—

(a) any objections to the plan; or

(b) any other considerations which appear to them to be material.**]**

(2) A unitary development plan shall not be adopted unless Part II of the plan is in general conformity with Part I.

(3) Where an objection to a unitary development plan **[**F51for an area in England**]** has been made by the Minister of Agriculture, Fisheries and Food and the local planning authority do not propose to modify the plan to take account of the objection, the authority—

(a) shall send the Secretary of State particulars of the objection and a statement of their reasons for not modifying the plan to take account of it; and

(b) shall not adopt the plan unless the Secretary of State authorises them to do so.

(4) Subject to the following provisions of this Chapter and to section 287, a unitary development plan **[**F51 for an area in England**]** shall become operative on the date on which it is adopted.

Textual Amendments

F50 S. 15(1) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 6 (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F51 Words in s. 15(3) inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 3** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

16 Local inquiries.

[F52(1) Where any objections have been made, in accordance with the regulations, to proposals for a unitary development plan copies of which have been made available for inspection under section 13(2), the local planning authority shall cause a local inquiry or other hearing to be held for the purpose of considering the objections.

(1A) The local planning authority may cause a local inquiry or other hearing to be held for the purpose of considering any other objections to the proposals.

(1B) The local inquiry or other hearing shall be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, by the authority themselves.**]**

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(2) Subsections (2) and (3) of section 250 of the [M10]Local Government Act 1972 (power to summon and examine witnesses) shall apply to an inquiry held under this section as they apply to an inquiry under that section.

(3) The [M11]Tribunals and Inquiries Act **[**[F53]1992**]**shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in **[**[F54]section 10(1)**]** of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local planning authority.

(4) Regulations made for the purposes of this section may—

(a) make provision with respect to the appointment and qualifications for appointment of persons to hold a local inquiry or other hearing under this section, including provision enabling the Secretary of State to direct a local planning authority to appoint a particular person or one of a specified list or class of persons;

(b) make provision with respect to the remuneration and allowances of a person appointed for that purpose.

(5) No local inquiry or other hearing need be held under this section if all persons who have made objections have indicated in writing that they do not wish to appear.

Textual Amendments

F52 S. 16(1)(1A)(B) substituted for s. 16(1) (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 7 (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F53 Word in s. 16(3) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 22(a)**

F54 Words in s. 16(3) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 22(b)**

Marginal Citations

M10 1972 c. 70.

M11 1992 c. 53.

Secretary of State's powers concerning plans

17 Direction to reconsider proposals.

(1) After a copy of a unitary development plan has been sent to the Secretary of State under section **[**[F55]13(2)**]** and before it is adopted by the local planning authority, the Secretary of State may, if it appears to him that the plan is unsatisfactory, direct the authority to **[**[F56]modify**]** the proposals in such respects as are indicated in the direction.

(2) An authority to whom a direction is given shall not adopt the plan unless they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction or the direction is withdrawn.

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Textual Amendments

F55 Word in s. 17(1) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.9** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art. 4**

F56 Word in s. 17(1) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch.4 Pt. I para.8** (with s. 84(5)); S.I. 1991/2728, **art.2**, S.I. 1991/2905, art. 4

18 Calling in of unitary development plan for approval by Secretary of State.

(1) After a copy of a unitary development plan has been sent to the Secretary of State under section **[**F57 13(2)**]** and before it is adopted by the local planning authority, the Secretary of State may direct that the whole or part of the plan shall be submitted to him for his approval.

(2) If such a direction is given—

(a) the authority shall not take any further steps for the adoption of the plan until the Secretary of State has given his decision on the plan or the relevant part of it; and

(b) the plan or the relevant part of it shall not have effect unless approved by him and shall not require adoption under the previous provisions of this Chapter.

(3) Where particulars of an objection to a unitary development plan **[**F58 for an area in England**]** have been sent to the Secretary of State under section 15(3), then, unless he is satisfied that the Minister of Agriculture, Fisheries and Food no longer objects to the plan, the Secretary of State must give a direction in respect of it under subsection (1).

(4) Subsection (2)(a) applies in particular to holding or proceeding with a local inquiry or other hearing in respect of the plan under section 16; and at any such inquiry or hearing which is subsequently held or resumed a local planning authority need not give any person an opportunity of being heard in respect of any objection which has been heard at an examination, local inquiry or other hearing under section 20 or which the Secretary of State states that he has considered in making his decision.

Textual Amendments

F57 Word in s. 18(1) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 9** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F58 Words in s. 18(3) inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 3** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

19 Approval of unitary development plan by Secretary of State.

(1) Subject to section 20, the Secretary of State may after considering a plan or part of a plan submitted to him under section 18(1) either approve it (in whole or in part and with or without modifications or reservations) or reject it.

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(2) In considering a plan or part of a plan submitted to him under that section the Secretary of State may take into account any matters which he thinks relevant, whether or not they were taken into account in **[**F59preparing**]** the plan or that part of it.

(3) The Secretary of State shall give a local planning authority such statement as he considers appropriate of the reasons governing his decision on any plan or part of a plan submitted to him.

(4) Where the whole or part of Part I of a unitary development plan is approved by the Secretary of State with modifications, the local planning authority shall, before adopting the remainder of the plan, make such modifications in Part II as may be directed by the Secretary of State for bringing it into general conformity with Part I and, in the absence of any such direction, shall make such modifications for that purpose in Part II as appear to the authority to be required.

(5) Subject to section 287, a plan or part of a plan which is approved by the Secretary of State under this section shall become operative on such day as he may appoint.

Textual Amendments

F59 Word in s. 19(2) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27 , **Sch. 4 Pt. I para.10** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

20 Local inquiry, public examination and consultation by Secretary of State.

(1) Before deciding whether or not to approve a plan or part of a plan submitted to him under section 18(1), the Secretary of State shall consider any objection to it so far as made in accordance with **[**F60the regulations.**]**.

(2) Where the whole or part of Part II of a unitary development plan is submitted to the Secretary of State under section 18(1) (whether or not the whole or part of Part I is also submitted), then, if any objections have been made to the plan or the relevant part of it as mentioned in subsection (1), before deciding whether to approve it he shall cause a local inquiry or other hearing to be held for the purpose of considering those objections.

(3) The Secretary of State need not under subsection (1) consider any objections which have already been considered by the local planning authority and need not cause a local inquiry or other hearing to be held under subsection (2) if that authority have already held a local inquiry or other hearing into the objections under section 16 or the Secretary of State, on taking the plan or the relevant part of it into consideration, decides to reject it.

(4) Where the whole or part of Part I of a unitary development plan (but not the whole or any part of Part II) is submitted to the Secretary of State under section 18(1) he may cause a person or persons appointed by him for the purpose to hold an examination in public of such matters affecting the Secretary of State's consideration of the part of the plan submitted to him as he considers ought to be so examined.

(5) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at any examination under subsection (4).

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(6) The Secretary of State shall not be required to secure to any local planning authority or other person a right to be heard at an examination under subsection (4), and the bodies and persons who may take part shall be such only as he may, whether before or during the course of the examination, in his discretion invite to do so; but the person or persons holding the examination shall have power, exercisable either before or during the course of the examination, to invite additional bodies or persons to take part if it appears to him or them desirable to do so.

(7) An examination under subsection (4) shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the [M12]Tribunals and Inquiries Act **[**[F61]1992**]** but shall not constitute such an inquiry for any other purpose of that Act.

(8) On considering a plan or part of a plan submitted to him under section 18(1) the Secretary of State may consult with or consider the views of any local planning authority or other person but he need not do so except as provided by this section.

Textual Amendments

F60 Words in s. 20(1) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 11 (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F61 Word in s. 20(7) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 23**

Modifications etc. (not altering text)

C7 S. 20 restricted (23.6.1992) by S.I. 1992/1491, **art. 3**

Marginal Citations

M12 1992 c. 53.

Alteration of plans

21 Alteration or replacement of unitary development plan.

[[F62](1) A local planning authority may at any time prepare proposals—

(a) for alterations to the unitary development plan for their area; or

(b) for its replacement.

(1A) If the Secretary of State directs them to do so, the authority shall prepare, within such time as he may direct, proposals for—

(a) such alterations to the unitary development plan as he directs; or

(b) its replacement.

(1B) An authority shall not, without the consent of the Secretary of State, prepare proposals in respect of a unitary development plan if the plan or any part of it has been approved by the Secretary of State.**]**

(2) [F63]. . .Sections 12 to 20 (other than subsection (1) of section 12) shall apply in relation to the making of proposals under this section and to any alteration or replacement so proposed as they apply to the preparation of a unitary development plan under section 12 and to a plan prepared under that section.

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(3) As soon as practicable after—

(a) an order has been made under paragraph 5 of Schedule 32 to the [M13]Local Government, Planning and Land Act 1980 (designation of enterprise zone); or

(b) a notification has been given under paragraph 11(1) of that Schedule (approval of modification of enterprise zone scheme),

the local planning authority for an area in which the zone is wholly or partly situated shall review any unitary development plan for that area in the light of the provisions of the scheme or modified scheme under that Schedule and prepare proposals under this section for any consequential alterations to the plan which they consider necessary.

Textual Amendments

F62 S. 21(1)-(1B) substituted for s. 21(1) (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 12(1)**(with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F63 Words in s. 21(2) omitted (25.11.1991 for certain purposes) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 12(2)**(with s. 84(1)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 12(2), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, art. 4, **Sch.3**

Marginal Citations

M13 1980 c. 65.

[F64]22 . . . . . .

Textual Amendments

F64 S. 22 omitted (25.11.1991 for certain purposes) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 13** (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(6), Sch. 4 Pt. I para. 13, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, art. 4, **Sch.3**

VALID FROM 12/01/2000

[F65 Greater London: conformity with spatial development strategy]

Textual Amendments

F65 S. 21A and cross-heading inserted (12.1.2000) by 1999 c. 29, **s. 344(7)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 2**

[F66]21A "Greater London: conformity with spatial development strategy.

(1) Where—

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(a) a local planning authority in Greater London propose to make, alter or replace a unitary development plan;

(b) copies of proposed alterations of, or of a proposed new spatial development strategy to replace, the spatial development strategy have been made available for inspection under section 335(2) of the Greater London Authority Act 1999; and

(c) the local planning authority include in any relevant copy of the plan or proposals a statement that they are making the permitted assumption,

the permitted assumption shall, subject to subsection (4), be made for all purposes (including in particular any question as to conformity between the plan and the spatial development strategy).

(2) In this section "the permitted assumption" means the assumption that—

(a) the proposed alterations or new spatial development strategy mentioned in subsection (1)(b); or

(b) if any proposed modifications to those proposed alterations or that new spatial development strategy have been published in accordance with regulations made under section 343 of the Greater London Authority Act 1999, the proposed alterations or spatial development strategy as so modified,

have become operative under section 337(9) of that Act.

(3) For the purposes of subsection (1)(c) a copy is a relevant copy of a plan or proposals if it is served on the Greater London Authority.

(4) The permitted assumption shall not be made at any time after the local planning authority know that the proposed alterations or new spatial development strategy mentioned in subsection (1)(b) have been withdrawn. "]

Textual Amendments

F66 S. 21A inserted (12.1.2000) by 1999 c. 29, **s. 344(7)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 2**

Joint plans

23 Joint unitary development plans.

(1) A joint unitary development plan or joint proposals for the alteration or replacement of such a plan may be prepared by two or more local planning authorities in Greater London or by two or more local planning authorities in a metropolitan county; and the previous provisions of this Chapter shall, in relation to any such joint plan or proposals, have effect subject to the following provisions of this section.

F67(2) . . . . . .

F67(3) . . . . . .

F67(4) . . . . . .

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(5) Each of the local planning authorities by whom a joint unitary development plan is prepared shall have the duty imposed by subsection **[**F68(2)**]** of section 13 of making copies of the plan available for inspection.

(6) Objections to such a plan may be made to any of those authorities and the statement required by subsection **[**F69(3)**]** of section 13 to accompany copies of the plan shall state that objections may be so made.

(7) It shall be for each of the local planning authorities by whom a joint unitary development plan is prepared to adopt the plan under section 15(1) and they may do so as respects any part of their area to which the plan relates, but any modifications subject to which the plan is adopted must have the agreement of all those authorities.

(8) Where a unitary development plan has been prepared jointly, the power of **[**F70preparing**]** proposals in respect of the plan under section 21 may be exercised as respects their respective areas by any of the authorities by whom it was prepared and the Secretary of State may under that section direct any of them to **[**F70prepare**]** proposals as respects their respective areas.

F67(9) . . . . . .

F67(10) . . . . . .

(11) The date of the coming into operation of a unitary development plan prepared jointly by two or more local planning authorities or for the alteration or replacement of such a plan in pursuance of proposals so prepared shall be a date jointly agreed by those authorities.

Textual Amendments

F67 S. 23(2)-(4)(9)(10) omitted (25.11.1991 for certain purposes) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 14(a)** (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(6), Sch. 4 Pt. I, para. 14(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, art. 4, **Sch.3**

F68 Word in s. 23(5) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch.4 Pt. I**, para. 14(b) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F69 Word in s. 23(6) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 14(c) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F70 Words in s. 23(8) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 14(d)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

Modifications etc. (not altering text)

C8 S. 23 restricted (in respect of the presence of a hazardous substance without hazardous substances consent during the period of 28 days beginning with 1.6.1992) by S.I. 1992/725, **art. 4**

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[F71 23A Joint unitary development plans: Wales.

(1) A joint unitary development plan or joint proposals for the alteration or replacement of such a plan may be prepared by two or more local planning authorities in Wales for their areas if—

(a) each of those areas adjoins each of the others; or

(b) the Secretary of State has given his approval.

(2) Subsection (1) does not apply in relation to a joint plan for any area which consists of or includes a National Park.

(3) The previous provisions of this Chapter shall, in relation to any joint plan or proposals of a kind mentioned in subsection (1), have effect subject to the following provisions of this section.

(4) Each of the local planning authorities by whom a joint unitary development plan is prepared shall have the duty imposed under section 13(2) of making copies of the plan available for inspection.

(5) Objections to such a plan may be made to any of those authorities and the statement required by section 13(3) to accompany copies of the plan shall state that objections may be so made.

(6) It shall be for each of the local planning authorities by whom a joint unitary development plan is prepared to adopt the plan under section 15(1) and, subject to the provisions of this Chapter, they may do so as respects the part of their area to which the plan relates, but any modifications subject to which the plan is adopted must have the agreement of all those authorities.

(7) Where a unitary development plan has been prepared jointly, the power of preparing proposals in respect of the plan under section 21 may be exercised as respects their respective areas by any of the authorities by whom it was prepared and the Secretary of State may under that section direct any of them to prepare proposals as respects their respective areas.

(8) The date of the coming into operation of a unitary development plan prepared jointly by two or more local planning authorities or for the alteration or replacement of such a plan in pursuance of proposals so prepared shall be a date jointly agreed by those authorities.**]**

Textual Amendments

F71 Ss. 23A-23C inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 4** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

F72 23B Unitary development plans for National Parks in Wales.

(1) A unitary development plan shall be prepared for each National Park in Wales.

(2) A Welsh National Park development plan shall relate to an area prescribed in relation to the National Park in question by order made by the Secretary of State.

(3) The prescribed area in relation to a National Park which falls wholly within, but does not comprise the whole of, the area of a single local planning authority shall be—

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(a) where the local planning authority have so elected, the whole of the area of the local planning authority; and

(b) in any other case—

(i) the whole of the area of the National Park; or

(ii) a composite area.

(4) The prescribed area in relation to any other Welsh National Park shall be—

(a) the whole of the area of the National Park; or

(b) a composite area.

(5) For the purposes of this section and section 23C, "composite area", in relation to a National Park, means an area which consists of the whole of the Park together with any one or more other areas in Wales.

(6) The Secretary of State shall not under subsection (2) prescribe an area which is a composite area except with the consent of every local planning authority in whose area the prescribed area or any part of it would fall.

(7) Any order made by the Secretary of State under subsection (2) may make such saving or transitional provision as he considers appropriate.

(8) Where, by an order under subsection (2), the Secretary of State prescribes a composite area which comprises or includes part only of the area of a local planning authority, the provisions of this Chapter shall apply in relation to—

(a) the Welsh National Park development plan in question, or

(b) any proposals for its alteration or replacement,

subject to such modifications, if any, as may be prescribed by the order.

(9) Subsections (3) and (4) of section 10A do not apply for the purposes of—

(a) subsection (3) or (8) of this section, or

(b) section 23C(1), (2) or (4).

(10) For the purposes of this Act, "Welsh National Park development plan" means a unitary development plan prepared for a National Park in Wales.

Textual Amendments

F72 Ss. 23A-23C inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 4** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

F73 23C Joint unitary development plans for National Parks in Wales.

(1) A Welsh National Park development plan for a National Park which neither coincides with nor falls wholly within the area of a single local planning authority shall be a joint unitary development plan.

(2) A Welsh National Park development plan for any other National Park shall be a joint unitary development plan if it relates to a composite area unless the composite area coincides with or falls wholly within the area of a single local planning authority.

(3) Any Welsh National Park development plan which is required to be a joint plan shall be prepared by the authorities who will be the appropriate authorities in relation to the plan.

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(4) For the purposes of this section, an authority are an appropriate authority in relation to a joint plan if—

(a) they are a local planning authority; and

(b) their area or any part of their area falls within the area to which the plan relates.

(5) Any proposals prepared under section 21 for the alteration or replacement of a joint plan of a kind mentioned in subsection (1) or (2) shall be joint proposals prepared by the appropriate authorities in relation to that plan, and any direction given by the Secretary of State under that section in relation to that plan shall be given jointly to those authorities.

(6) Subsections (3) to (6) and (8) of section 23A apply in relation to any joint plan or proposals of a kind mentioned in subsection (1), (2) or (5) as they apply in relation to any joint plan or proposals of a kind mentioned in section 23A(1).

Textual Amendments

F73 Ss. 23A-23C inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 4** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Supplementary

24 Disregard of certain representations.

Notwithstanding anything in the previous provisions of this Chapter, neither the Secretary of State nor a local planning authority shall be required to consider representations or objections with respect to a unitary development plan or any proposals for the alteration or replacement of such a plan if it appears to the Secretary of State or, as the case may be, the authority that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

(a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the [M14]Highways Act 1980;

(b) an order or scheme under any provision replaced by the provisions mentioned in paragraph (a), namely, an order or scheme under section 7, 9, 11, 13 or 20 of the [M15]Highways Act 1959, section 3 of the [M16]Highways (Miscellaneous Provisions) Act 1961 or section 1 or 10 of the [M17]Highways Act 1971; or

(c) an order under section 1 of the [M18]New Towns Act 1981.

Marginal Citations

M14 1980 c. 66.
M15 1959 c. 25.
M16 1961 c. 63.
M17 1971 c. 41.
M18 1981 c. 64.

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25 Default powers.

(1) Where, by virtue of any of the previous provisions of this Chapter, any unitary development plan or proposals for the alteration or replacement of such a plan are required to be prepared, or steps are required to be taken for the adoption of any such plan or proposals, then—

(a) if at any time the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the local planning authority are not taking the steps necessary to enable them to prepare or adopt such a plan or proposals within a reasonable period; or

(b) in a case where a period is specified for the preparation or adoption of any such plan or proposals, if no such plan or proposals have been prepared or adopted by the local planning authority within that period,

the Secretary of State may prepare and make the plan or any part of it or, as the case may be, alter or replace it, as he thinks fit.

(2) The previous provisions of this Chapter shall, so far as practicable, apply with any necessary modifications in relation to the doing of anything under this section by the Secretary of State and the thing so done.

(3) The authority mentioned in subsection (1) shall on demand repay to the Secretary of State so much of any expenses incurred by him in connection with the doing of anything which should have been done by them as he certifies to have been incurred in the performance of their functions.

26 Regulations and directions.

(1) Without prejudice to the previous provisions of this Chapter, the Secretary of State may make regulations with respect to the form and content of unitary development plans and the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making, alteration or replacement.

(2) Such regulations may in particular—

(a) provide for publicity to be given to the results of any review or survey carried out under section 11;

(b) provide for the notice to be given of or the publicity to be given to—

(i) matters included or proposed to be included in any unitary development plan,

(ii) the approval, adoption or making of any such plan or any alteration or replacement of it, or

(iii) any other prescribed procedural step,

and for publicity to be given to the procedure to be followed as mentioned in subsection (1);

(c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration or replacement;

[[F74](cc) make provision with respect to the circumstances in which representations with respect to the matters to be included in a plan or proposals are to be treated, for any of the purposes of this Chapter, as being objections made in accordance with the regulations;**]**

(d) without prejudice to paragraph (b), provide for notice to be given to particular persons of the approval, adoption, alteration or replacement of any plan if

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they have objected to the plan and have notified the local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;

(e) require or authorise a local planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;

(f) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any plan or document which has been made public **[**F75in compliance with the regulations or available for inspection under section 13(2)**]**, subject (if the regulations so provide) to the payment of a reasonable charge;

[F76(ff) make provision for steps taken in compliance with the regulations in respect of a unitary development plan which has been withdrawn to be taken into account in prescribed circumstances for the purposes of complying with the regulations in respect of a subsequent unitary development plan;**]**

(g) provide for the publication and inspection of any unitary development plan which has been adopted, approved or made or any document approved, adopted or made altering or replacing any such plan, and for copies of any such plan or document to be made available on sale.

(3) Regulations under this section may make different provision for different cases.

[F77(3A) Any provision made by regulations under this section in its application by virtue of section 10 may differ from that made under this section in its application by virtue of section 10A.**]**

(4) Subject to the previous provisions of this Chapter and to any regulations under this section, the Secretary of State may give directions to any local planning authority or to local planning authorities generally—

(a) for formulating the procedure for the carrying out of their functions under this Chapter;

(b) for requiring them to give him such information as he may require for carrying out any of his functions under this Chapter.

Textual Amendments

F74 S. 26(2)(cc) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 15(a)** (with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, **art. 4**

F75 Words in s. 26(f) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 15(b)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F76 S. 26(ff) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and compensation Act 1991 (c. 34, SIF 123:1), s. 27, Sch. 4 para. 15(c) (with s. 84(5)); S.I. 1991/2728, **art. 2** and S.I. 1991/2905, **art. 4**

F77 S. 26(3A) (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 5** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

27 Meaning of "development plan" in Greater London and metropolitan counties.

For the purposes of this Act and any other enactment relating to town and country planning, the **M19**Land Compensation Act 1961 and the **M20**Highways Act 1980, the

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development plan for any district in Greater London or a metropolitan county (whether the whole or part of the area of a local planning authority) shall be taken as consisting of—

(a) the provisions of the unitary development plan for the time being in force for that area or the relevant part of it, together with a copy of the local planning authority's resolution of adoption or the Secretary of State's notice of approval or, where part of the plan has been adopted and the remainder approved, copies of the resolution and the notice; and

(b) any alteration to that plan, together with a copy of the authority's resolution of adoption, or the Secretary of State's notice of approval, of the alteration or, where part of the alteration has been adopted and the remainder approved, copies of the resolution and the notice.

Modifications etc. (not altering text)

C9 S. 27 modified (1.5.1994) by S.I. 1994/1210, **art. 7(1)**
S. 27 applied (with modifications) (1.4.1998) by S.I. 1996/1863, **art. 4(3)(a)**
S. 27 applied (with modifications) (1.4.1998) by S.I. 1996/1867, **art. 13(3)(a)**
S. 27 applied (with modifications) (1.4.1998) by S.I. 1996/1875, **art. 5(5)(a)**

C10 S. 27: functions of local authority not to be sole responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

Marginal Citations

M19 1961 c. 33.

M20 1980 c. 66.

[F78 27A Meaning of "development plan" in relation to Wales.

For the purposes of the enactments mentioned in section 27, the development plan for any area in Wales shall be taken as consisting of—

(a) the provisions of the unitary development plan for the time being in force for that area, together with a copy of the relevant local planning authority's resolution of adoption or of the Secretary of State's notice of approval or, where part of the plan has been adopted and the remainder approved, copies of the resolution and the notice; and

(b) any alteration to that plan, together with a copy of the relevant local planning authority's resolution of adoption, or the Secretary of State's notice of approval, of the alteration or, where part of the alteration has been adopted and the remainder approved, copies of the resolution and the notice.**]**

Textual Amendments

F78 S. 27A inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 6** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

28 Commencement of Chapter I: transitional provisions.

(1) Subject to subsection (2), the provisions of this Chapter shall come into force in the area of any local planning authority in Greater London or a metropolitan county (other

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than any area in that county which is part of a National Park) on such day as may be appointed in relation to that area by an order made by the Secretary of State.

(2) Subsection (1) does not apply in any area in relation to which an order has been made before the commencement of this Act under section 4(1) of the [M21]Local Government Act 1985 (commencement of Part I of Schedule 1 to that Act) and in any such area the provisions of this Chapter shall come into force at the commencement of this Act or, if later, on the day appointed by the order.

(3) Until a unitary development plan becomes operative under this Chapter for such an area as is mentioned in subsection (1) (or where parts of such a plan become operative on different dates until every part has become operative)—

(a) if it is the area of a local planning authority in a metropolitan county, Part I of Schedule 2 (which provides for existing plans to continue in force and applies some of the provisions of Chapter II) shall apply in relation to it;

(b) if it is the area of a local planning authority in Greater London, Part II of that Schedule (which makes similar provision) shall apply in relation to it; and

(c) Part III of that Schedule shall apply in relation to it for the purpose of making continuing provision for the transitional matters for which provision was made immediately before the commencement of this Act by Schedule 7 to the 1971 Act (old development plans etc.).

(4) The power to make orders under this section may be exercised so as to make different provision for different cases, including different provision for different areas.

Modifications etc. (not altering text)
C11 S. 28 excluded (1.5.1994) by S.I. 1994/1210, **art. 7(2)**
S. 28 excluded (1.4.1998) by S.I. 1996/1863, **art. 4(3)(b)**
S. 28 excluded (1.4.1998) by S.I. 1996/1867, **art. 13(3)(b)**
S. 28 excluded (1.4.1998) by S.I. 1996/1875, **art. 5(5)(b)**

Marginal Citations
M21 1985 c. 51.

[F79 28A Application of Chapter I in relation to Wales: transitional provisions.

(1) Until a unitary development plan becomes fully operative for the area of any local planning authority in Wales—

(a) Part IA of Schedule 2, and

(b) Part III of Schedule 5 to the Local Government (Wales) Act 1994 (transitional provisions in relation to structure and local plans),

shall apply in relation to that area.

(2) For the purposes of this Chapter, a unitary development plan for the area of a local planning authority in Wales has become fully operative when—

(a) it has become operative under this Chapter; or

(b) where different parts have become operative at different times, when all parts of it have become so operative.**]**

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Textual Amendments

F79 S. 28A inserted (1.4.1996) by 1994 c. 19, **s. 20(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

CHAPTER II

STRUCTURE AND LOCAL PLANS: NON-METROPOLITAN AREAS

Modifications etc. (not altering text)

C12 Pt. II Chapter II (ss. 29-54): certain functions transferred to the Council of the Isles (Isles of Scilly) (27.7.1992) by S.I. 1992/1620, **art. 3** (with arts. 4(b), 5(2), Sch. Pt. II)
Pt. II Ch. II (ss. 29-54): applied (with modifications) (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. III para. 13(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**
Pt. II Ch. II (ss. 29-54): power to apply conferred (19.9.1995) by 1995 c. 25, **ss. 67(2)(b)(4)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 6)

Preliminary

[F80 29 Application of Chapter II to non-metropolitan areas in England.

(1) This Chapter applies only to—

(a) the area of any local planning authority in England outside Greater London and the metropolitan counties; and

(b) any part of a National Park in a metropolitan county in England.

(2) Subsection (1) is subject to the transitional provisions in—

(a) Schedule 2; and

(b) Part III of Schedule 5 to the Local Government (Wales) Act 1994.]

Textual Amendments

F80 S. 29 substituted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. I para. 7** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Surveys, etc.

30 Survey of planning areas.

(1) The local planning authority—

(a) shall keep under review the matters which may be expected to affect the development of their area or the planning of its development; and

(b) may, if they think fit, at any time institute a fresh survey of their area examining those matters.

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(2) Without prejudice to the generality of subsection (1), the matters to be kept under review and examined under that subsection shall include—

(a) the principal physical and economic characteristics of the area of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that area, of any neighbouring areas;

(b) the size, composition and distribution of the population of that area (whether resident or otherwise);

(c) without prejudice to paragraph (a), the communications, transport system and traffic of that area and, so far as they may be expected to affect that area, of any neighbouring areas;

(d) any considerations not mentioned in paragraph (a), (b) or (c) which may be expected to affect any matters so mentioned;

(e) such other matters as may be prescribed or as the Secretary of State may in any particular case direct;

(f) any changes already projected in any of the matters mentioned in any of the previous paragraphs and the effect which those changes are likely to have on the development of that area or the planning of such development.

(3) A survey under subsection (1)(b) may relate to only part of the area of an authority; and references in subsection (2) to the area of an authority or any neighbouring areas shall be construed accordingly.

(4) A local planning authority shall, for the purpose of discharging their functions under this section of examining and keeping under review any matters relating to the area of another such authority, consult with that other authority about those matters.

Structure plans

31 Structure plans: continuity, form and content.

(1) Each structure plan approved by the Secretary of State under the 1971 Act with respect to the area of a local planning authority which is in operation immediately before the commencement of this Act shall continue in force after its commencement (subject to any alterations then in operation and to the following provisions of this Part).

[F81(2) A structure plan shall contain a written statement formulating the authority's general policies in respect of the development and use of land in their area.

(3) The policies shall, subject to subsection (4), include policies in respect of—

(a) the conservation of the natural beauty and amenity of the land;

(b) the improvement of the physical environment; and

(c) the management of traffic.

(4) Regulations under this section may prescribe the aspects of such development and use with which the general policies in a structure plan are to be concerned, in which case the policies shall be concerned with those aspects and no others.

(5) A structure plan shall also contain —

(a) such diagrams, illustrations or other descriptive or explanatory matter in respect of the general policies as may be prescribed; and

(b) such other matters as the Secretary of State may, in any particular case, direct.

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(6) In formulating their general policies the authority shall have regard to—

(a) any regional or strategic planning guidance given by the Secretary of State to assist them in the preparation of the plan;

(b) current national policies;

(c) the resources likely to be available; and

(d) such other matters as the Secretary of State may prescribe or, in a particular case, direct.

(7) Where there is in operation, by virtue of section 7(7) of the 1971 Act, a structure plan relating to part of the area of a local planning authority, the authority shall, within such period (if any) as the Secretary of State may direct, prepare proposals for replacing the structure plans for the time being in operation with a single structure plan relating to the whole of their area.

(8) The following provisions of this Chapter apply to such replacement as they apply to replacement in exercise of the power in section 32(1)(b).

(9) Regulations under this section may make different provision for different cases and shall be subject to any direction given, in a particular case, by the Secretary of State.

(10) For the purposes of this section, except subsection (6)(b), "policies" includes proposals.**]**

Textual Amendments

F81 S. 31(2)-(10) substituted for s. 31(2)-(5) (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1992 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.16** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

Modifications etc. (not altering text)

C13 S. 31(3) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 7(1)**

C14 S. 31(3) modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 37** (as amended by S.I. 2009/2438, reg. 5)

[F82 32 Alteration and replacement of structure plans.

(1) A local planning authority may at any time prepare proposals—

(a) for alterations to the structure plan for their area; or

(b) for its replacement.

(2) If the Secretary of State directs them to do so, the authority shall prepare, within such time as he may direct, proposals for—

(a) such alterations to the structure plan as he directs; or

(b) its replacement.

(3) An authority shall not, without the consent of the Secretary of State, prepare proposals in respect of a structure plan if the plan or any part of it has been approved by the Secretary of State under section 35A.

(4) Proposals for the alteration of a structure plan may relate to the whole or part of the area to which the plan relates.

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(5) Proposals prepared under this section shall be accompanied by an explanatory memorandum.

(6) The explanatory memorandum shall state—

(a) the reasons which in the opinion of the authority justify each of their proposals;

(b) any information on which the proposals are based;

(c) the relationship of the proposals to general policies for the development and use of land in neighbouring areas which may be expected to affect the area to which the proposals relate,

and may contain such illustrative material as the authority think appropriate.

(7) Proposals for the alteration or replacement of a structure plan shall not become operative unless they are—

(a) adopted by the authority (under section 35); or

(b) approved by the Secretary of State (under section 35A).**]**

Textual Amendments

F82 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art. 4**

33 F83 Public participation.

(1) When preparing proposals for the alteration or replacement of a structure plan for their area and before finally determining their contents the local planning authority shall—

(a) comply with—

(i) any requirements imposed by regulations made under section 53; and

(ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and

(b) consider any representations made in accordance with those regulations.

(2) Where the authority have prepared proposals for the alteration or replacement of a structure plan they shall—

(a) make copies of the proposals and the explanatory memorandum available for inspection at such places as may be prescribed by those regulations;

(b) send a copy of the proposals and the explanatory memorandum to the Secretary of State; and

(c) comply with any requirements imposed by those regulations.

(3) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.

(4) In this section "the prescribed period" means such period as may be prescribed by or determined in accordance with regulations made under section 53 and in this Chapter "objections made in accordance with the regulations" means objections made—

(a) in accordance with regulations made under that section; and

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(b) within the prescribed period.

(5) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.

(6) The proposals shall not be adopted by the authority under section 35 until—

(a) after they have considered any objections made in accordance with the regulations; or

(b) if no such objections are made, after the expiry of the prescribed period.

Textual Amendments

F83 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

34 F84 Withdrawal of proposals for alteration and replacement of structure plans.

(1) Proposals for the alteration or replacement of a structure plan may be withdrawn by the local planning authority at any time before they have adopted them or the Secretary of State has approved them.

(2) On the withdrawal of such proposals, the authority shall—

(a) withdraw the copies made available for inspection in accordance with section 33(2); and

(b) give notice that the proposals have been withdrawn to every person who has made an objection to them.

Textual Amendments

F84 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

35 F85 Adoption of proposals.

(1) Subject to subsection (3) and sections 35A and 35B, the local planning authority may by resolution adopt proposals for the alteration or replacement of a structure plan, either as originally prepared or as modified so as to take account of—

(a) any objections to the proposals; or

(b) any other considerations which appear to them to be material.

(2) If it appears to the Secretary of State that the proposals are unsatisfactory he may, at any time before the local planning authority have adopted the proposals, direct the authority to modify the proposals in such respects as are indicated in the direction.

(3) An authority to whom such a direction is given shall not adopt the proposals unless—

(a) they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction; or

(b) the direction is withdrawn.

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(4) Subject to the following provisions of this Chapter and to section 287, proposals for the alteration or replacement of a structure plan shall become operative on the date on which they are adopted.

Textual Amendments

F85 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

35A [F86]Calling in of proposals for approval by Secretary of State.

(1) The Secretary of State may, at any time before the local planning authority have adopted proposals for the alteration or replacement of a structure plan, direct that all or any part of the proposals shall be submitted to him for his approval.

(2) If he gives such a direction—

(a) the local planning authority shall not take any further steps for the adoption of any of the proposals until the Secretary of State has given his decision on the proposals or the relevant part of the proposals; and

(b) the proposals or the relevant part of the proposals shall not have effect unless approved by him and shall not require adoption by the authority under section 35.

(3) Subsection (2)(a) applies in particular to holding or proceeding with an examination in public under section 35B(1).

(4) The Secretary of State may, after considering proposals submitted to him in compliance with a direction under subsection (1)—

(a) approve them, in whole or in part and with or without modifications or reservations; or

(b) reject them.

(5) In considering proposals so submitted to him the Secretary of State—

(a) shall take into account any objections made in accordance with the regulations; and

(b) may take into account any matters which he thinks relevant, whether or not they were taken into account in preparing the proposals.

(6) For the purpose of taking into account any objection or matter, the Secretary of State may, but need not, consult with any local planning authority or other person.

(7) The Secretary of State shall give the authority such statement as he considers appropriate of the reasons governing his decision on any proposals submitted to him.

(8) Subject to section 287, proposals approved by the Secretary of State under this section shall become operative on such day as he may appoint.

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Textual Amendments

F86 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

F87 35B Examination in public.

(1) Before adopting proposals for the alteration or replacement of a structure plan, the local planning authority shall, unless the Secretary of State otherwise directs, cause an examination in public to be held of such matters affecting the consideration of the proposals as—

(a) they consider ought to be so examined; or

(b) the Secretary of State directs.

(2) Where proposals are submitted to the Secretary of State in compliance with a direction under section 35A(1), he may cause an examination in public to be held of any matter specified by him.

(3) An examination in public shall be conducted by a person or persons appointed by the Secretary of State for the purpose.

(4) No person shall have a right to be heard at an examination in public.

(5) The following may take part in an examination in public—

(a) in the case of an examination held under subsection (1), the local planning authority; and

(b) in any case, any person invited to do so by the person or persons holding the examination or the person causing the examination to be held.

(6) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at any examination in public.

(7) An examination in public shall constitute a statutory inquiry for the purposes of section l(l)(c) of the M22Tribunals and Inquiries Act 1971 but shall not constitute such an inquiry for any other purpose of that Act.

[F88(8) Without prejudice to section 303A(8) and (9), regulations may make provision with respect to the remuneration and allowances of any person or persons appointed by the Secretary of State to conduct an examination in public under this section.**]**

Textual Amendments

F87 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 17** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F88 S. 35B(8) added (8.11.1995) by 1995 c. 49, **s. 1(5)**

Marginal Citations

M22 1971 c. 62.

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35C [F89]Duties to notify authorities responsible for local plans

(1) An authority responsible for a structure plan shall, where any proposals of theirs for the alteration or replacement of a structure plan are adopted or approved—

(a) notify any authority responsible for a local plan in their area that the proposals have been adopted or approved; and

(b) supply that authority with a statement that the local plan is or, as the case may be, is not in general conformity with the altered or new structure plan.

(2) A statement that a local plan is not in general conformity with a structure plan shall specify the respects in which it is not in such conformity.

(3) An authority responsible for a structure plan shall, where any proposals of theirs for the alteration or replacement of a structure plan are withdrawn, notify any authority responsible for a local plan in their area that the proposals have been withdrawn.

(4) Nothing in this section requires an authority to notify or supply a statement to themselves.

(5) For the purposes of this section an authority shall be regarded as responsible—

(a) for a structure plan, if they are entitled to prepare proposals for its alteration or replacement; and

(b) for a local plan, if they are under a duty to prepare a local plan or are entitled to prepare proposals for its alteration or replacement.

Textual Amendments

F89 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

[F90]*Local plans*

Textual Amendments

F90 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

36 [F91]Local plans.

(1) The local planning authority shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a local plan.

(2) A local plan shall contain a written statement formulating the authority's detailed policies for the development and use of land in their area.

(3) The policies shall include policies in respect of—

(a) the conservation of the natural beauty and amenity of the land;

(b) the improvement of the physical environment; and

(c) the management of traffic.

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(4) A local plan shall be in general conformity with the structure plan.

(5) A local plan shall not contain—

(a) any policies in respect of the winning and working of minerals or the depositing of mineral waste, unless it is a plan for a National Park;

(b) any policies in respect of the depositing of refuse or waste materials other than mineral waste, unless it is a plan for a National Park or for an area where such depositing is not a county matter for the purposes of Schedule 1.

(6) A local plan shall also contain—

(a) a map illustrating each of the detailed policies; and

(b) such diagrams, illustrations or other descriptive or explanatory matter in respect of the policies as may be prescribed,

and may contain such descriptive or explanatory matter as the authority think appropriate.

(7) A local plan may designate any part of the authority's area as an action area, that is to say, an area which they have selected for the commencement during a prescribed period of comprehensive treatment by development, redevelopment or improvement (or partly by one and partly by another method).

(8) If an area is so designated the plan shall contain a description of the treatment proposed by the authority.

(9) In formulating their detailed policies, the authority shall have regard to—

(a) such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct; and

(b) the provisions of any scheme under paragraph 3 of Schedule 32 to the [M23]Local Government, Planning and Land Act 1980 relating to land in their area which has been designated under that Schedule as an enterprise zone.

(10) Subject to the following provisions of this Chapter and section 287, a local plan shall become operative on the date on which it is adopted.

(11) For the purposes of this section "policies" includes proposals.

Textual Amendments

F91 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

Modifications etc. (not altering text)

C15 S. 36(3) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 7(1)(2)**

C16 S. 36(3) modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 37** (as amended by S.I. 2009/2438, reg. 5)

C17 S. 36(5) excluded (1.4.1996) by S.I. 1995/187, **art. 6(2)(a)**
S. 36(5) excluded (1.4.1996) by S.I. 1995/493, **art. 15(2)(a)**
S. 36(5) excluded (1.4.1996) by S.I. 1995/610, **art. 14(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1769, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1770, **art. 9(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1771, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1772, **art. 7(2)(a)**

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S. 36(5) excluded (1.4.1997) by S.I. 1995/1773, **art. 7(2)(a)(3)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1774, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1775, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1776, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1997) by S.I. 1995/1779, **art. 9(2)(a)(3)**
S. 36(5) excluded (1.4.1997) by S.I. 1996/507, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1865, **art. 5(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1866, **art. 5(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1868, **art. 5(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1875, **art. 5(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1876, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1878, **art. 7(2)(a)**
S. 36(5) excluded (1.4.1998) by S.I. 1996/1879, **art. 5(2)(a)**

Marginal Citations

M23 1980 c. 65.

37 [F92]Minerals local plans.

(1) A mineral planning authority for an area other than a National Park shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a minerals local plan.

(2) A minerals local plan shall contain a written statement formulating the authority's detailed policies for their area in respect of development consisting of the winning and working of minerals or involving the depositing of mineral waste.

(3) The local planning authority for a National Park shall, within such period (if any) as the Secretary of State may direct—

(a) prepare for their area a plan to be known as a minerals local plan; or

(b) include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the depositing of mineral waste.

(4) In formulating the policies in a minerals local plan, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.

(5) Subsections (4), (6), (10) and (11) of section 36 apply with respect to minerals local plans as they apply with respect to local plans.

(6) The following provisions of this Chapter apply with respect to minerals local plans as they apply with respect to local plans, but as if references to a local planning authority were, in relation to an area other than a National Park, references to a mineral planning authority.

Textual Amendments

F92 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

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Modifications etc. (not altering text)

C18 S. 37(1) modified (1.4.1996) by S.I. 1995/187, **art. 6(2)(b)**
S. 37(1) modified (1.4.1996) by S.I. 1995/493, **art. 15(2)(b)**
S. 37(1) modified (1.4.1996) by S.I. 1995/610, **art. 14(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1769, **art. 7(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1770, **art. 9(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1771, **art. 7(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1772, **art. 7(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1773, **art. 7(2)(b)(3)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1774, **art. 7(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1775, **art. 7(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1776, **art. 7(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1995/1779, **art. 9(2)(b)**
S. 37(1) modified (1.4.1997) by S.I. 1996/507, **art. 7(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1865, **art. 5(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1866, **art. 5(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1868, **art. 5(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1875, **art. 5(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1876, **art. 7(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1878, **art. 7(2)(b)**
S. 37(1) modified (1.4.1998) by S.I. 1996/1879, **art. 5(2)(b)**

38 F93 Waste policies.

F94(1) In this section —

"waste policies" means detailed policies in respect of development which involves the depositing of refuse or waste materials other than mineral waste; and

"waste local plan" means a plan containing waste policies.

(2) A local planning authority other than an excluded authority shall, within such period (if any) as the Secretary of State may direct—

(a) prepare a waste local plan for their area; or

(b) include their waste policies in their minerals local plan.

(3) A local planning authority are an excluded authority for the purposes of subsection (2) if they are an authority—

(a) for a National Park;

(b) for an area where waste policies are not a county matter for the purposes of Schedule 1.

(4) A local planning authority for a National Park shall within such period (if any) as the Secretary of State may direct—

(a) prepare a waste local plan for their area; or

(b) include their waste policies in—

(i) their minerals local plan; or

(ii) their local plan.

(5) In formulating their waste policies, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.

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(6) Subsections (4), (6), (10) and (11) of section 36 apply with respect to waste local plans as they apply with respect to local plans.

(7) The following provisions of this Chapter apply with respect to waste local plans as they apply with respect to local plans, but as if references to a local planning authority were references to the authority who are entitled to prepare a waste local plan.

Textual Amendments

F93 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F94 S. 38(1) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 7(3)**

Modifications etc. (not altering text)

C19 S. 38(2) modified (1.4.1996) by S.I. 1995/187, **art. 6(2)(c)**
S. 38(2) modified (1.4.1996) by S.I. 1995/493, **art. 15(2)(c)**
S. 38(2) modified (1.4.1996) by S.I. 1995/610, **art. 14(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1769, **art. 7(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1770, **art. 9(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1771, **art. 7(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1772, **art. 7(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1773, **art. 7(2)(c)(3)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1774, **art. 7(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1775, **art. 7(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1776, **art. 7(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1995/1779, **art. 9(2)(c)**
S. 38(2) modified (1.4.1997) by S.I. 1996/507, **art. 7(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1865, **art. 5(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1866, **art. 5(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1868, **art. 5(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1875, **art. 5(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1876, **art. 7(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1878, **art. 7(2)(c)**
S. 38(2) modified (1.4.1998) by S.I. 1996/1879, **art. 5(2)(c)**

39 [F95]Alteration and replacement of local plans.

(1) A local planning authority may at any time prepare proposals—

(a) for alterations to the local plan for their area; or

(b) for its replacement.

(2) A local planning authority shall—

(a) consider whether they need to prepare such proposals, if they have been supplied with a statement under section 35C that the local plan is not in general conformity with the structure plan; and

(b) prepare such proposals, if they are directed to do so by the Secretary of State, within such period (if any) as he may direct.

(3) An authority shall not, without the consent of the Secretary of State, prepare such proposals if the plan or any part of it has been approved by the Secretary of State.

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(4) Proposals for the alteration of a local plan may relate to the whole or part of the area to which the plan relates.

(5) Subject to the following provisions of this Chapter and section 287, proposals for the alteration or replacement of a local plan shall become operative on the date on which they are adopted.

Textual Amendments

F95 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

40 F96 Public participation.

(1) When preparing a local plan for their area or proposals for its alteration or replacement and before finally determining the contents of the plan or the proposals the local planning authority shall—

(a) comply with—

(i) any requirements imposed by regulations made under section 53; and

(ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and

(b) consider any representations made in accordance with those regulations.

(2) Subject to section 46(1), where the authority have prepared a local plan or proposals for its alteration or replacement they shall—

(a) make copies of the relevant documents available for inspection at such places as may be prescribed by those regulations;

(b) send a copy of the relevant documents to the Secretary of State; and

(c) comply with any requirements imposed by those regulations.

(3) In subsection (2) "the relevant documents" means—

(a) the plan or the proposals; and

(b) any statement supplied under section 46(2).

(4) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.

(5) In this section "the prescribed period" means such period as may be prescribed by or determined in accordance with regulations made under section 53 and in this Chapter "objections made in accordance with the regulations" means objections made—

(a) in accordance with regulations made under that section; and

(b) within the prescribed period.

(6) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.

(7) A local plan or proposals for its alteration or replacement shall not be adopted by the authority under section 43 until—

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(a) after they have considered any objections made in accordance with the regulations; or

(b) if no such objections are made, after the expiry of the prescribed period.

Textual Amendments

F96 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

42 Objections: local inquiry or other hearing.

[F97(1) Where any objections have been made, in accordance with the regulations, to proposals for a local plan or for its alteration or replacement copies of which have been made available for inspection under section 40(2), the local planning authority shall cause a local inquiry or other hearing to be held for the purpose of considering the objections.

(2) The local planning authority may cause a local inquiry or other hearing to be held for the purpose of considering any other objections to the proposals.

(2A) No local inquiry or other hearing need be held under this section if all persons who have made objections have indicated in writing that they do not wish to appear.**]**

(3) A local inquiry or other hearing shall be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, by the authority themselves.

(4) Regulations may—

(a) make provision with respect to the appointment, and qualifications for appointment, of persons to hold a local inquiry or other hearing;

(b) include provision enabling the Secretary of State to direct a local planning authority to appoint a particular person, or one of a specified list or class of persons;

(c) make provision with respect to the remuneration and allowances of the person appointed.

(5) Subsections (2) and (3) of section 250 of the M24Local Government Act 1972 (power to summon and examine witnesses) apply to an inquiry held under this section.

(6) The M25Tribunals and Inquiries Act **[**F98**]**1992**]**shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in **[**F99**]**section 10(1)**]** of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local authority.

Textual Amendments

F97 S. 42(1)-(2A) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for s. 42(1)(2) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 para. 18**; S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

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F98 Word in s. 42(6) substituted (1.10.1992) by Tribunal and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 24(a)**

F99 Words in s. 42(6) substituted (1.10.1992) by Tribunal and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 24(b)**

Marginal Citations

M24 1972 c. 70.

M25 1992 c. 53.

43 Adoption of proposals.

[F100(1) Subject to the following provisions of this section and section 44, the local planning authority may by resolution adopt proposals for a local plan or for its alteration or replacement, either as originally prepared or as modified so as to take account of—

(a) any objections to the plan; or

(b) any other considerations which appear to them to be material.**]**

(3) The authority shall not adopt any proposals which do not conform generally to the structure plan.

(4) After copies of the proposals have been sent to the Secretary of State and before they have been adopted by the local planning authority, the Secretary of State may, if it appears to him that the proposals are unsatisfactory, direct the authority to **[**F101modify**]**the proposals in such respects as are indicated in the direction.

(5) An authority to whom a direction is given shall not adopt the proposals unless they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction or the direction is withdrawn.

(6) Where an objection to the proposals has been made by the Minister of Agriculture, Fisheries and Food and the local planning authority do not propose to modify their proposals to take account of the objection—

(a) the authority shall send particulars of the objection to the Secretary of State, together with a statement of their reasons for not modifying their proposals to take account of it, and

(b) they shall not adopt the proposals unless the Secretary of State authorises them to do so.

Textual Amendments

F100 S. 43(1)(2) substituted for s. 43(1) (25.11.1991 for certain purposes and otherwise 10.2.1992) by 1992 c. 34, s. 27, **Sch. 4 Pt. I para. 19(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

F101 Word in s. 43(4) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 19(2)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

44 Calling in of proposals for approval by Secretary of State.

(1) After copies of proposals have been sent to the Secretary of State and before they have been adopted by the local planning authority, the Secretary of State may direct that the proposals **[**F102or any part of them**]** shall be submitted to him for his approval.

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[F103(2) If he gives such a direction—

(a) the authority shall not take any further steps for the adoption of any of the proposals until the Secretary of State has given his decision on the proposals or the relevant part of the proposals; and

(b) the proposals or the relevant part of the proposals shall not have effect unless approved by him and shall not require adoption by the authority under section 43.**]**

(3) Where particulars of an objection made by the Minister of Agriculture, Fisheries and Food have been sent to the Secretary of State under section 43(6), then, unless the Secretary of State is satisfied that that Minister no longer objects to the proposals, he shall give a direction in respect of the proposals under this section.

Textual Amendments

F102 Words in s. 44(1) inserted (25.11.1991 for certain purposes and otherwise 10.2.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 20(1) (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

F103 S. 44(2) substituted (25.11.1991 for certain purposes and otherwise 10.2.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 20(2)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

45 Approval of proposals by Secretary of State.

(1) The Secretary of State may after considering proposals submitted to him under section 44 either approve them (in whole or in part and with or without modifications or reservations) or reject them.

(2) In considering the proposals he may take into account any matters he thinks are relevant, whether or not they were taken into account in the proposals as submitted.

(3) Where on taking the proposals into consideration the Secretary of State does not determine then to reject them, he shall before determining whether or not to approve them—

(a) consider any objections to them made in accordance with **[**F104the**]** regulations,

(b) give any person who made such an objection which has not been withdrawn an opportunity of appearing before and being heard by a person appointed by him for the purpose, and

(c) if a local inquiry or other hearing is held, also give such an opportunity to the authority and such other persons as he thinks fit,

except so far as the objections have already been considered, or a local inquiry or other hearing into the objections has already been held, by the authority.

(4) In considering the proposals the Secretary of State may consult with or consider the views of any local planning authority or any other person; but he need not do so, or give an opportunity for the making of representations or objections, or cause a local inquiry or other hearing to be held, except as provided by subsection (3).

[F105(5) Subject to section 287, proposals approved by the Secretary of State under this section shall become operative on such day as he may appoint.**]**

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Textual Amendments

F104 Word in s. 45(3)(a) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I** 21(1) (with s. 84(5)); S.I. 1991/2728, **art. 2**, S.I. 1991/2905, art. 4

F105 S. 45(5) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para. 21(2)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

Conformity between plans

[F106 46 Conformity between plans.

(1) An authority responsible for a local plan shall not make copies available as mentioned in section 40(2) unless—

(a) they have served on the authority responsible for the structure plan in their area a copy of the plan or the proposals; and

(b) such period as may be prescribed has elapsed since they served the copy of the plan or proposals.

(2) Where a local planning authority have been served with a copy as mentioned in subsection (1) they shall, before the end of any period prescribed for the purposes of that subsection, supply the authority responsible for the local plan with—

(a) a statement that the plan or the proposals are in general conformity with the structure plan; or

(b) a statement that the plan or the proposals are not in such conformity.

(3) A statement that a plan or proposals are not in such conformity shall specify the respects in which the plan or proposals are not in such conformity.

(4) Any such statement shall be treated for the purposes of this Chapter as an objection made in accordance with the regulations.

(5) Nothing in this section requires an authority to serve a copy on or supply a statement to themselves.

(6) Where—

(a) a local planning authority propose to make, alter or replace a local plan;

(b) copies of proposals for the alteration or replacement of the structure plan for their area have been made available for inspection under section 33(2); and

(c) the authority mentioned in paragraph (a) include in any relevant copy of the plan or proposals a statement that they are making the permitted assumption,

the permitted assumption shall, subject to subsection (9), be made for all purposes (including in particular any question as to conformity between plans).

(7) In this section "the permitted assumption" means the assumption that—

(a) the proposals mentioned in subsection (6)(b); or

(b) if any proposed modifications to those proposals are published in accordance with regulations made under section 53, the proposals as so modified,

have been adopted.

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(8) For the purposes of subsection (6)(c) a copy is a relevant copy of a plan or proposals if it is—

(a) served under subsection (1)(a); or

(b) made available or sent under section 40(2).

(9) The permitted assumption shall not be made at any time after the authority mentioned in subsection (6)(a) know that the proposals mentioned in subsection (6)(b) have been withdrawn.

(10) The provisions of a local plan prevail for all purposes over any conflicting provisions in the relevant structure plan unless the local plan is one—

(a) stated under section 35C not to be in general conformity with the structure plan; and

(b) neither altered nor replaced after the statement was supplied.

(11) The Secretary of State may make regulations with respect to cases where—

(a) provisions in a structure plan or a local plan conflict with provisions in—

(i) a minerals local plan; or

(ii) a waste local plan;

(b) a structure plan and a local plan are made by the same authority and the provisions of the two plans conflict.

(12) Subsection (5) of section 35C applies for the purposes of this section as it applies for the purposes of that.**]**

Textual Amendments

F106 S. 46 substituted for ss. 46-48 (25.11.1991 for certain purposes and otherwise 10.2.1992) by 1991 c. 34, s. 27, **Sch. 4 Pt. I para.22** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

Supplementary

49 Disregarding of representations with respect to development authorised by or under other enactments.

Notwithstanding anything in the previous provisions of this Chapter, neither the Secretary of State nor a local planning authority need consider representations or objections with respect to a local plan or any proposal to alter, [F107]. . .or replace a structure plan or a local plan if it appears to the Secretary of State or, as the case may be, the authority that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

(a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the [M26]Highways Act 1980;

(b) an order or scheme under any provision replaced by the provisions of the Highways Act 1980 mentioned in paragraph (a) (namely, an order or scheme under section 7, 9, 11, 13 or 20 of the [M27]Highways Act 1959, section 3 of the

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[M28]Highways (Miscellaneous Provisions) Act 1961 or section 1 or 10 of the [M29]Highways Act 1971);

(c) an order under section 1 of the [M30]New Towns Act 1981.

Textual Amendments

F107 Word in s. 49 omitted (25.11.1991 for certain purposes) by Planning and Compensation Act 1991, s. 27, Sch. 4 Pt. I para. 23; S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, 84(6), Sch. 4 Pt. I para. 23, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

Marginal Citations

M26 1980 c. 66.
M27 1959 c. 25.
M28 1961 c. 63.
M29 1971 c. 41.
M30 1981 c. 64.

50 Joint structure and local plans.

(1) Where a structure plan has been prepared by two or more local planning authorities jointly, the power of making proposals under section 32 for the alteration or [F108]. . . replacement of the plan may be exercised as respects their respective areas by any of the authorities by whom it was prepared, and the Secretary of State may under that section direct any of them to submit such proposals as respects their respective areas.

[F109](2) . . . . . .

[F109](3) . . . . . .

(4) Each of the authorities by whom proposals for the alteration or [F110]. . . replacement of a joint structure plan have been prepared shall have the duty imposed by section **[**[F111]33(2)**]**of making copies of the proposals and explanatory memorandum available for inspection.

(5) Where two or more local planning authorities jointly prepare proposals for the alteration or [F112]. . . replacement of a structure plan under this section, all or any of them may withdraw them under section 34(1) and on their doing so all the authorities shall comply with subsection [[F113](2)] of that section.

(6) Where two or more local planning authorities jointly prepare proposals for the making, alteration, [F114]. . . or replacement of a local plan—

(a) [F115]. . . they each have the duty imposed by section **[**[F116]40(2)**]**. . .of making copies of the relevant documents available for inspection and objections to the proposals may be made to any of those authorities and the statement required by section **[**[F116]40(4)**]**. . . to accompany the relevant documents shall state that objections may be so made;

(b) it shall be for each of the local planning authorities to adopt the proposals under section 43(1) [F117]. . ., but any modifications subject to which the proposals are adopted must have the agreement of all those authorities.

[[F118](7) Where a structure plan has been jointly prepared by two or more local planning authorities, the duty—

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(a) to notify and supply a statement under section 35C; and

(b) to supply a statement under section 46,

shall apply to each of those authorities.

(7A) Where a local plan, or proposals for its alteration or replacement have been jointly prepared by two or more local planning authorities—

(a) the requirement to serve a copy under subsection (1) of section 46; and

(b) the right to be supplied with a statement under subsection (2) of that section,

shall apply to each of those authorities.**]**

(8) Where a local plan has been made jointly, the power of making proposals for its alteration, [F119]. . .or replacement may be exercised as respects their respective areas by any of the authorities by whom it was made, [F119]. . ., and the Secretary of State may under section **[**[F120]39**]** direct any of them to make proposals as respects their respective areas.

[[F121](9) The date of the coming into operation—

(a) of proposals for the alteration or replacement of a structure plan prepared jointly by two or more local planning authorities; and

(b) of a local plan or proposals for its alteration or replacement so prepared,

shall be a date jointly agreed by those authorities.**]**

Textual Amendments

F108 Words in s. 50(1) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(1)(with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 24(1), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F109 S. 50(2)(3) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27 , **Sch. 4 Pt. I**, para. 24(1) (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 24(1), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F110 Words in s. 50(4) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 24(2)(with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 24(2), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F111 Words in s. 50(4) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(2)(with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F112 Words in s. 50(5) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(3) (with s. 84(5)); S.I. 1991/2728, **art. 2**;and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 17, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F113 Word in s. 50(5) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(3) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F114 Word in s. 50(6) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 24(4)(a) (with s. 84(5)); S.I.

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1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 24(4)(a), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F115 Words in s. 50(6)(a) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 24(4)(b)(i) (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 24(4)(b)(i), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F116 Words in s. 50(6)(a) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(4)(b)(ii)(iii) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/2905, **art.4**

F117 Words in s. 50(6)(b) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(4)(c)(with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 24(4)(c), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F118 S. 50(7)(7A) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34 SIF 123:1), s. 27, Sch. 4 Pt. I para. 24(5) (with 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F119 Words in s. 50(8) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 24(6)(with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 17, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F120 Words in s. 50(8) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(6) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F121 S. 50(9) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 24(7) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

Modifications etc. (not altering text)

C20 S. 50 applied (1.4.1996) by S.I. 1995/187, **art. 6(1)**
S. 50 applied (1.4.1996) by S.I. 1995/493, **art. 15(1)**
S. 50 applied (1.4.1996) by S.I. 1995/610, **art. 14(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1769, **art. 7(1)**
S. 50 applied (1.4.1997) by S.I. 1998/1770, **art. 9(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1771, **art. 7(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1772, **art. 7(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1773, **art. 7(1)(3)**
S. 50 applied (1.4.1997) by S.I. 1995/1774, **art. 7(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1775, **art. 7(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1776, **art. 7(1)**
S. 50 applied (1.4.1997) by S.I. 1995/1779, **art. 9(1)**
S. 50 applied (1.4.1997) by S.I. 1996/507, **art. 7(1)**
S. 50 applied (1.4.1998) by S.I. 1996/1865, **art. 5(1)**
S. 50 applied (1.4.1998) by S.I. 1996/1866, **art. 5(1)**
S. 50 applied (1.4.1998) by S.I. 1998/1868, **art. 5(1)**
S. 50 applied (1.4.1998) by S.I. 1998/1875, **art. 5(1)**
S. 50 applied (1.4.1998) by S.I. 1998/1876, **art. 7(1)**
S. 50 applied (1.4.1998) by S.I. 1998/1878, **art. 7(1)**
S. 50 applied (1.4.1998) by S.I. 1998/1879, **art. 5(1)**

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51 Default powers.

(1) Where, by virtue of any of the previous provisions of this Chapter, any survey is required to be carried out, or any local plan or proposals for the alteration, [F122]. . .or replacement of such a plan or of a structure plan are required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any local plan or any such proposals, then—

(a) if at any time the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the relevant local planning authority are not carrying out the survey or are not taking the steps necessary to enable them to submit or adopt a local plan or such proposals within a reasonable period; or

(b) in a case where a period is specified for the submission or adoption of a local plan or any such proposals, if no such plan or proposals have been submitted or adopted within that period,

the Secretary of State may carry out the survey or prepare and make a local plan or, as the case may be, alter, [F122]. . . or replace such a plan or a structure plan, as he thinks fit.

(2) Where under subsection (1) the Secretary of State may do anything which should have been done by a local planning authority ("the defaulting authority") he may, if he thinks fit, authorise any other local planning authority who appear to him to have an interest in the proper planning of the area of the defaulting authority to do it.

(3) The previous provisions of this Chapter shall, so far as applicable, apply with any necessary modifications in relation to the doing of anything under this section by the Secretary of State or an authority other than the defaulting authority and the thing so done.

(4) The defaulting authority—

(a) shall on demand repay to the Secretary of State so much of any expenses incurred by him in connection with the doing of anything which should have been done by them as he certifies to have been incurred in the performance of their functions; and

(b) shall repay to any other authority who do under this section anything which should have been done by the defaulting authority any expenses certified by the Secretary of State to have been reasonably incurred by that other authority in connection with the doing of that thing.

Textual Amendments

F122 Word in s. 51(1) omitted (25.11.1991 for certain purposes) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I para. 25** (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 25, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art. 4**

[F123 51A Urban development corporations.

(1) The Secretary of State may direct—

(a) that a structure plan shall not operate; or

(b) that a local plan shall not be prepared or operate,

in relation to the area of an urban development corporation.

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(2) The Secretary of State may direct that proposals for the alteration or replacement of a structure plan or a local plan shall not be prepared in relation to the area of an urban development corporation.**]**

Textual Amendments

F123 S. 51A inserted (10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para.26 (with s. 84(5)); S.I. 1991/2905, **art.4**

52 Reviews of plans in enterprise zones.

(1) As soon as practicable after an order has been made under paragraph 5 of Schedule 32 to the [M31]Local Government, Planning and Land Act 1980 (adoption of enterprise zone scheme) or a notification has been given under paragraph 11 of that Schedule (modification of such a scheme) **[**[F124]any local planning authority for an area in which the enterprise zone is wholly or partly situated shall consider whether they need, in the light of the provisions in the scheme or modified scheme, to prepare proposals for the alteration or replacement of any structure or local plan in relation to which they have power to prepare such proposals.**]**

[F125](2) . . . . . .

[F125](3) . . . . . .

Textual Amendments

F124 Words in s. 52(1) substituted for paras. (a)(b)(25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 27(1) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F125 S. 52(2)(3) omitted (25.11.1991 for certain purposes) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 27**, 84(2)-(4)(6), Sch. 4 Pt. I para. 27(2) (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 27(2), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

Marginal Citations

M31 1980 c. 65.

53 Supplementary provisions as to structure and local plans.

(1) Without prejudice to the previous provisions of this Chapter, the Secretary of State may make regulations with respect to the form and content of structure and local plans and the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making, alteration, [F126]. . .and replacement.

(2) In particular any such regulations may—

(a) provide for publicity to be given to the report of any survey carried out by a local planning authority under section 30;

(b) provide for the notice to be given of or the publicity to be given to—

(i) matters included or proposed to be included in any such plan,

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(ii) the approval, adoption or making of any such plan or any alteration, [F126]. . . or replacement of it, or

(iii) any other prescribed procedural step,

and for publicity to be given to the procedure to be followed as mentioned in subsection (1);

(c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, repeal or replacement;

[[F127](cc) make provision with respect to the circumstances in which representations with respect to the matters to be included in a plan or proposals are to be treated, for any of the purposes of this Chapter, as being objections made in accordance with the regulations;**]**

(d) without prejudice to paragraph (b), provide for notice to be given to particular persons of the approval, adoption or alteration of any plan, if they have objected to the plan and have notified the relevant local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;

(e) require or authorise a local planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;

(f) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request with copies of any plan or document which has been made public **[**[F128]in compliance with the regulations or available for inspection under section 33(2) or 40(2)**]**, subject (if the regulations so provide) to the payment of a reasonable charge;

[[F129](ff) make provision for steps taken in compliance with the regulations in respect of a plan or proposal which has been withdrawn to be taken into account in prescribed circumstances for the purposes of complying with the regulations in respect of a subsequent plan or proposal;**]**

(g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, [F130]. . . or replacing any such plan, and for copies of any such plan or document to be made available on sale.

(3) Regulations under this section may extend throughout England and Wales or to specified areas only and may make different provision for different cases.

(4) Subject to the previous provisions of this Chapter and to any regulations under this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—

(a) for formulating the procedure for the carrying out of their functions under this Chapter;

(b) for requiring them to give him such information as he may require for carrying out any of his functions under this Chapter.

[F131](5) . . . . . .

Textual Amendments

F126 Word in s. 53(1)(2)(b) omitted (25.11.1991 for certain purposes and otherwise*prosp.*) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 28(1)(2)

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(a) (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 28(1)(2)(a), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F127 S. 53(2)(cc) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 28(2)(b) (with s. 84(5)); S.I. 2728, art. 2; S.I. 1991/2905, **art.4**

F128 Words in s. 53(2)(f) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 28(2)(c) (with s. 84(5)); S.I. 1991/2728. art. 2; S.I. 1992/2905, **art.4**

F129 S. 53(2)(ff) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 28(2)(d) (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F130 Word in s. 53(2)(g) omitted (25.11.1991 for certain purposes and otherwise*prosp.*) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. I**, para. 28(3)(with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 28(3), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F131 S. 53(5) omitted (25.11.1991 for certain purposes and otherwise*prosp.*) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 27**, 84(2)-(4)(6), Sch. 4 Pt. I, para. 28(3) (with s. 84(5)); S.I. 1991/2728, **art. 2** and repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84, Sch. 4 Pt. I para. 28(3), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

54 Meaning of "development plan" outside Greater London and the metropolitan counties.

(1) Subject to subsection (4), for the purposes of this Act and any other enactment relating to town and country planning, the [M32]Land Compensation Act 1961 and the [M33]Highways Act l980, the development plan for any district outside Greater London and the metropolitan counties (whether the whole or part of the area of a local planning authority) shall be taken as consisting of—

[[F132](a) the provisions of the structure plan for the time being in operation in the area;

(b) any alterations to that structure plan;

(c) the provisions of the local plan and any minerals local plan or waste local plan for the time being in operation in the area;

(d) any alterations to that local plan or minerals local plan or waste local plan,

together with the resolutions of the authority who made or altered the plan or, as the case may be the Secretary of State's notice of approval.**]**

(2) References in subsection (1) to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to a district forming part of the area to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the district.

(3) References in subsection (1) to notices of approval shall, in relation to any plan or alteration made by the Secretary of State under section 51, be construed as references to notices of the making of the plan or alteration.

(4) This section has effect subject to Part III of Schedule 2 (old development plans) **[**[F133]and Part III of Schedule 4 to the [M34]Planning and Compensation Act 1991**]**.

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
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(5) Any reference in the Land Compensation Act 1961 to an area defined in the current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force.

Textual Amendments

F132 S. 54(1)(a)-(d) substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 29(1) (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

F133 Words in s. 54(4) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I**, para. 29(2) (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art. 4**

Modifications etc. (not altering text)

C21 S. 54: functions of local authority not to be sole responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

Marginal Citations

M32 1961 c. 33.

M33 1980 c. 66.

M34 1991 c. 34.

[F134CHAPTER III

GENERAL]

Textual Amendments

F134 Chapter III headings and s. 54A inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.26** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to savings in art. 4)

[F135 54A Status of development plans.

Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise]

Textual Amendments

F135 Chapter III headings and s. 54A inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 26** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to savings in art. 4)

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
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PART III

CONTROL OVER DEVELOPMENT

Modifications etc. (not altering text)

C22 Pt. III (ss. 55-106) except ss. 76, 90(2)(5) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **regs. 2(1)(b)**, 3-11
Pt. III (ss. 55-106): power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(1)(a)**; S.I. 1993/2762, **art. 3**
Pt. III (ss. 55-106) applied (5.11.1993) by 1993 c. 42, **s. 24(1)** (with ss. 2, 30(1), Sch. 2 para.9)
Pt. III (ss. 55-106) extended (1.11.1995) by 1995 c. 25, **s. 96(2)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. III (ss. 55-106) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**
Pt. III (ss. 55-106) modified (18.12.1996) by 1996 c. 61, **s. 9(1)(2)**
Pt. III (ss. 55-106) modified (18.12.1996) by 1996 c. 61, **s. 51**
Pt. III (ss. 55-106) modified (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **art. 20(1)**

Meaning of development

55 Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

[[F136](1A) For the purposes of this Act "building operations" includes—

(a) demolition of buildings;
(b) rebuilding;
(c) structural alterations of or additions to buildings; and
(d) other operations normally undertaken by a person carrying on business as a builder.**]**

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,

and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a local highway authority of any works required for the maintenance or improvement of the road **[**[F137]but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment**]**;

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(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

[F138(g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.**]**

(3) For the avoidance of doubt it is hereby declared that for the purposes of this section—

(a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;

(b) the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if—

(i) the superficial area of the deposit is extended, or

(ii) the height of the deposit is extended and exceeds the level of the land adjoining the site.

(4) For the purposes of this Act mining operations include—

(a) the removal of material of any description—

(i) from a mineral-working deposit;

(ii) from a deposit of pulverised fuel ash or other furnace ash or clinker; or

(iii) from a deposit of iron, steel or other metallic slags; and

(b) the extraction of minerals from a disused railway embankment.

[F139(4A) Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection—

"fish farming" means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

"inland waters" means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

"tank" includes any cage and any other structure for use in fish farming.**]**

(5) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

F140(6) . . . . . .

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Subordinate Legislation Made

P1 S. 55(2)(f); s. 55(2)(f) (with s. 333(7)) power exercised (5.7.1991) by S.I. 1991/1567

Textual Amendments

F136 S. 55(1A) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 13(1)** (with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F137 Words in s. 55(2)(b) inserted (14.3.1999) by S.I. 1999/293, **reg. 35(1)**7

F138 S. 55(2)(g) inserted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 13(2)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1279, **art. 2** (with art. 3)

F139 S. 55(4A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 14(1)(2)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 4)

F140 S. 55(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 9, **Sch. 19**, Pts. I, II (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1**

56 Time when development begun.

(1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

(a) if the development consists of the carrying out of operations, at the time when those operations are begun;

(b) if the development consists of a change in use, at the time when the new use is instituted;

(c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

(2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

(3) The provisions referred to in subsection (2) are sections 85(2), 86(6), 87(4), **[**F141**]**89**]** 91, 92 and 94.

(4) In subsection (2) "material operation" means—

(a) any work of construction in the course of the erection of a building;

[F142(aa) any work of demolition of a building;**]**

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development.

(5) In subsection (4)(e) "material development" means any development other than—

(a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

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[F143(b) development of a class specified in paragraph 1 or 2 of Schedule 3; **]** and

(c) development of any class prescribed for the purposes of this subsection.

(6) In subsection (5) "general development order" means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.

Textual Amendments

F141 Word in s. 56(3) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(2)-(4), **Sch. 7 para. 10(1)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F142 S. 56(4)(aa) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 10(2)** (with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F143 S. 56(5)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(2)-(4), **Sch. 6 para. 10**; S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C23 S. 56 applied (with modifications) (3.11.1995) by S.I. 1995/2863, reg. 3, **Sch.**

Requirement for planning permission

57 Planning permission required for development.

(1) Subject to the following provisions of this section, planning permission is required for the carrying out of any development of land.

(2) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of its use for the purpose for which it was normally used before the permission was granted.

(3) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is its normal use.

(4) Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.

(5) In determining for the purposes of subsections (2) and (3) what is or was the normal use of land, no account shall be taken of any use begun in contravention of this Part or of previous planning control.

(6) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if it was begun in contravention of Part III of the 1947 Act, Part III of the 1962 Act or Part III of the 1971 Act.

(7) Subsection (1) has effect subject to Schedule 4 (which makes special provision about use of land on 1st July 1948).

58 Granting of planning permission: general.

(1) Planning permission may be granted—

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(a) by a development order;

(b) by the local planning authority (or, in the cases provided in this Part, by the Secretary of State) on application to the authority in accordance with a development order;

(c) on the adoption or approval of a simplified planning zone scheme or alterations to such a scheme in accordance with section 82 or, as the case may be, section 86; or

(d) on the designation of an enterprise zone or the approval of a modified scheme under Schedule 32 to the [M35]Local Government, Planning and Land Act 1980 in accordance with section 88 of this Act.

(2) Planning permission may also be deemed to be granted under section 90 (development with government authorisation).

(3) This section is without prejudice to any other provisions of this Act providing for the granting of permission.

Modifications etc. (not altering text)
C24 S. 58(1)(b) excluded (17.12.1996) by 1996 c. ix, **s. 10(d)**

Marginal Citations
M35 1980 c. 65.

Development orders

59 Development orders: general.

(1) The Secretary of State shall by order (in this Act referred to as a "development order") provide for the granting of planning permission.

(2) A development order may either—

(a) itself grant planning permission for development specified in the order or for development of any class specified; or

(b) in respect of development for which planning permission is not granted by the order itself, provide for the granting of planning permission by the local planning authority (or, in the cases provided in the following provisions, by the Secretary of State) on application to the authority in accordance with the provisions of the order.

(3) A development order may be made either—

(a) as a general order applicable, except so far as the order otherwise provides, to all land, or

(b) as a special order applicable only to such land or descriptions of land as may be specified in the order.

Subordinate Legislation Made
P2 S. 59: power previously exercised by S.I. 1990/2032
P3 S. 59: s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

60 Permission granted by development order.

(1) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(2) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the local planning authority to be obtained with respect to the design or external appearance of the buildings.

(3) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for development of a specified class, the order may enable the Secretary of State or the local planning authority to direct that the permission shall not apply either—

(a) in relation to development in a particular area, or

(b) in relation to any particular development.

(4) Any provision of a development order by which permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

Subordinate Legislation Made

P4 S. 60 power previously exercised by S.I. 1990/2032

P5 S. 60(1): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536

61 Development orders: supplementary provisions.

(1) A general development order may make different provision with respect to different descriptions of land.

(2) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any pre 1947 Act enactment, or any regulations, orders or byelaws made at any time under any such enactment—

(a) shall not apply to any development specified in the order, or

(b) shall apply to it subject to such modifications as may be so specified.

(3) In subsection (2) "pre 1947 Act enactment" means—

(a) any enactment passed before 6th August 1947 (the date of the passing of the 1947 Act), and

(b) any enactment contained in the [M36]Highways Act 1980 which—

(i) is an enactment derived from the [M37]Highways Act 1959, and

(ii) re-enacts (with or without modifications) any such enactment as is mentioned in paragraph (a).

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Subordinate Legislation Made

P6 S. 61(1): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536

Marginal Citations

M36 1980 c. 66.
M37 1959 c. 25.

VALID FROM 06/08/2004

I[F144] Local development orders

Textual Amendments

F144 Ss. 61A-61C and preceding cross-heading inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/ 1061, {art. 2}

61A Local development orders

(1) A local planning authority may by order (a local development order) make provision to implement policies—

(a) in one or more development plan documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004);

(b) in a local development plan (within the meaning of Part 6 of that Act).

(2) A local development order may grant planning permission—

(a) for development specified in the order;

(b) for development of any class so specified.

(3) A local development order may relate to—

(a) all land in the area of the relevant authority;

(b) any part of that land;

(c) a site specified in the order.

(4) A local development order may make different provision for different descriptions of land.

(5) But a development order may specify any area or class of development in respect of which a local development order must not be made.

(6) A local planning authority may revoke a local development order at any time.

(7) Schedule 4A makes provision in connection with local development orders.

61B Intervention by Secretary of State or National Assembly

(1) At any time before a local development order is adopted by a local planning authority the appropriate authority may direct that the order (or any part of it) is submitted to it for its approval.

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(2) If the appropriate authority gives a direction under subsection (1)—

(a) the authority must not take any step in connection with the adoption of the order until the appropriate authority gives its decision;

(b) the order has no effect unless it (or, if the direction relates to only part of an order, the part) has been approved by the appropriate authority.

(3) In considering an order or part of an order submitted under subsection (1) the appropriate authority may take account of any matter which it thinks is relevant.

(4) It is immaterial whether any such matter was taken account of by the local planning authority.

(5) The appropriate authority—

(a) may approve or reject an order or part of an order submitted to it under subsection (1);

(b) must give reasons for its decision under paragraph (a).

(6) If the appropriate authority thinks that a local development order is unsatisfactory—

(a) it may at any time before the order is adopted by the local planning authority direct them to modify it in accordance with the direction;

(b) if it gives such a direction it must state its reasons for doing so.

(7) The local planning authority—

(a) must comply with the direction;

(b) must not adopt the order unless the appropriate authority gives notice that it is satisfied that they have complied with the direction.

(8) The appropriate authority—

(a) may at any time by order revoke a local development order if it thinks it is expedient to do so;

(b) must, if it revokes a local development order, state its reasons for doing so.

(9) Subsections (3) to (6) of section 100 apply to an order under subsection (8) above as they apply to an order under subsection (1) of that section and for that purpose references to the Secretary of State must be construed as references to the appropriate authority.

(10) The appropriate authority is—

(a) the Secretary of State in relation to England;

(b) the National Assembly for Wales in relation to Wales.

61C Permission granted by local development order

(1) Planning permission granted by a local development order may be granted—

(a) unconditionally, or

(b) subject to such conditions or limitations as are specified in the order.

(2) If the permission is granted for development of a specified description the order may enable the local planning authority to direct that the permission does not apply in relation to—

(a) development in a particular area, or

(b) any particular development.

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[F145 61D Effect of revision or revocation of development order on incomplete development

(1) A development order or local development order may include provision permitting the completion of development if —

(a) planning permission is granted by the order in respect of the development, and

(b) the planning permission is withdrawn at a time after the development is started but before it is completed.

(2) Planning permission granted by a development order is withdrawn—

(a) if the order is revoked;

(b) if the order is amended so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;

(c) by the issue of a direction under powers conferred by the order.

(3) Planning permission granted by a local development order is withdrawn—

(a) if the order is revoked under section 61A(6) or 61B(8);

(b) if the order is revised in pursuance of paragraph 2 of Schedule 4A so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;

(c) by the issue of a direction under powers conferred by the order.

(4) The power under this section to include provision in a development order or a local development order may be exercised differently for different purposes.**]]**

Textual Amendments

F145 S. 61D inserted (6.8.2004 for specified purposes, 10.5.2006 for E. so far as not already in force, 30.4.2012 for W. so far as not already in force) by Planning and Compulsory Purchase Act 2004 (c. 5), **s. 41** (with s. 111); S.I. 2004/2097, art. 2; S.I. 2006/1061, art. 2(a); S.I. 2012/1100, art. 2

Applications for planning permission

62 Form and content of applications for planning permission.

Any application to a local planning authority for planning permission—

(a) shall be made in such manner as may be prescribed by regulations under this Act; and

(b) shall include such particulars and be verified by such evidence as may be required by the regulations or by directions given by the local planning authority under them.

F146 63 . . . . . .

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F146 S. 63 repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 11, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

F147 64 . . . . . .

Textual Amendments

F147 S. 64 repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 12, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

Publicity for applications

[F148 65 Notice etc. of applications for planning permission.

(1) A development order may make provision requiring—

(a) notice to be given of any application for planning permission, and

(b) any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used,

and provide for publicising such applications and for the form, content and service of such notices and certificates.

(2) Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which the application relates, or **[**F149an agricultural tenant of that land**]]**, is given notice of the application in such manner as may be required by the order.

(3) A development order may require an applicant for planning permission to certify, in such form as may be prescribed by the order, or to provide evidence, that any requirements of the order have been satisfied.

(4) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.

(5) A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section have been satisfied.

(6) If any person—

(a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or

(b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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(8) In this section—

[[F150]"agricultural tenant", in relation to any land, means any person who—

(a) is the tenant, under a tenancy in relation to which the Agricultural Holdings Act 1986 applies, of an agricultural holding within the meaning of that Act any part of which is comprised in that land; or

(b) is the tenant, under a farm business tenancy (within the meaning of the Agricultural Tenancies Act 1995), of land any part of which is comprised in that land;**]**

"owner" in relation to any land means any person who—

(a) is the estate owner in respect of the fee simple;

(b) is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired; or

(c) in the case of such applications as may be prescribed by a development order, is entitled to an interest in any mineral so prescribed,

and the reference to the interests in the land to which an application for planning permission relates includes any interest in any mineral in, on or under the land.

(9) Notwithstanding section 127 of the [M38]Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under this section whenever laid.

Textual Amendments

F148 S. 65 substituted for ss. 65-68 (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34), **s. 16(1)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1491, **art. 2**

F149 Words in s. 65(2) substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 35(2)** (with s. 37)

F150 Definition of "agricultural tenant" substituted (1.9.1995) for definition of "agricultural holding" in s. 65(8) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 35(3)** (with s. 37)

Modifications etc. (not altering text)

C25 S. 65 applied (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(5)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65 applied (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(3)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65 extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(5)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65 applied (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(3)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C26 S. 65(6) extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(5)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65(6) extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(3)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2765, **art. 2**
S. 65(6) extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(3)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2765, **art. 2**

Marginal Citations

M38 1980 c. 43.

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
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69 Registers of applications, etc.

(1) Every local planning authority shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect to applications for planning permission [F154]. . ..

(2) The register shall contain—

(a) information as to the manner in which such applications have been dealt with, and

(b) such information as may be prescribed by a development order with respect to simplified planning zone schemes relating to zones in the authority's area.

(3) A development order may make provision for the register to be kept in two or more parts, each part containing such information relating to applications for planning permission [F154]. . . as may be prescribed by the order.

(4) A development order may also make provision—

(a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted with them; and

(b) for the entry relating to any application, and everything relating to it, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of (without prejudice to the inclusion of any different entry relating to it in another part of the register).

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Textual Amendments

F154 Words in s. 69(1)(3) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 13(a)(b), **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1991/2905, art. 3, Sch. 1, **Sch.2** (subject to art. 5)

Modifications etc. (not altering text)

C27 S. 69 extended (with modifications) (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, **Sch. 2 para. 9(1)(2)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
S. 69 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 69 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

C28 S. 69: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Determination of applications

70 Determination of applications: general considerations.

(1) Where an application is made to a local planning authority for planning permission—

[F155](a) subject to sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or

[F155](b) they may refuse planning permission.

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(2) In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

(3) Subsection (1) has effect subject to **[**F156section 65**]** and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the M40Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the M41Health Services Act 1976.

Textual Amendments

F155 S. 70(1)(a)(b): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

F156 Words in s. 70(3) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.14** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C29 S. 70 modified (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. III para. 19** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, **art. 4**,, Sch. 2
S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

Marginal Citations

M40 1990 c. 9.

M41 1976 c. 83.

[F157**70A Power of local planning authority to decline to determine applications.**

(1) A local planning authority may decline to determine an application for planning permission for the development of any land if—

(a) within the period of two years ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under section 77 or has dismissed an appeal against the refusal of a similar application; and

(b) in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) in the development plan, so far as material to the application, or in any other material considerations.

(2) For the purposes of this section an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the local planning authority the same or substantially the same.

(3) The reference in subsection (1)(a) to an appeal against the refusal of an application includes an appeal under section 78(2) in respect of an application.**]**

Textual Amendments

F157 S. 70A inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 17(1)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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Modifications etc. (not altering text)

C30 S. 70A applied (with modifications) (6.4.1992) by S.I. 1992/666, art. 13(1)(c), Sch. 4 Pts. I, **II**
S. 70A applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2004/783), **reg. 14(3)**, Sch. 4 (as amended by S.I. 2007/1739, reg. 2(b))

C31 S. 70A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

VALID FROM 06/04/2009

[F158 70B Power to decline to determine overlapping application

(1) A local planning authority may decline to determine an application for planning permission for the development of any land which is

[F159 (a) made on the same day as a similar application, or

(b)] made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 76A or 77 or on an appeal under section 78 and the Secretary of State has not issued his decision.

(4) The condition is that a similar application—

(a) has been granted by the local planning authority,

(b) has been refused by them, or

(c) has not been determined by them within the determination period,

and the time within which an appeal could be made to the Secretary of State under section 78 has not expired.

[F160 (4A) A local planning authority in England may also decline to determine an application for planning permission for the development of any land in England which is made at a time when the condition in subsection (4B) applies in relation to a similar application.

(4B) The condition is that—

(a) a similar application is under consideration by the Secretary of State,

(b) the similar application is an application deemed to have been made by section 177(5), and

(c) the Secretary of State has not issued his decision.]

(5) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.

(6) The determination period is—

(a) the period prescribed by the development order for the determination of the application, or

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(b) such longer period as the applicant and the authority have agreed for the determination of the application.

[F161(7) If a local planning authority exercise their power under subsection (1)(a) to decline to determine an application made on the same day as a similar application, they may not also exercise that power to decline to determine the similar application.**]]**

Textual Amendments

F158 Ss. 70A, 70B substituted (24.8.2005 (E.) in so far as relates to s. 70A and 6.4.2009 (E.) in so far as relates to s. 70B) for s. 70A by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 43(1)**, 121 (with s. 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4); S.I. 2009/384, **art. 2(a)**

F159 Words in s. 70B(1) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 3(2)** (with s. 226); S.I. 2009/400, **art. 5**

F160 S. 70B(4A)(4B) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 3(3)** (with s. 226); S.I. 2009/400, **art. 3**

F161 S. 70B(7) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 3(4)** (with s. 226); S.I. 2009/400, **art. 5**

71 Consultations in connection with determinations under s. 70.

[F162(1) A development order may provide that a local planning authority shall not determine an application for planning permission before the end of such period as may be prescribed.

(2) A development order may require a local planning authority—

(a) to take into account in determining such an application such representations, made within such period, as may be prescribed; and

(b) to give to any person whose representations have been taken into account such notice as may be prescribed of their decision.

(2A) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.**]**

(3) Before a local planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority with power to issue a site licence for that land, consult the local authority with that power.

(4) In this section—

[F163"prescribed" means prescribed by a development order**]**

"site licence" means a licence under Part 1 of the M42Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site.

Textual Amendments

F162 S. 71(1)(2)(2A) substituted for s. 71(1)(2) (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 16(2)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1491, **art. 2**

F163 S. 71(4) definition of "prescribed" substituted (17.7.1992) for definitions of "agricultural holding" and "owner" by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.15** (with s. 84(5)); S.I. 1992/1491, **art. 2**

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Marginal Citations

M42 1960 c. 62.

[F164 71A Assessment of environmental effects.

(1) The Secretary of State may by regulations make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.

(2) The regulations—

(a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the M43 European Communities Act 1972; and

(b) may make different provision for different classes of development.

(3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, section 333(3) shall not apply.]

Textual Amendments

F164 S. 71A inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.15** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Marginal Citations

M43 1972 c. 68.

72 Conditional grant of planning permission.

(1) Without prejudice to the generality of section 70(1), conditions may be imposed on the grant of planning permission under that section—

(a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;

(b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

(2) A planning permission granted subject to such a condition as is mentioned in subsection (1)(b) is in this Act referred to as "planning permission granted for a limited period".

(3) Where—

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(a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition; and

(b) any building or other operations are commenced after the time so specified,

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

(4) Subsection (3)(a) does not apply to a condition attached to the planning permission by or under section 91 or 92.

(5) Part I of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions which may be imposed on the grant of planning permission for development consisting of the winning and working of minerals **[**F165or involving the depositing of refuse or waste materials**]**, and subsection (2) has effect subject to paragraph 1(6)(a) of that Schedule.

Textual Amendments

F165 Words in s. 72(5) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.2** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C32 S. 72: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C33 S. 72(1)(a) modified (26.11.1992) by S.I. 1992/2683, reg. 2, **Sch. para. 2**
S. 72(1)(a) modified (3.6.1995) by S.I. 1995/1139, reg. 2, **Sch. para. 1**

73 Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

(3) Special provision may be made with respect to such applications—

(a) by regulations under section 62 as regards the form and content of the application, and

(b) by a development order as regards the procedure to be followed in connection with the application.

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(4) This section does not apply if the previous planning permission was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun.

Modifications etc. (not altering text)

C34 S. 73: functions of local authority not to be responsibility, of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1** para. A. 2

C35 S. 73: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F166 73A Planning permission for development already carried out.

(1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.

(2) Subsection (1) applies to development carried out—

(a) without planning permission;

(b) in accordance with planning permission granted for a limited period; or

(c) without complying with some condition subject to which planning permission was granted.

(3) Planning permission for such development may be granted so as to have effect from—

(a) the date on which the development was carried out; or

(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.**]**

Textual Amendments

F166 S. 73A inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 16(1)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

Modifications etc. (not altering text)

C36 S. 73A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

74 Directions etc. as to method of dealing with applications.

(1) Provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by local planning authorities, and in particular—

(a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the local planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;

(b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the

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Secretary of State under it, to grant planning permission for development which does not accord with the provisions of the development plan;

(c) for requiring that, before planning permission for any development is granted or refused, local planning authorities prescribed by the order or by directions given by the Secretary of State under it shall consult with such authorities or persons as may be so prescribed;

(d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;

(e) for requiring the local planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed;

(f) for requiring the local planning authority to give to the Secretary of State, and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

[[F167](1A) Provision may be made by a development order—

(a) for determining the persons to whom applications under this Act are to be sent; and

(b) for requiring persons to whom such applications are sent to send copies to other interested persons.**]**

(2) Subsection (1) is subject to the provisions of [F168]. . . sections 67(7) and 73(1) of the [M44]Planning (Listed Buildings and Conservation Areas) Act 1990.

Textual Amendments

F167 S. 74(1A) inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 19(1)**, (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 3** (subject to art. 5)

F168 Words in s. 74(2) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 17, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

Marginal Citations

M44 1990 c. 9.

75 Effect of planning permission.

(1) Without prejudice to the provisions of this Part as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested in it.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used.

(3) If no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

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Modifications etc. (not altering text)

C37 S. 75 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 75 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

76 Duty to draw attention to certain provisions for benefit of disabled.

(1) This section applies when planning permission is granted for any development which will result in the provision—

(a) of a building or premises to which section 4 of the [M45]Chronically Sick and Disabled Persons Act 1970 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);

(b) of any of the following (being in each case, premises in which persons are employed to work)—

(i) office premises, shop premises and railway premises to which the [M46]Offices, Shops and Railway Premises Act 1963 applies;

(ii) premises which are deemed to be such premises for the purposes of that Act; or

(iii) factories as defined by section 175 of the [M47]Factories Act 1961;

(c) of a building intended for the purposes of a university, university college or college, or of a school or hall of a university;

(d) of a building intended for the purposes of an institution within **[**[F169]the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992**]**; or

(e) of a building intended for the purposes of a school or an institution which provides higher education or further education (or both) and is maintained or assisted by a local education authority.

[[F170](f) of a building intended for the purposes of an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992**]**

(2) The local planning authority granting the planning permission shall draw the attention of the person to whom the permission is granted—

(a) in the case of such a building or premises as are mentioned in subsection (1)(a)—

(i) to sections 4 and 7 of the [M48]Chronically Sick and Disabled Persons Act 1970; and

(ii) to the Code of Practice for Access of the Disabled to Buildings (British Standards Institution code of practice BS 5810: 1979) or any prescribed document replacing that code;

(b) in the case of such premises as are mentioned in subsection (1)(b), to sections 7 and 8A of that Act and to that code or any such prescribed document replacing it;

(c) in the case of such a building as is mentioned in subsection (1)(c), (d) or (e), to sections 7 and 8 of that Act and to Design Note 18 "Access for Disabled People to Educational Buildings" published in 1984 on behalf of the Secretary of State, or any prescribed document replacing that note.

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[F171(3) Expressions used in subsection (1)(e) and in the M49Education Act 1996 have the same meanings as in that Act.**]**

Textual Amendments

F169 Words in s. 76(1)(d) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, **Sch. 8 para. 94(a)**; S.I. 1992/831, art. 2, **Sch. 3**

F170 S. 76(1)(f) inserted (1.4.1993) by Further Education Act 1992 (c. 13), s. 93, **Sch. 8 para. 94(b)**; S.I. 1992/831, art. 2, **Sch. 3**

F171 S. 76(3) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 99** (with s. 1(4), Sch. 39)

Modifications etc. (not altering text)

C38 S. 76: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M45 1970 c. 44.

M46 1963 c. 41.

M47 1961 c. 34.

M48 1970 c. 44.

M49 1996 c. 56.

Secretary of State's powers as respects planning applications and decisions

VALID FROM 06/08/2004

[F172 76A Major infrastructure projects

(1) This section applies to—

(a) an application for planning permission;

(b) an application for the approval of a local planning authority required under a development order,

if the Secretary of State thinks that the development to which the application relates is of national or regional importance.

(2) The Secretary of State may direct that the application must be referred to him instead of being dealt with by the local planning authority.

(3) If the Secretary of State gives a direction under subsection (2) he may also direct that any application—

(a) under or for the purposes of the planning Acts, and

(b) which he thinks is connected with the application mentioned in subsection (1),

must also be referred to him instead of being dealt with by the local planning authority.

(4) If the Secretary of State gives a direction under this section—

(a) the application must be referred to him;

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(b) he must appoint an inspector to consider the application.

(5) If the Secretary of State gives a direction under subsection (2) the applicant must prepare an economic impact report which must—

(a) be in such form and contain such matter as is prescribed by development order;

(b) be submitted to the Secretary of State in accordance with such provision as is so prescribed.

(6) For the purposes of subsection (5) the Secretary of State may, by development order, prescribe such requirements as to publicity and notice as he thinks appropriate.

(7) A direction under this section or section 76B may be varied or revoked by a subsequent direction.

(8) The decision of the Secretary of State on any application referred to him under this section is final.

(9) Regional relates to a region listed in Schedule 1 to the Regional Development Agencies Act 1998 (c. 45).

(10) The following provisions of this Act apply (with any necessary modifications) to an application referred to the Secretary of State under this section as they apply to an application which falls to be determined by a local planning authority—

(a) section 70;

(b) section 72(1) and (5);

(c) section 73;

(d) section 73A.

(11) A development order may apply (with or without modifications) any requirements imposed by the order by virtue of section 65 or 71 to an application referred to the Secretary of State under this section.

(12) This section does not apply to an application which relates to the development of land in Wales.

Textual Amendments

F172 Ss. 76A, 76B inserted (6.8.2004 for certain purposes, 24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 44**, 121; S.I. 2004/2097, **art. 2**; S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

VALID FROM 06/08/2004

76B Major infrastructure projects: inspectors

(1) This section applies if the Secretary of State appoints an inspector under section 76A(4)(b) (the lead inspector).

(2) The Secretary of State may direct the lead inspector—

(a) to consider such matters relating to the application as are prescribed;

(b) to make recommendations to the Secretary of State on those matters.

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(3) After considering any recommendations of the lead inspector the Secretary of State may—

(a) appoint such number of additional inspectors as he thinks appropriate;

(b) direct that each of the additional inspectors must consider such matters relating to the application as the lead inspector decides.

(4) An additional inspector must—

(a) comply with such directions as to procedural matters as the lead inspector gives;

(b) report to the lead inspector on the matters he is appointed to consider.

(5) A copy of directions given as mentioned in subsection (4)(a) must be given to—

(a) the person who made the application;

(b) the local planning authority;

(c) any other person who requests it.

(6) If the Secretary of State does not act under subsection (3) he must direct the lead inspector to consider the application on his own.

(7) In every case the lead inspector must report to the Secretary of State on—

(a) his consideration of the application;

(b) the consideration of the additional inspectors (if any) of the matters mentioned in subsection (3)(b).

(8) The function of the lead inspector in pursuance of subsection (2)—

(a) may be exercised from time to time;

(b) includes making recommendations as to the number of additional inspectors required from time to time.

(9) The power of the Secretary of State under subsection (3) to appoint an additional inspector includes power to revoke such an appointment.**]**

Textual Amendments

F172 Ss. 76A, 76B inserted (6.8.2004 for certain purposes, 24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 44**, 121; S.I. 2004/2097, **art. 2**; S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

77 Reference of applications to Secretary of State.

(1) The Secretary of State may give directions requiring applications for planning permission, or for the approval of any local planning authority required under a development order, to be referred to him instead of being dealt with by local planning authorities.

(2) A direction under this section—

(a) may be given either to a particular local planning authority or to local planning authorities generally; and

(b) may relate either to a particular application or to applications of a class specified in the direction.

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(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Subject to subsection (5), where an application for planning permission is referred to the Secretary of State under this section, sections **[**F173 70, 72(1) and (5), 73 and 73A**]** shall apply, with any necessary modifications, as they apply to such an application which falls to be determined by the local planning authority **[**F174 and a development order may apply, with or without modifications, to an application so referred any requirements imposed by such an order by virtue of section 65 or 71**]**.

(5) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the local planning authority wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) Subsection (5) does not apply to an application for planning permission referred to a Planning Inquiry Commission under section 101.

(7) The decision of the Secretary of State on any application referred to him under this section shall be final.

Textual Amendments

F173 Words in s. 77(4) substituted (2.1.1992 so far as relating to the inclusion of a reference to s. 73A otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.18** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5) and S.I. 1992/1491, art.2, **Sch.1**

F174 Words in s. 77(4) inserted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 18** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch.1**

Modifications etc. (not altering text)

C39 S. 77 extended (3.11.1994) by 1994 c. 33, **ss. 80(3)**, 172(4)

C40 S. 77(5) excluded (27.5.1997) by 1997 c. 8, ss. 70(4), 278(2), **Sch. 7 para. 7** (with ss. 20, 64, 219)

78 Right to appeal against planning decisions and failure to take such decisions.

(1) Where a local planning authority—

(a) refuse an application for planning permission or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission or grant it subject to conditions; or

(c) refuse an application for any approval of that authority required under a development order or grant it subject to conditions,

the applicant may by notice appeal to the Secretary of State.

(2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have **[**F175 done none of the following**]**—

(a) given notice to the applicant of their decision on the application;

[F176 (aa) given notice to the applicant that they have exercised their power under section 70A to decline to determine the application;**]**

(b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77,

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within such period as may be prescribed by the development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

(3) Any appeal under this section shall be made by notice served within such time and in such manner as may be prescribed by a development order.

(4) The time prescribed for the service of such a notice must not be less than—

(a) 28 days from the date of notification of the decision; or

(b) in the case of an appeal under subsection (2), 28 days from the end of the period prescribed as mentioned in subsection (2) or, as the case may be, the extended period mentioned in that subsection.

(5) For the purposes of the application of sections 79(1), 253(2)(c), 266(1)(b) and 288(10)(b) in relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

Textual Amendments

F175 Words in s. 78(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 17(2)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F176 S. 78(2)(aa) substituted (25.9.1991) for 'nor' by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 17(2)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C41 S. 78 modified by S.I. 1989/670, **reg. 15** as amended by S.I. 1990/1562, **regs. 2**, 3, 6
S. 78 applied (with modifications) (6.4.1992) by S.I. 1992/666, reg. 15(1)(3), Sch. 4 Pts. I, IV, **V**
S. 78 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 78 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

C42 S. 78 restricted (18.12.1996) by 1996 c. 61, s. 9(5), **Sch. 6 Pt. IV para. 33**

C43 S. 78 applied (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 89, 121, **Sch. 4 para. 5(3)** (with s. 111); S.I. 2006/1281, **art. 2**

VALID FROM 06/08/2004

[F177 78A Appeal made: functions of local planning authorities

(1) This section applies if a person who has made an application mentioned in section 78(1)(a) appeals to the Secretary of State under section 78(2).

(2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 78(2).

(3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—

(a) the appeal must be treated as an appeal under section 78(1) against the refusal;

(b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;

(c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.

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(4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—

(a) to proceed with the appeal as an appeal under section 78(1) against the grant of the application subject to conditions;

(b) to revise the grounds of the appeal;

(c) to change any option the person has chosen relating to the procedure for the appeal.

(5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.

(6) The additional period is the period prescribed by development order for the purposes of this section and which starts on the day on which the person appeals under section 78(2).**]**

Textual Amendments

F177 S. 78A inserted (6.8.2004 for certain purposes and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 50(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**

79 Determination of appeals.

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Subsection (2) does not apply to an appeal referred to a Planning Inquiry Commission under section 101.

(4) Subject to subsection (2), the provisions of sections **[**F178 70, 72(1) and (5), 73 and 73A**]** and Part I of Schedule 5 shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for planning permission which falls to be determined by the local planning authority **[**F179 and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71**]**.

(5) The decision of the Secretary of State on such an appeal shall be final.

(6) If, before or during the determination of such an appeal in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 70 and 72(1), the development order and any directions given under that order, planning permission for that development—

(a) could not have been granted by the local planning authority; or

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(b) could not have been granted otherwise than subject to the conditions imposed,

he may decline to determine the appeal or to proceed with the determination.

[F180(6A) If at any time before or during the determination of such an appeal it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—

(a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and

(b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.]

(7) Schedule 6 applies to appeals under section 78, including appeals under that section as applied by or under any other provision of this Act.

Textual Amendments

F178 Words in s. 79(4) substituted (2.1.1992 so far as relating to the inclusion of a reference to s. 73A and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 19** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art .5); S.I. 1992/1491, art. 2, **Sch. 1**

F179 Words at end of s. 79(4) inserted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 19** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

F180 S. 79(6A) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 18** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C44 Ss. 78, 79 modified by S.I. 1989/670, **reg. 15** as amended by S.I. 1990/1562, **regs. 2**, 3, 6
Ss. 78, 79 applied (with modifications) (6.4.1992) by S.I. 1992/666, reg. 15(1)(3), Sch. 4 Pts. I, IV, **V**
S. 79 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 79 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

C45 Ss. 78, 79 applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783), reg. 17, **Sch. 4** (as amended (1.10.2013) by S.I. 2013/2114, regs. 1(1), **3**)

C46 S. 79(2) excluded (27.5.1997) by 1997 c. 8, ss. 70(4), 278(2), **Sch. 7 para. 7** (with ss. 20, 64, 219)

F181 80 . . . . . .

Textual Amendments

F181 S. 80 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 11, **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F182 81 . . . . . .

Textual Amendments

F182 S. 81 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 11, **Sch. 19**, Pt.II; S.I. 1991/2067, **art.3** (subject to art. 4)

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Simplified planning zones

82 Simplified planning zones.

(1) A simplified planning zone is an area in respect of which a simplified planning zone scheme is in force.

(2) The adoption or approval of a simplified planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission—

(a) for development specified in the scheme, or

(b) for development of any class so specified.

(3) Planning permission under a simplified planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.

83 Making of simplified planning zone schemes.

(1) Every local planning authority shall consider, as soon as practicable after 2nd November 1987, the question for which part or parts of their area a simplified planning zone scheme is desirable, and then shall keep that question under review.

(2) If as a result of their original consideration or of any such review a local planning authority decide that it is desirable to prepare a scheme for any part of their area they shall do so; and a local planning authority may at any time decide—

(a) to make a simplified planning zone scheme, or

(b) to alter a scheme adopted by them, or

(c) with the consent of the Secretary of State, to alter a scheme approved by him.

(3) Schedule 7 has effect with respect to the making and alteration of simplified planning zone schemes and other related matters.

84 Simplified planning zone schemes: conditions and limitations on planning permission.

(1) The conditions and limitations on planning permission which may be specified in a simplified planning zone scheme may include—

(a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted, and

(b) conditions or limitations requiring the consent, agreement or approval of the local planning authority in relation to particular descriptions of permitted development.

(2) Different conditions or limitations may be specified in a simplified planning zone scheme for different cases or classes of case.

(3) Nothing in a simplified planning zone scheme shall affect the right of any person—

(a) to do anything not amounting to development, or

(b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme.

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(4) No limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.

85 Duration of simplified planning zone scheme.

(1) A simplified planning zone scheme shall take effect on the date of its adoption or approval and shall cease to have effect at the end of the period of 10 years beginning with that date.

(2) When the scheme ceases to have effect planning permission under it shall also cease to have effect except in a case where the development authorised by it has been begun.

86 Alteration of simplified planning zone scheme.

(1) This section applies where alterations to a simplified planning zone scheme are adopted or approved.

(2) The adoption or approval of alterations providing for the inclusion of land in the simplified planning zone has effect to grant in relation to that land, or such part of it as is specified in the scheme, planning permission for development so specified or of any class so specified.

(3) The adoption or approval of alterations providing for the grant of planning permission has effect to grant such permission in relation to the simplified planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.

(4) The adoption or approval of alterations providing for the withdrawal or relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions immediately.

(5) The adoption or approval of alterations providing for—

(a) the exclusion of land from the simplified planning zone,

(b) the withdrawal of planning permission, or

(c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,

has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of 12 months beginning with the date of the adoption or approval.

(6) The adoption or approval of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun.

87 Exclusion of certain descriptions of land or development.

(1) The following descriptions of land may not be included in a simplified planning zone—

(a) land in a National Park;

(b) land in a conservation area;

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(c) land within the Broads;

(d) land in an area designated under section 87 of the National Parks and Access to the [M50]Countryside Act 1949 as an area of outstanding natural beauty;

(e) land identified in the development plan for the district as part of a green belt;

(f) land in respect of which a notification or order is in force under section 28 or 29 of the [M51]Wildlife and Countryside Act 1981 (areas of special scientific interest).

(2) Where land included in a simplified planning zone becomes land of a description mentioned in subsection (1), that subsection does not operate to exclude it from the zone.

(3) The Secretary of State may by order provide that no simplified planning zone scheme shall have effect to grant planning permission—

(a) in relation to an area of land specified in the order or to areas of land of a description so specified, or

(b) for development of a description specified in the order.

(4) An order under subsection (3) has effect to withdraw such planning permission under a simplified planning zone scheme already in force with effect from the date on which the order comes into force, except in a case where the development authorised by the permission has been begun.

Marginal Citations

M50 1949 c. 97.

M51 1981 c. 69.

Enterprise zone schemes

88 Planning permission for development in enterprise zones.

(1) An order designating an enterprise zone under Schedule 32 to the [M52]Local Government, Planning and Land Act 1980 shall (without more) have effect on the date on which the order designating the zone takes effect to grant planning permission for development specified in the scheme or for development of any class so specified.

(2) The approval of a modified scheme under paragraph 11 of that Schedule shall (without more) have effect on the date on which the modifications take effect to grant planning permission for development specified in the modified scheme or for development of any class so specified.

(3) Planning permission so granted shall be subject to such conditions or limitations as may be specified in the scheme or modified scheme or, if none is specified, shall be unconditional.

(4) Subject to subsection (5), where planning permission is so granted for any development or class of development the enterprise zone authority may direct that the permission shall not apply in relation—

(a) to a specified development; or

(b) to a specified class of development; or

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(c) to a specified class of development in a specified area within the enterprise zone.

(5) An enterprise zone authority shall not give a direction under subsection (4) unless—

(a) they have submitted it to the Secretary of State, and

(b) he has notified them that he approves of their giving it.

(6) If the scheme or the modified scheme specifies, in relation to any development it permits, matters which will require approval by the enterprise zone authority, the permission shall have effect accordingly.

(7) The Secretary of State may by regulations make provision as to—

(a) the procedure for giving a direction under subsection (4); and

(b) the method and procedure relating to the approval of matters specified in a scheme or modified scheme as mentioned in subsection (6).

(8) Such regulations may modify any provision of the planning Acts or any instrument made under them or may apply any such provision or instrument (with or without modification) in making any such provision as is mentioned in subsection (7).

(9) Nothing in this section prevents planning permission being granted in relation to land in an enterprise zone otherwise than by virtue of this section (whether the permission is granted in pursuance of an application made under this Part or by a development order).

(10) Nothing in this section prejudices the right of any person to carry out development apart from this section.

Marginal Citations

M52 1980 c.65.

89 Effect on planning permission of modification or termination of scheme.

(1) Modifications to an enterprise zone scheme do not affect planning permission under the scheme in any case where the development authorised by it has been begun before the modifications take effect.

(2) When an area ceases to be an enterprise zone, planning permission under the scheme shall cease to have effect except in a case where the development authorised by it has been begun.

Deemed planning permission

90 Development with government authorisation.

(1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority **[**F183or National Park authority**]**, or by statutory undertakers who are not a local authority **[**F183or National Park authority**]**, that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

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(2) On granting a consent under section 36 or 37 of the [M53]Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Secretary of State may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

[[F184](2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.**]**

(3) The provisions of this Act (except **[**[F185]Part**]**XII) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this section as if it had been granted by the Secretary of State on an application referred to him under section 77.

(4) For the purposes of this section development is authorised by a government department if—

(a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;

(b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;

(d) authority is given by the department—

(i) for the borrowing of money for the purpose of the development, or

(ii) for the application for that purpose of any money not otherwise so applicable; or

(e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants;

and references in this section to the authorisation of a government department shall be construed accordingly.

(5) In subsection (2) "ancillary development", in relation to development consisting of the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station; and in this subsection "extension" and "generating station" have the same meanings as in Part I of the [M54]Electricity Act 1989.

Textual Amendments

F183 Words in s. 90(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F184 S. 90(2A) inserted (1.1.1993) by Transport and Works Act 1992 (c. 42), **s. 16(1)**; S.I. 1992/2784, art. 2, **Sch. 1**.

F185 Word in s. 90(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 12** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Marginal Citations

M53 1989 c. 29.

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M54 1989 c. 29.

Duration of planning permission

91 General condition limiting duration of planning permission.

(1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—

(a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or

(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.

(2) The period mentioned in subsection (1)(b) shall be a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.

(3) If planning permission is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.

(4) Nothing in this section applies—

(a) to any planning permission granted by a development order;

(b) to any planning permission **[**F186granted for development carried out before the grant of that permission**]**;

(c) to any planning permission granted for a limited period;

[F187(d) to any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—

(i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission; or

(ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission;**]**

(e) to any planning permission granted by an enterprise zone scheme;

(f) to any planning permission granted by a simplified planning zone scheme; or

(g) to any outline planning permission, as defined by section 92.

Textual Amendments

F186 Words in s. 91(4)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.20** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1**

F187 S. 91(4)(d) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 3**; S.I. 1991/2067, **art. 3** (subject to art. 4)

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Modifications etc. (not altering text)

C47 S. 91 excluded (5.11.1993) by 1993 c. 42, **s. 24(2)** (with ss. 2, 30(1), Sch. 2 para.9)
S. 91 excluded (18.12.1996) by 1996 c. 61, **s. 10(4)**

92 Outline planning permission.

(1) In this section and section 91 "outline planning permission" means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Secretary of State of matters not particularised in the application ("reserved matters").

(2) Subject to the following provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the effect—

(a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

(b) that the development to which the permission relates must be begun not later than—

(i) the expiration of five years from the date of the grant of outline planning permission; or

(ii) if later, the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(3) If outline planning permission is granted without the conditions required by subsection (2), it shall be deemed to have been granted subject to those conditions.

(4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2), substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.

(5) They may also specify, or direct that there be specified, separate periods under paragraph (a) of subsection (2) in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of that subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.

(6) In considering whether to exercise their powers under subsections (4) and (5), the authority shall have regard to the provisions of the development plan and to any other material considerations.

Modifications etc. (not altering text)

C48 S. 92: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

93 Provisions supplementary to ss. 91 and 92.

(1) The authority referred to in section 91(1)(b) or 92(4) is—

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(a) the local planning authority or the Secretary of State, in the case of planning permission granted by them,

(b) in the case of planning permission deemed to be granted under section 90(1), the department on whose direction planning permission is deemed to be granted, and

(c) in the case of planning permission deemed to be granted under section 90(2), the Secretary of State.

(2) For the purposes of section 92, a reserved matter shall be treated as finally approved—

(a) when an application for approval is granted, or

(b) in a case where the application is made to the local planning authority and on an appeal to the Secretary of State against the authority's decision on the application the Secretary of State grants the approval, when the appeal is determined.

(3) Where a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of section 91 or 92 to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 78 against the decision of the authority.

(4) In the case of planning permission (whether outline or other) which has conditions attached to it by or under section 91 or 92—

(a) development carried out after the date by which the conditions require it to be carried out shall be treated as not authorised by the permission; and

(b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

94 Termination of planning permission by reference to time limit: completion notices.

(1) This section applies where—

(a) by virtue of section 91 or 92, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period, that development has been begun within that period, but that period has elapsed without the development having been completed; or

(b) development has been begun in accordance with planning permission under a simplified planning zone scheme but has not been completed by the time the area ceases to be a simplified planning zone; or

(c) development has been begun in accordance with planning permission under an enterprise zone scheme but has not been completed by the time the area ceases to be an enterprise zone.

(2) If the local planning authority are of the opinion that the development will not be completed within a reasonable period, they may serve a notice ("a completion notice") stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice.

(3) The period so specified must not be less than 12 months after the notice takes effect.

(4) A completion notice shall be served—

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(a) on the owner of the land,

(b) on the occupier of the land, and

(c) on any other person who in the opinion of the local planning authority will be affected by the notice.

(5) The local planning authority may withdraw a completion notice at any time before the expiration of the period specified in it as the period at the expiration of which the planning permission is to cease to have effect.

(6) If they do so they shall immediately give notice of the withdrawal to every person who was served with the completion notice.

Modifications etc. (not altering text)

C49 S. 94 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 10(5)(6)**

C50 S. 94(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

95 Effect of completion notice.

(1) A completion notice shall not take effect unless and until it is confirmed by the Secretary of State.

(2) In confirming a completion notice the Secretary of State may substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.

(3) If, within such period as may be specified in a completion notice (which must not be less than 28 days from its service) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall give him and the local planning authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) If a completion notice takes effect, the planning permission referred to in it shall become invalid at the expiration of the period specified in the notice (whether the original period specified under section 94(2) or a longer period substituted by the Secretary of State under subsection (2)).

(5) Subsection (4) shall not affect any permission so far as development carried out under it before the end of the period mentioned in that subsection is concerned.

Modifications etc. (not altering text)

C51 S. 95(2) modified (18.12.1996) by 1996 c. 61, **s. 10(6)**

96 Power of Secretary of State to serve completion notices.

(1) If it appears to the Secretary of State to be expedient that a completion notice should be served in respect of any land, he may himself serve such a notice.

(2) A completion notice served by the Secretary of State shall have the same effect as if it had been served by the local planning authority.

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(3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

VALID FROM 01/10/2009

[F188 Non-material changes to planning permission

Textual Amendments

F188 S. 96A and cross-heading inserted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 190(2)**, 241 (with s. 226); S.I. 2009/2260, **art. 3**

96A Power to make non-material changes to planning permission

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(3) The power conferred by subsection (1) includes power—

(a) to impose new conditions;

(b) to remove or alter existing conditions.

(4) The power conferred by subsection (1) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.

(5) An application under subsection (4) must be made in the form and manner prescribed by development order.

(6) Subsection (7) applies in relation to an application under subsection (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the planning permission relates.

(7) The application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

(8) A local planning authority must comply with such requirements as may be prescribed by development order as to consultation and publicity in relation to the exercise of the power conferred by subsection (1).**]**

Revocation and modification of planning permission

97 Power to revoke or modify planning permission.

(1) If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the

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authority may by order revoke or modify the permission to such extent as they consider expedient.

(2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.

(3) The power conferred by this section may be exercised—

(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place.

(4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

(5) References in this section to the local planning authority are to be construed in relation to development consisting of the winning and working of minerals as references to the mineral planning authority, [F189]. . ..

[[F190](6) Part II of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions that may be imposed by an order under this section which revokes or modifies permission for development—

(a) consisting of the winning and working of minerals; or

(b) involving the depositing of refuse or waste materials.**]**

Textual Amendments

F189 Words in s. 97(5) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 4, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch.1** (subject to art. 4)

F190 S. 97(6) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.4** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

98 Procedure for s. 97 orders: opposed cases.

(1) Except as provided in section 99, an order under section 97 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where a local planning authority submit such an order to the Secretary of State for confirmation, they shall serve notice on—

(a) the owner of the land affected,

(b) the occupier of the land affected, and

(c) any other person who in their opinion will be affected by the order.

(3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the order he shall give such an opportunity both to him and to the local planning authority.

(5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.

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(6) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

99 Procedure for s. 97 orders: unopposed cases.

(1) This section applies where—

(a) the local planning authority have made an order under section 97; and

(b) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to it.

(2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement must specify—

(a) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and

(b) the period at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(b).

(4) The period referred to in subsection (2)(a) must not be less than 28 days from the date the advertisement first appears.

(5) The period referred to in subsection (2)(b) must not be less than 14 days from the expiration of the period referred to in subsection (2)(a).

(6) The authority shall send a copy of any advertisement published under subsection (2) to the Secretary of State not more than three days after the publication.

(7) If—

(a) no person claiming to be affected by the order has given notice to the Secretary of State under subsection (2)(a) within the period referred to in that subsection, and

(b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,

the order shall take effect at the expiry of the period referred to in subsection (2)(b), without being confirmed by the Secretary of State as required by section 98(1).

(8) This section does not apply—

(a) to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part or Part VII, or

(b) to an order modifying any conditions to which a planning permission is subject by virtue of section 91 or 92.

100 Revocation and modification of planning permission by the Secretary of State.

(1) If it appears to the Secretary of State that it is expedient that an order should be made under section 97, he may himself make such an order.

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(2) Such an order which is made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by the Secretary of State.

(3) The Secretary of State shall not make such an order without consulting the local planning authority.

(4) Where the Secretary of State proposes to make such an order he shall serve notice on the local planning authority.

(5) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.

(7) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the local planning authority of any order under section 97 and its confirmation by the Secretary of State shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order and its making by him.

[F191(8) Subsections (5) and (6) of section 97 apply for the purposes of this section as they apply for the purposes of that.**]**

Textual Amendments

F191 S. 100(8) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.5** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

References to Planning Inquiry Commission

101 Power to refer certain planning questions to Planning Inquiry Commission.

(1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under subsection (2) in the circumstances mentioned in subsection (3).

(2) The matters that may be referred to a Planning Inquiry Commission are—

(a) an application for planning permission which the Secretary of State has under section 77 directed to be referred to him instead of being dealt with by a local planning authority;

(b) an appeal under section 78 (including that section as applied by or under any other provision of this Act);

(c) a proposal that a government department should give a direction under section 90(1) that planning permission shall be deemed to be granted for development by a local authority **[**F192or National Park authority**]** or by statutory undertakers which is required by any enactment to be authorised by that department;

(d) a proposal that development should be carried out by or on behalf of a government department.

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(3) Any of those matters may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—

(a) that there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation of them cannot be made unless there is a special inquiry for the purpose;

(b) that the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.

(4) Part I of Schedule 8 shall have effect as respects the constitution of any such commission and its functions and procedure on references to it under this section, and the references in subsection (3) and in that Schedule to "the responsible Minister or Ministers" shall be construed in accordance with Part II of that Schedule.

(5) In relation to any matter affecting both England and Wales, the functions of the Secretary of State under subsection (1) shall be exercised by the Secretaries of State for the time being having general responsibility in planning matters in relation to England and in relation to Wales acting jointly.

Textual Amendments

F192 Words in s. 101(2)(c) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Other controls over development

102 Orders requiring discontinuance of use or alteration or removal of buildings or works.

(1) If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—

(a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or

(b) that any buildings or works should be altered or removed,

they may by order—

(i) require the discontinuance of that use, or

(ii) impose such conditions as may be specified in the order on the continuance of it, or

(iii) require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,

as the case may be.

(2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order.

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(3) Section 97 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the local planning authority on an application made under this Part.

[F193(4) The planning permission which may be granted by an order under this section includes planning permission, subject to such conditions as may be specified in the order, for development carried out before the date on which the order was submitted to the Secretary of State under section 103.

(5) Planning permission for such development may be granted so as to have effect from—

(a) the date on which the development was carried out; or

(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.**]**

(6) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.

(7) Subject to section 103(8), in the case of planning permission granted by an order under this section, the authority referred to in sections 91(1)(b) and 92(4) is the local planning authority making the order.

(8) The previous provisions of this section do not apply to the use of any land for development **[**F194consisting of the winning and working of minerals or involving the depositing of refuse or waste materials**]** except as provided in Schedule 9, and that Schedule shall have effect for the purpose of making provision as respects land which is or has been so used.

Textual Amendments

F193 S. 102(4)(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.21** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F194 Words in s. 102(8) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 6** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C52 S. 102: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

103 Confirmation by Secretary of State of s. 102 orders.

(1) An order under section 102 shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(2) The power of the Secretary of State under this section to confirm an order subject to modifications includes power—

(a) to modify any provision of the order granting planning permission, as mentioned in subsections (2) to (5) of section 102;

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(b) to include in the order any grant of planning permission which might have been included in the order as submitted to him.

(3) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, they shall serve notice—

(a) on the owner of the land affected,

(b) on the occupier of that land, and

(c) on any other person who in their opinion will be affected by the order.

(4) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) If within that period such a person so requires, before the Secretary of State confirms the order, he shall give such an opportunity both to him and to the local planning authority.

(6) The period referred to in subsection (4) must not be less than 28 days from the service of the notice.

(7) Where an order under section 102 has been confirmed by the Secretary of State, the local planning authority shall serve a copy of the order on the owner and occupier of the land to which the order relates.

(8) Where the Secretary of State exercises his powers under subsection (2) in confirming an order granting planning permission, he is the authority referred to in sections 91(1)(b) and 92(4).

104 Power of the Secretary of State to make s. 102 orders.

(1) If it appears to the Secretary of State that it is expedient that an order should be made under section 102, he may himself make such an order.

(2) Such an order made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by the Secretary of State.

(3) The Secretary of State shall not make such an order without consulting the local planning authority.

(4) Where the Secretary of State proposes to make such an order he shall serve notice on the local planning authority.

(5) The notice shall specify the period within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.

(7) The period referred to in subsection (5) must not be less than 28 days from the date of the service of the notice.

(8) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the local planning authority of any order under section 102, its confirmation by the Secretary of State and the service of copies of it as confirmed shall have effect, subject to any necessary

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modifications, in relation to any proposal by the Secretary of State to make such an order, its making by him and the service of copies of it.

F195 105 . . . . . .

Textual Amendments

F195 S. 105 repealed (1.11.1995) by 1995 c. 25, ss. 96(4), 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

[106 F196 Planning obligations.

(1) Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to in this section and sections 106A and 106B as "a planning obligation"), enforceable to the extent mentioned in subsection (3)—

(a) restricting the development or use of the land in any specified way;

(b) requiring specified operations or activities to be carried out in, on, under or over the land;

(c) requiring the land to be used in any specified way; or

(d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically.

(2) A planning obligation may—

(a) be unconditional or subject to conditions;

(b) impose any restriction or requirement mentioned in subsection (1)(a) to (c) either indefinitely or for such period or periods as may be specified; and

(c) if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

(3) Subject to subsection (4) a planning obligation is enforceable by the authority identified in accordance with subsection (9)(d)—

(a) against the person entering into the obligation; and

(b) against any person deriving title from that person.

(4) The instrument by which a planning obligation is entered into may provide that a person shall not be bound by the obligation in respect of any period during which he no longer has an interest in the land.

(5) A restriction or requirement imposed under a planning obligation is enforceable by injunction.

(6) Without prejudice to subsection (5), if there is a breach of a requirement in a planning obligation to carry out any operations in, on, under or over the land to which the obligation relates, the authority by whom the obligation is enforceable may—

(a) enter the land and carry out the operations; and

(b) recover from the person or persons against whom the obligation is enforceable any expenses reasonably incurred by them in doing so.

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(7) Before an authority exercise their power under subsection (6)(a) they shall give not less than twenty-one days' notice of their intention to do so to any person against whom the planning obligation is enforceable.

(8) Any person who wilfully obstructs a person acting in the exercise of a power under subsection (6)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) A planning obligation may not be entered into except by an instrument executed as a deed which—

(a) states that the obligation is a planning obligation for the purposes of this section;

(b) identifies the land in which the person entering into the obligation is interested;

(c) identifies the person entering into the obligation and states what his interest in the land is; and

(d) identifies the local planning authority by whom the obligation is enforceable.

(10) A copy of any such instrument shall be given to the authority so identified.

(11) A planning obligation shall be a local land charge and for the purposes of the [M55]Local Land Charges Act 1975 the authority by whom the obligation is enforceable shall be treated as the originating authority as respects such a charge.

(12) Regulations may provide for the charging on the land of—

(a) any sum or sums required to be paid under a planning obligation; and

(b) any expenses recoverable by a local planning authority under subsection (6)(b),

and this section and sections 106A and 106B shall have effect subject to any such regulations.

(13) In this section "specified" means specified in the instrument by which the planning obligation is entered into and in this section and section 106A "land" has the same meaning as in the [M56]Local Land Charges Act 1975.**]**

Textual Amendments

F196 Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)** (with s. 84(5)); S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art. 2**; S.I. 1992/2831, **art. 2**

Modifications etc. (not altering text)

C53 S. 106 modified (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 para. 15(2)(b)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**

C54 S. 106: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M55 1975 c. 76.

M56 1975 c. 76.

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[F197 106A Modification and discharge of planning obligations.

(1) A planning obligation may not be modified or discharged except—

(a) by agreement between the authority by whom the obligation is enforceable and the person or persons against whom the obligation is enforceable; or

(b) in accordance with this section and section 106B.

(2) An agreement falling within subsection (1)(a) shall not be entered into except by an instrument executed as a deed.

(3) A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the local planning authority by whom the obligation is enforceable for the obligation—

(a) to have effect subject to such modifications as may be specified in the application; or

(b) to be discharged.

(4) In subsection (3) "the relevant period" means—

(a) such period as may be prescribed; or

(b) if no period is prescribed, the period of five years beginning with the date on which the obligation is entered into.

(5) An application under subsection (3) for the modification of a planning obligation may not specify a modification imposing an obligation on any other person against whom the obligation is enforceable.

(6) Where an application is made to an authority under subsection (3), the authority may determine—

(a) that the planning obligation shall continue to have effect without modification;

(b) if the obligation no longer serves a useful purpose, that it shall be discharged; or

(c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

(7) The authority shall give notice of their determination to the applicant within such period as may be prescribed.

(8) Where an authority determine that a planning obligation shall have effect subject to modifications specified in the application, the obligation as modified shall be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.

(9) Regulations may make provision with respect to—

(a) the form and content of applications under subsection (3);

(b) the publication of notices of such applications;

(c) the procedures for considering any representations made with respect to such applications; and

(d) the notices to be given to applicants of determinations under subsection (6).

(10) Section 84 of the [M57]Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) does not apply to a planning obligation.**]**

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Textual Amendments

F197 S. 106- 106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)**; S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art. 2**; S.I. 1992/2831, **art. 2**

Marginal Citations

M57 1925 c. 20.

106B F198 Appeals.

(1) Where a local planning authority—

(a) fail to give notice as mentioned in section 106A(7); or

(b) determine that a planning obligation shall continue to have effect without modification,

the applicant may appeal to the Secretary of State.

(2) For the purposes of an appeal under subsection (1)(a), it shall be assumed that the authority have determined that the planning obligation shall continue to have effect without modification.

(3) An appeal under this section shall be made by notice served within such period and in such manner as may be prescribed.

(4) Subsections (6) to (9) of section 106A apply in relation to appeals to the Secretary of State under this section as they apply in relation to applications to authorities under that section.

(5) Before determining the appeal the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) The determination of an appeal by the Secretary of State under this section shall be final.

(7) Schedule 6 applies to appeals under this section.

Textual Amendments

F198 Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)**; S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art.2**; S.I. 1992/2831, **art. 2**

VALID FROM 01/03/2010

[F199 106C Legal challenges relating to development consent obligations

(1) A court may entertain proceedings for questioning a failure by the Secretary of State or the Infrastructure Planning Commission to give notice as mentioned in section 106A(7) only if—

(a) the proceedings are brought by a claim for judicial review, and

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(b) the claim form is filed during the period of 6 weeks beginning with the day on which the period prescribed under section 106A(7) ends.

(2) A court may entertain proceedings for questioning a determination by the Secretary of State or the Infrastructure Planning Commission that a planning obligation shall continue to have effect without modification only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106A(7).**]**

Textual Amendments

F199 S. 106C inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(5)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

PART IV

COMPENSATION FOR EFFECTS OF CERTAIN ORDERS, NOTICES, ETC.

Modifications etc. (not altering text)

C55 Pt. IV (ss. 107-118) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(4)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. IV (ss. 107-118) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C56 Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 74(1)(a)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 74(2)**
Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 78(1)(a)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 78(2)**
Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 82(1)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 82(2)**

C57 Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 89(1)-(3)**

C58 Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 93(1)-(3)**

C59 Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 97(1)-(3)**

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Compensation for revocation of planning permission, etc.

107 Compensation where planning permission revoked or modified.

(1) Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land or in minerals in, on or under it—

(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the local planning authority shall pay that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2), no compensation shall be paid under this section in respect—

(a) of any work carried out before the grant of the permission which is revoked or modified, or

(b) of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).

(4) In calculating for the purposes of this section the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted **[**F200—

(a) subject to the condition set out in Schedule 10, for any development of the land of a class specified in paragraph 1 of Schedule 3;

(b) for any development of a class specified in paragraph 2 of Schedule 3.**]**

(5) In this Part any reference to an order under section 97 includes a reference to an order under the provisions of that section as applied by section 102(3) (or, subject to section 116, by paragraph **[**F201**]**1(3)**]** of Schedule 9).

Textual Amendments

F200 S. 107(4)(a)(b) substituted (25.7.1991 with effect or to be treated as having effect, in relation to claims made on or after 16.11.1990) for the words "for any development of the land of any class specified in Schedule 3" by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(4), **Sch 6 para. 13(1)(2)**

F201 Words in s. 107(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.8** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C60 S. 107 applied (with modifications) (3.11.1995) by S.I. 1995/2863, reg. 3, **Sch.**

C61 S. 107(1)(a) applied (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 67(1)** (with reg. 3) (as amended by S.I. 2009/2438)

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108 Compensation for refusal or conditional grant of planning permission formerly granted by development order.

(1) Where—

(a) planning permission granted by a development order is withdrawn (whether by the revocation or amendment of the order or by the issue of directions under powers conferred by the order); and

(b) on an application made under Part III planning permission for development formerly permitted by that order is refused or is granted subject to conditions other than those imposed by that order,

section 107 shall apply as if the planning permission granted by the development order—

(i) had been granted by the local planning authority under Part III; and

(ii) had been revoked or modified by an order under section 97.

(2) Where planning permission granted by a development order is withdrawn by revocation or amendment of the order, this section applies only if the application referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the revocation or amendment came into operation.

(3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

[[F202](4) Regulations made by virtue of this subsection may provide that subsection (1) shall not apply where planning permission granted by a development order for demolition of buildings or any description of buildings is withdrawn by the issue of directions under powers conferred by the order.**]**

Textual Amendments

F202 S. 108(4) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 13(3)** (with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

109 Apportionment of compensation for depreciation.

(1) Where compensation becomes payable under section 107 which includes compensation for depreciation of an amount exceeding £20, the local planning authority—

(a) if it appears to them to be practicable to do so, shall apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates; and

(b) shall give particulars of any such apportionment to the claimant and to any other person entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.

(2) In carrying out an apportionment under subsection (1)(a), the local planning authority shall divide the land into parts and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order or, in a case falling within section 108, the relevant planning decision, in consequence of which the compensation is payable.

(3) Regulations under this section shall make provision, subject to subsection (4)—

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(a) for enabling the claimant and any other person to whom particulars of an apportionment have been given under subsection (1), or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require it to be referred to the Lands Tribunal;

(b) for enabling the claimant and every other person to whom particulars of any such apportionment have been so given to be heard by the Tribunal on any reference under this section of that apportionment; and

(c) for requiring the Tribunal, on any such reference, either to confirm or to vary the apportionment and to notify the parties of the decision of the Tribunal.

(4) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment—

(a) relates wholly or partly to the same matters as a previous apportionment, and

(b) is consistent with that previous apportionment in so far as it relates to those matters,

the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

(5) On a reference to the Lands Tribunal by virtue of subsection (3), subsections (1) and (2), so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the local planning authority, of references to the Lands Tribunal.

(6) In this section and **[**F203section 110**]**—

"compensation for depreciation" means so much of any compensation payable under section 107 as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land,

"interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest in it, and

"relevant planning decision" means the planning decision by which planning permission is refused, or is granted subject to conditions other than those previously imposed by the development order.

Textual Amendments

F203 Words in s. 109(6) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para.14** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

110 Registration of compensation for depreciation.

(1) Where compensation becomes payable under section 107 which includes compensation for depreciation of an amount exceeding £20, the local planning authority shall give notice to the Secretary of State that such compensation has become payable, specifying the amount of the compensation for depreciation and any apportionment of it under section 109.

(2) Where the Secretary of State is given such notice he shall cause notice of that fact to be deposited—

(a) with the council of the district **[**F204, Welsh county, county borough**]** or London borough in which the land is situated, and

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(b) if that council is not the local planning authority, with the local planning authority.

(3) Notices deposited under this section must specify—

(a) the order, or in a case falling within section 108 the relevant planning decision, and the land to which the claim for compensation relates; and

(b) the amount of compensation and any apportionment of it under section 109.

(4) Notices deposited under this section shall be local land charges, and for the purposes of the [M58]Local Land Charges Act 1975 the council with whom any such notice is deposited shall be treated as the originating authority as respects the charge constituted by it.

(5) In relation to compensation specified in a notice registered under this section, references in this Part to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed as follows—

(a) if the notice does not include an apportionment under section 109, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the notice relates;

(b) if the notice includes such an apportionment—

(i) the compensation shall be treated as distributed in accordance with that apportionment as between the different parts of the land by reference to which the apportionment is made; and

(ii) so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part.

Textual Amendments

F204 Words in s. 110(2) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M58 1975 c. 76.

111 Recovery of compensation under s. 107 on subsequent development.

(1) No person shall carry out any [F205]. . .development to which this section applies on land in respect of which a notice ("a compensation notice") is registered under section 110 until any amount which is recoverable under this section in accordance with section 112 in respect of the compensation specified in the notice has been paid or secured to the satisfaction of the Secretary of State.

(2) Subject to subsections (3) **[**[F206]to (5)**]**, this section applies to any [F205]. . .development—

(a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination of them; or

(b) which consists in the winning and working of minerals; or

(c) to which, having regard to the probable value of the development, it is in the opinion of the Secretary of State reasonable that this section should apply.

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(3) This section shall not apply to any development by virtue of subsection (2)(c) if, on an application made to him for the purpose, the Secretary of State has certified that, having regard to the probable value of the development, it is not in his opinion reasonable that this section should apply to it.

(4) Where the compensation under section 107 specified in the notice registered under section 110 became payable in respect of an order modifying planning permission or, in a case falling within section 108, of a relevant planning decision (within the meaning of section 109) granting conditional planning permission, this section shall not apply to development in accordance with that permission as modified by the order or, as the case may be, in accordance with those conditions.

[F207(5) This section does not apply to any development—

(a) of a class specified in paragraph 1 of Schedule 3 which is carried out in accordance with the condition set out in Schedule 10; or

(b) of a class specified in paragraph 2 of Schedule 3.**]**

Textual Amendments

F205 Word in s. 111(1)(2) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 15(a), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F206 Words in s. 111(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 15(b)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F207 S. 111(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 15(c)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

112 Amount recoverable under s. 111 and provisions for payment or remission of it.

(1) Subject to the following provisions of this section, the amount recoverable under section 111 in respect of the compensation specified in a notice registered under section 110—

(a) if the land on which the development is to be carried out ("the development area") is identical with, or includes (with other land) the whole of, the land comprised in the notice, shall be the amount of compensation specified in the notice;

(b) if the development area forms part of the land comprised in the notice, or includes part of that land together with other land not comprised in the notice, shall be so much of the amount of the compensation specified in the notice as is attributable to land comprised in the notice and falling within the development area.

(2) Where, in the case of any land in respect of which such a notice has been so registered, the Secretary of State is satisfied, having regard to the probable value of any proper development of that land, that no such development is likely to be carried out unless he exercises his powers under this subsection, he may, in the case of any particular development, remit the whole or part of any amount otherwise recoverable under section 111.

(3) Where part only of any such amount has been remitted in respect of any land, the Secretary of State shall cause the notice registered under section 110 to be amended by substituting in it, for the statement of the amount of the compensation, in so far

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as it is attributable to that land, a statement of the amount which has been remitted under subsection (2).

(4) Where, in connection with the development of any land, an amount becomes recoverable under section 111 in respect of the compensation specified in such a notice, then, except where, and to the extent that, payment of that amount has been remitted under subsection (2), no amount shall be recoverable under that section in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development of it.

(5) No amount shall be recoverable under section 111 in respect of any compensation by reference to which a sum has become recoverable by the Secretary of State under section 308.

(6) An amount recoverable under section 111 in respect of any compensation shall be payable to the Secretary of State either—

(a) as a single capital payment, or

(b) as a series of instalments of capital and interest combined, or

(c) as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Secretary of State may direct.

(7) Before giving a direction under subsection (6)(c) the Secretary of State shall take into account any representations made by the person by whom the development is to be carried out.

(8) Except where the amount payable under subsection (6) is payable as a single capital payment, it shall be secured by the person by whom the development is to be carried out in such manner (whether by mortgage, covenant or otherwise) as the Secretary of State may direct.

(9) If any person initiates any [F208]. . . development to which section 111 applies in contravention of subsection (1) of that section, the Secretary of State may serve a notice on him—

(a) specifying the amount appearing to the Secretary of State to be the amount recoverable under that section in respect of the compensation in question, and

(b) requiring him to pay that amount to the Secretary of State within such period as may be specified in the notice.

(10) The period specified under subsection (9)(b) must not be less than three months after the service of the notice.

(11) Subject to subsection (12), any sum recovered by the Secretary of State under section 111 shall be paid to the local planning authority who paid the compensation to which that sum relates.

(12) Subject to subsection (13), in paying any such sum to the local planning authority, the Secretary of State shall deduct from it—

[F209](a) . . . . . .

(b) the amount of any grant paid by him under Part XIV in respect of that compensation.

(13) If the sum recovered by the Secretary of State under section 111—

(a) is an instalment of the total sum recoverable, or

(b) is recovered by reference to development of part of the land in respect of which the compensation was payable,

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any deduction to be made under [F210]. . .subsection (12) shall be a deduction of such amount as the Secretary of State may determine to be the proper proportion of the amount referred to in that paragraph.

Textual Amendments

F208 Word in s. 112(9) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 16(a), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F209 S. 112(12)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 16(b), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F210 Words in s. 112(13) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 16(c), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

[F211]113 . . . . . .

Textual Amendments

F211 S. 113 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 17, **Sch. 19**, Pt.II (with ss. 31(7)(8), 84(5), Sch. 6 paras. 1(2), 5(2), 13(2)); S.I. 1991/2067, **art.3** (subject to art. 4)

Compensation for other planning decisions

[F212]114 Compensation for planning decisions restricting development other than new development.

. . . . . .

Textual Amendments

F212 S. 114 repealed (25.7.1991 with effect or to be treated as having had effect, where the application for planning permission was made on or after 16.11.1990) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(2)(7), 84(2)(4)(6), **Sch. 19 Pt. II** (with s. 84(5))

115 Compensation in respect of orders under s. 102, etc.

(1) This section shall have effect where an order is made under section 102—

(a) requiring a use of land to be discontinued,

(b) imposing conditions on the continuance of it, or

(c) requiring any buildings or works on land to be altered or removed.

(2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order—

(a) by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it, or

(b) by being disturbed in his enjoyment of the land or of such minerals,

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that authority shall pay to that person compensation in respect of that damage.

(3) Without prejudice to subsection (2), any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

(5) Subject to section 116, this section applies where such an order as is mentioned in subsection (6) is made as it applies where an order is made under section 102.

(6) The orders referred to in subsection (5) are an order under paragraph 1 of Schedule 9—

(a) requiring a use of land to be discontinued, or

(b) imposing conditions on the continuance of it, or

(c) requiring any buildings or works or plant or machinery on land to be altered or removed,

or an order under paragraph 3, 5 or 6 of that Schedule.

Modifications etc. (not altering text)

C62 S. 115 applied (with modifications) (25.3.1997) by S.I. 1997/1111, **reg. 5(1)(3)**

[F213 116 Modification of compensation provisions in respect of mineral working etc.

(1) Regulations made by virtue of this section with the consent of the Treasury may provide that where an order is made under—

(a) section 97 modifying planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste; or

(b) paragraph 1, 3, 5 or 6 of Schedule 9 with respect to such winning and working or depositing,

sections 107, 115, 117, 279 and 280 shall have effect subject, in such cases as may be prescribed, to such modifications as may be prescribed.

(2) Any such regulations may make provision—

(a) as to circumstances in which compensation is not to be payable;

(b) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed;

(c) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed,

and may also make different provision for different cases and incidental or supplementary provision.

(3) No such regulations shall be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.

(4) Before making any such regulations the Secretary of State shall consult such persons as appear to him to be representative—

(a) of persons carrying out mining operations;

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(b) of owners of interests in land containing minerals; and

(c) of mineral planning authorities.**]**

Textual Amendments

F213 S. 116 substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.9**; S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C63 S. 116 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(6)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 116 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(6)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

General and supplemental provisions

117 General provisions as to compensation for depreciation under Part IV.

(1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the [M59]Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) Subject to regulations **[**[F214]by virtue of section 116**]**, this section applies to any compensation which under the provisions of this Part is payable in respect of depreciation of the value of an interest in land.

(3) Where an interest in land is subject to a mortgage—

(a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

Textual Amendments

F214 Words in s. 117(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1**, para.10 (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C64 Ss. 117, 118 extended (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or

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duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 16(5)**; S.I. 1992/725, **arts. 2**, 3

Marginal Citations

M59 1961 c.33.

118 Determination of claims for compensation.

(1) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

(2) In relation to the determination of any such question, the provisions of sections 2 and 4 of the [M60]Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Modifications etc. (not altering text)

C65 S. 118 extended (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 16(5)**; S.I. 1992/725, **arts. 2**, 3
S. 118 applied (10.11.1993) by 1993 c. 28, **s. 163(9)**; S.I. 1993/2762, **art. 3**
S. 118 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, **s. 21(9)**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(c)**
S. 118 applied (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 296(2), **Sch. 24 para. 31(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art, 2(2)(b)(c), Sch.
S. 118 applied (1.2.2001 for E., 1.8.2001 for W. in relation to the powers to make regulations under the provisions mentioned in S.I. 2001/2788, **Sch. 1 para. 15**, otherwise *prosp.*) by 2000 c. 38, **ss. 190(7)**, 275(1) (with s. 196); S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II**); S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

C66 S. 118 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 6(7)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

C67 S. 118 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), **s. 17(5)**; S.I. 2008/3068, **art. 2(1)(i)** (with savings and transitional provisions in arts. 6-13)

Marginal Citations

M60 1961 c.33.

[F215]PART V

Textual Amendments

F215 Part V repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II**; S.I. 1991/2067, **art.3** (subject to art. 4) and subject to an amendment (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

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Preliminary

F216 119 . . . . . .

Textual Amendments

F216 S. 119: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Right to compensation

F217 120 . . . . . .

Textual Amendments

F217 S. 120: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F218 121 . . . . . .

Textual Amendments

F218 S. 121: Pt. V (ss.119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F219 122 . . . . . .

Textual Amendments

F219 S. 122: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F220 123 . . . . . .

Textual Amendments

F220 S. 123: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F221 124 . . . . . .

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Textual Amendments

F221 S. 124: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Amount of compensation

F222125 . . . . . .

Textual Amendments

F222 S. 125: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19P**t. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F223126 . . . . . .

Textual Amendments

F223 S. 126: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Claims for and payment of compensation

F224127 . . . . . .

Textual Amendments

F224 S. 127: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F225128 . . . . . .

Textual Amendments

F225 S. 128: Pt. V (ss.119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F226129 . . . . . .

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Textual Amendments

F226 S. 129: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F227]130 . . . . . .

Textual Amendments

F227 S. 130: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Recovery of compensation

[F228]131 . . . . . .

Textual Amendments

F228 S. 131: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F229]132 . . . . . .

Textual Amendments

F229 S. 132: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F230]133 . . . . . .

Textual Amendments

F230 S. 133: Pt. V (ss. 119 -136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F231]134 . . . . . .

Textual Amendments

F231 S. 134: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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Supplementary provisions

[F232]135 . . . . . .

Textual Amendments

F232 S. 135: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

[F233]136 . . . . . .

Textual Amendments

F233 S. 136: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

PART VI

RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

Modifications etc. (not altering text)

C68 Part VI (ss. 137-171): power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**
Pt. VI (ss. 137-171) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

CHAPTER I

INTERESTS AFFECTED BY PLANNING DECISIONS OR ORDERS

Service of purchase notices

137 Circumstances in which purchase notices may be served.

(1) This section applies where—

(a) on an application for planning permission to develop any land, permission is refused or is granted subject to conditions; or

(b) by an order under section 97 planning permission in respect of any land is revoked, or is modified by the imposition of conditions; or

(c) an order is made under section 102 or paragraph 1 of Schedule 9 in respect of any land.

(2) If—

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(a) in the case mentioned in subsection (1)(a) or (b), any owner of the land claims that the conditions mentioned in subsection (3) are satisfied with respect to it, or

(b) in the case mentioned in subsection (1)(c), any person entitled to an interest in land in respect of which the order is made claims that the conditions mentioned in subsection (4) are satisfied with respect to it,

he may, within the prescribed time and in the prescribed manner, serve on the council of the district **[**F234, Welsh county, county borough**]** or London borough in which the land is situated a notice (in this Act referred to as "a purchase notice") requiring that council to purchase his interest in the land in accordance with this Chapter.

(3) The conditions mentioned in subsection (2)(a) are—

(a) that the land has become incapable of reasonably beneficial use in its existing state; and

(b) in a case where planning permission was granted subject to conditions or was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and

(c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission.

(4) The conditions mentioned in subsection (2)(b) are—

(a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state; and

(b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise.

(5) For the purposes of subsection (1)(a) and any claim arising in the circumstances mentioned in that subsection, the conditions referred to in sections 91 and 92 shall be disregarded.

(6) A person on whom a M61repairs notice has been served under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 shall not be entitled to serve a notice under this section in the circumstances mentioned in subsection (1)(a) in respect of the building in question—

(a) until the expiration of three months beginning with the date of the service of the repairs notice; and

(b) if during that period the compulsory acquisition of the building is begun in the exercise of powers under section 47 of that Act, unless and until the compulsory acquisition is discontinued.

(7) For the purposes of subsection (6) a compulsory acquisition—

(a) is started when the the notice required by section 12 of the M62Acquisition of Land Act 1981 or, as the case may be, paragraph 3 of Schedule 1 to that Act is served; and

(b) is discontinued—

(i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.

(8) No purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1)(c), except by virtue of a claim under subsection (2)(b).

Textual Amendments

F234 Words in s. 137(2) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M61 1990 c. 9

M62 1981 c. 67.

VALID FROM 07/06/2006

[F235 137A Purchase notices: Crown land

(1) A purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private interest in Crown land must not serve a purchase notice unless—

(a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and

(b) the offer is refused by the appropriate authority.

(3) The appropriate authority may serve a purchase notice in relation to the following land—

(a) land belonging to Her Majesty in right of Her private estates;

(b) land belonging to Her Majesty in right of the Duchy of Lancaster;

(c) land belonging to the Duchy of Cornwall;

(d) land which forms part of the Crown Estate.

(4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.

(5) Expressions used in this section and in Part 13 must be construed in accordance with that Part.]

Textual Amendments

F235 S. 137A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 1** (with s. 111); S.I. 2004/1281, **art. 2**

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
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138 Circumstances in which land incapable of reasonably beneficial use.

(1) Where, for the purpose of determining whether the conditions specified in section 137(3) or (4) are satisfied in relation to any land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then, in determining that question for that purpose, no account shall be taken of any unauthorised prospective use of that land.

(2) A prospective use of land shall be regarded as unauthorised for the purposes of subsection (1)—

(a) if it would involve the carrying out of **[**F236development other than any development specified in paragraph 1 or 2 of Schedule 3;**]**or

(b) in the case of a purchase notice served in consequence of a refusal or conditional grant of planning permission, if it would contravene the condition set out in Schedule 10.

Textual Amendments

F236 Words in s. 138(2)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para.18** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Duties of authorities on service of purchase notice

139 Action by council on whom purchase notice is served.

(1) The council on whom a purchase notice is served shall serve on the owner by whom the purchase notice was served a notice (a "response notice") stating either—

(a) that the council are willing to comply with the purchase notice; or

(b) that another local authority or statutory undertakers specified in the response notice have agreed to comply with it in their place; or

(c) that for reasons so specified the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have sent the Secretary of State a copy of the purchase notice and of the response notice.

(2) A response notice must be served before the end of the period of three months beginning with the date of service of the purchase notice.

(3) Where the council on whom a purchase notice is served by an owner have served a response notice on him in accordance with subsection (1)(a) or (b), the council or, as the case may be, the other local authority or statutory undertakers specified in the response notice shall be deemed—

(a) to be authorised to acquire the interest of the owner compulsorily in accordance with the relevant provisions, and

(b) to have served a notice to treat in respect of it on the date of service of the response notice.

(4) Where the council propose to serve such a response notice as is mentioned in subsection (1)(c), they must first send the Secretary of State a copy—

(a) of the proposed response notice, and

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(b) of the purchase notice.

(5) A notice to treat which is deemed to have been served by virtue of subsection (3)(b) may not be withdrawn under section 31 of the [M63]Land Compensation Act 1961.

Modifications etc. (not altering text)

C69 S. 139: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 1** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C70 S. 139 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para.1** (with arts. 6, 7)
S. 139 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 139 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 139 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 139 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

Marginal Citations

M63 1961 c. 33.

140 Procedure on reference of purchase notice to Secretary of State.

(1) Where a copy of a purchase notice is sent to the Secretary of State under section 139(4), he shall consider whether to confirm the notice or to take other action under section 141 in respect of it.

(2) Before confirming a purchase notice or taking such other action, the Secretary of State must give notice of his proposed action—

(a) to the person who served the purchase notice;

(b) to the council on whom it was served;

(c) **[**[F237]in England**]** outside Greater London—

(i) to the county planning authority and also, where that authority is a joint planning board, to the county council; and

(ii) if the district council on whom the purchase notice in question was served is a constituent member of a joint planning board, to that board;

[[F238](cc) in Wales, to the local planning authority, where it is a joint planning board;**]** and

(d) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the council on whom the notice was served, to them.

(3) A notice under subsection (2) shall specify the period (which must not be less than 28 days from its service) within which any of the persons on whom it is served may require the Secretary of State to give those persons an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period any of those persons so require, before the Secretary of State confirms the purchase notice or takes any other action under section 141 in respect of it he must give those persons such an opportunity.

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(5) If, after any of those persons have appeared before and been heard by the appointed person, it appears to the Secretary of State to be expedient to take action under section 141 otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

Textual Amendments

F237 Words in s. 140(2)(c) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(4)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F238 S. 140(2)(cc) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(4)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Modifications etc. (not altering text)

C71 S. 140(2)(d): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 2** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C72 S. 140(2)(d) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 2** (with arts. 6, 7)
S. 140(2)(d) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 140(2)(d) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 140(2)(d) applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 140(2)(d) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

141 Action by Secretary of State in relation to purchase notice.

(1) Subject to the following provisions of this section and to section 142(3), if the Secretary of State is satisfied that the conditions specified in subsection (3) or, as the case may be, subsection (4) of section 137 are satisfied in relation to a purchase notice, he shall confirm the notice.

(2) If it appears to the Secretary of State to be expedient to do so, he may, instead of confirming the purchase notice—

(a) in the case of a notice served on account of the refusal of planning permission, grant planning permission for the development in question;

(b) in the case of a notice served on account of planning permission for development being granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development;

(c) in the case of a notice served on account of the revocation of planning permission by an order under section 97, cancel the order;

(d) in the case of a notice served on account of the modification of planning permission by such an order by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted; or

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(e) in the case of a notice served on account of the making of an order under section 102 or paragraph 1 of Schedule 9, revoke the order or, as the case may be, amend the order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order.

(3) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which planning permission ought to be granted, he may, instead of confirming the purchase notice, or, as the case may be, of confirming it so far as it relates to that part of the land, direct that, if an application for planning permission for that development is made, it must be granted.

(4) If it appears to the Secretary of State, having regard to the probable ultimate use of the land, that it is expedient to do so, he may, if he confirms the notice, modify it, either in relation to the whole or any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.

(5) Any reference in section 140 to the taking of action by the Secretary of State under this section includes a reference to the taking by him of a decision not to confirm the purchase notice either on the grounds that any of the conditions referred to in subsection (1) are not satisfied or by virtue of section 142.

Modifications etc. (not altering text)

C73 S. 141(4): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 3** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C74 S. 141(4) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 3** (with arts. 6, 7)
S. 141(4) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 141(4) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 141(4) applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 141(4) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

142 Power to refuse to confirm purchase notice where land has restricted use by virtue of previous planning permission.

(1) This section applies where a purchase notice is served in respect of land which consists in whole or in part of land which has a restricted use by virtue of an existing planning permission.

(2) For the purposes of this section, land is to be treated as having a restricted use by virtue of an existing planning permission if it is part of a larger area in respect of which planning permission has previously been granted (and has not been revoked) and either—

(a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or

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(b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as mentioned in paragraph (a).

(3) Where a copy of the purchase notice is sent to the Secretary of State under section 139(4), he need not confirm the notice under section 141(1) if it appears to him that the land having a restricted use by virtue of an existing planning permission ought, in accordance with that permission, to remain undeveloped or, as the case may be, remain or be preserved or laid out as amenity land in relation to the remainder of the large area for which that planning permission was granted.

143 Effect of Secretary of State's action in relation to purchase notice.

(1) Where the Secretary of State confirms a purchase notice—

(a) the council on whom the purchase notice was served, or

(b) if under section 141(4) the Secretary of State modified the purchase notice by substituting another local authority or statutory undertakers for that council, that other authority or those undertakers,

shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect of it on such date as the Secretary of State may direct.

(2) If, before the end of the relevant period, the Secretary of State has neither—

(a) confirmed the purchase notice, nor

(b) taken any such action in respect of it as is mentioned in section 141(2) or (3), nor

(c) notified the owner by whom the notice was served that he does not propose to confirm the notice,

the notice shall be deemed to be confirmed at the end of that period, and the council on whom the notice was served shall be deemed to be authorised as mentioned in subsection (1) and to have served a notice to treat in respect of the owner's interest at the end of that period.

(3) Subject to subsection (4), for the purposes of subsection (2) the relevant period is—

(a) the period of nine months beginning with the date of service of the purchase notice; or

(b) if it ends earlier, the period of six months beginning with the date on which a copy of the purchase notice was sent to the Secretary of State.

(4) The relevant period does not run if the Secretary of State has before him at the same time both—

(a) a copy of the purchase notice sent to him under section 139(4); and

(b) a notice of appeal under section 78, 174 or 195 of this Act or under section 20 or 39 of the Planning [M64](Listed Buildings and Conservation Areas) Act 1990 (appeals against refusal of listed building consent, etc. and appeals against listed building enforcement notices) or under section 21 [M65]of the Planning (Hazardous Substances) Act 1990 (appeals against decisions and failure to take decisions relating to hazardous substances) relating to any of the land to which the purchase notice relates.

(5) Where—

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(a) the Secretary of State has notified the owner by whom a purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice; and

(b) that decision is quashed under Part XII,

the purchase notice shall be treated as cancelled, but the owner may serve a further purchase notice in its place.

(6) The reference in subsection (5) to a decision to confirm, or not to confirm, the purchase notice includes—

(a) any decision not to confirm the notice in respect of any part of the land to which it relates, and

(b) any decision to grant any permission, or give any direction, instead of confirming the notice, either wholly or in part.

(7) For the purposes of determining whether a further purchase notice under subsection (5) was served within the period prescribed for the service of purchase notices, the planning decision in consequence of which the notice was served shall be treated as having been made on the date on which the decision of the Secretary of State was quashed.

(8) A notice to treat which is deemed to have been served by virtue of subsection (1) or (2) may not be withdrawn under section 31 of the [M66]Land Compensation Act 1961.

Modifications etc. (not altering text)

C75 S. 143(1)(b): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 4** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C76 S. 143(1)(b) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 4** (with arts. 6, 7)
S. 143(1)(b) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 143(1)(b) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 143(1)(b) applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 143(1)(b) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

Marginal Citations

M64 1990 c. 9.
M65 1990 c. 10.
M66 1961 c. 33.

Compensation

144 Special provisions as to compensation where purchase notice served.

(1) Where compensation is payable by virtue of section 107 in respect of expenditure incurred in carrying out any works on land, any compensation payable in respect of

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the acquisition of an interest in the land in pursuance of a purchase notice shall be reduced by an amount equal to the value of those works.

(2) Where—

(a) the Secretary of State directs under section 141(3) that, if an application for it is made, planning permission must be granted for the development of any land, and

(b) on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that the permitted development value of the interest in that land in respect of which the purchase notice was served is less than its **[**F239Schedule 3 value**]**,

that authority shall pay the person entitled to that interest compensation of an amount equal to the difference.

(3) If the planning permission mentioned in subsection (2)(a) would be granted subject to conditions for regulating the design or external appearance, or the size or height of buildings, or for regulating the number of buildings to be erected on the land, the Secretary of State may direct that in assessing any compensation payable under subsection (2) those conditions must be disregarded, either altogether or to such extent as may be specified in the direction.

(4) The Secretary of State may only give a direction under subsection (3) if it appears to him to be reasonable to do so having regard to the local circumstances.

(5) Sections 117 and 118 shall have effect in relation to compensation under subsection (2) as they have effect in relation to compensation to which those sections apply.

(6) In this section—

["F240Schedule 3 value", in relation to such an interest, means the value of that interest calculated on the assumption that planning permission would be granted—

(a) subject to the condition in Schedule 10, for any development of a class specified in paragraph 1 of Schedule 3; and

(b) for any development of a class specified in paragraph 2 of Schedule 3.**]**

"permitted development value", in relation to an interest in land in respect of which a direction is given under section 141(3), means the value of that interest calculated with regard to that direction, but on the assumption that no planning permission would be granted otherwise than in accordance with that direction, and

(7) Where a purchase notice in respect of an interest in land is served in consequence of an order under section 102 or paragraph 1 of Schedule 9, then if—

(a) that interest is acquired in accordance with this Chapter; or

(b) compensation is payable in respect of that interest under subsection (2),

no compensation shall be payable in respect of that order under section 115.

Textual Amendments

F239 Words in s. 144(2)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch.6 para. 19(a)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F240 Definition in s. 144(6) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 19(b)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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Special provisions for requiring purchase of whole of partially affected agricultural unit

145 Counter-notice requiring purchase of remainder of agricultural unit.

(1) This section applies where—

(a) an acquiring authority is deemed under this Chapter to have served notice to treat in respect of any agricultural land on a person ("the claimant") who has a greater interest in the land than as tenant for a year or from year to year (whether or not he is in occupation of the land), and

(b) the claimant has such an interest in other agricultural land ("the unaffected area") comprised in the same agricultural unit as that to which the notice relates.

(2) Where this section applies the claimant may serve on the acquiring authority a counter-notice—

(a) claiming that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and

(b) requiring the acquiring authority to purchase his interest in the whole of the unaffected area.

(3) Subject to subsection (4), "other relevant land" in subsection (2) means—

(a) land which is comprised in the same agricultural unit as the land to which the notice to treat relates and in which the claimant does not have such an interest as is mentioned in subsection (1); and

(b) land which is comprised in any other agricultural unit occupied by the claimant on the date on which the notice to treat is deemed to have been served and in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.

(4) Where a notice to treat has been served or is deemed under this Chapter or under Part III of the [M67]Compulsory Purchase (Vesting Declarations) Act 1981 to have been served in respect of any of the unaffected area or in respect of other relevant land as defined in subsection (3), then, unless and until the notice to treat is withdrawn, this section and section 146 shall have effect as if that land did not form part of the unaffected land or, as the case may be, did not constitute other relevant land.

(5) Where a counter-notice is served under subsection (2) the claimant shall also serve a copy of it on any other person who has an interest in the unaffected area (but failure to comply with this subsection shall not invalidate the counter-notice).

(6) A counter-notice under subsection (2) and any copy of that notice required to be served under subsection (5) must be served within the period of two months beginning with the date on which the notice to treat is deemed to have been served.

(7) This section is without prejudice to the rights conferred by sections 93 and 94 of the [M68]Lands Clauses (Consolidation) Act 1845 or section 8(2) and (3) of the [M69]Compulsory Purchase Act 1965 (provisions as to divided land).

Marginal Citations

M67 1981 c. 66.

M68 1845 c. 18.

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
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M69 1965 c. 56.

146 Effect of counter-notice under s. 145.

(1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 145 agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal.

(2) On such a reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid accordingly.

(3) Where a counter-notice is accepted as valid under subsection (1) or declared to be valid under subsection (2), the acquiring authority shall be deemed—

(a) to be authorised to acquire compulsorily the interest of the claimant in the land to which the requirement in the counter-notice relates under the same provision of this Chapter as they are authorised to acquire the other land in the agricultural unit in question; and

(b) to have served a notice to treat in respect of it on the date on which notice to treat is deemed to have been served under that provision.

(4) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which it is determined.

(5) Where a counter-notice is withdrawn by virtue of subsection (4) any notice to treat deemed to have been served in consequence of it shall be deemed to have been withdrawn.

(6) Without prejudice to subsection (5), a notice to treat deemed to have been served by virtue of this section may not be withdrawn under section 31 of the [M70]Land Compensation Act 1961.

(7) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) of the [M71]Land Compensation Act 1973.

(8) Where by virtue of this section the acquiring authority become or will become entitled to a lease of any land but not to the interest of the lessor—

(a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;

(b) the question of what is reasonable may be referred to the Lands Tribunal by the authority or the lessor and, if at the expiration of the period of three months after the date of the offer mentioned in paragraph (a) the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;

(c) if that question is referred to the Tribunal, the lessor shall be deemed—

(i) to have accepted the surrender of the lease at the expiry of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct, and

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(ii) to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable.

(9) For the purposes of subsection (8) any terms as to surrender contained in the lease shall be disregarded.

(10) Where the lessor—

(a) refuses to accept any sum payable to him by virtue of subsection (8), or

(b) refuses or fails to make out his title to the satisfaction of the acquiring authority,

they may pay into court any such sum payable to the lessor and section 9(2) and (5) of the [M72]Compulsory Purchase Act 1965 (deposit of compensation in cases of refusal to convey etc.) shall apply to that sum with the necessary modifications.

(11) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (8) are a body incorporated by or under any enactment, the corporate powers of the authority shall, if they would not otherwise do so, include the power to farm that land.

Marginal Citations

M70 1961 c. 33.

M71 1973 c. 26.

M72 1965 c. 56

147 Provisions supplemental to ss. 145 and 146.

(1) Sections 145 and 146 apply in relation to the acquisition of interests in land by government departments which possess compulsory purchase powers as they apply in relation to the acquisition of interests in land by authorities who are not government departments.

(2) In sections 145, 146 and this section—

"agricultural" and "agricultural land" have the meaning given in section 109 of the [M73]Agriculture Act 1947 and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;

"agricultural unit" has the meaning given in section 171(1);

"acquiring authority" has the same meaning as in the [M74]Land Compensation Act 1961 ; and

"government departments which possess compulsory purchase powers" means government departments being authorities possessing compulsory purchase powers within the meaning of that Act.

Marginal Citations

M73 1947 c. 48.

M74 1961 c. 33.

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Supplemental

[F241 147A Application of Chapter I to National Parks.

This Chapter shall have effect as if—

(a) the bodies on whom a purchase notice may be served under section 137 included any National Park authority which is the local planning authority for the area in which the land is situated; and

(b) a National Park authority were a local authority for the purposes of this Act and the National Park for which it is the local planning authority were its area;

and the references in this Chapter and in section 288(10)(a) to a council and to a local authority shall be construed accordingly.**]**

Textual Amendments

F241 S. 147A inserted (19.9.1995) by 1995 c. 25, **ss. 67(5)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

148 Interpretation of Chapter I.

(1) In this Chapter—

"the relevant provisions" means—

(a) the provisions of Part IX, or

(b) in the case of statutory undertakers, any statutory provision (however expressed) under which they have power, or may be authorised, to purchase land compulsorily for the purposes of their undertaking; and

"statutory undertakers" includes public telecommunications operators.

(2) In the case of a purchase notice served by such a person as is mentioned in subsection (2)(b) of section 137, references in this Chapter to the owner of the land include references to that person unless the context otherwise requires.

Modifications etc. (not altering text)

C77 S. 148: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 5** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

CHAPTER II

INTERESTS AFFECTED BY PLANNING PROPOSALS: BLIGHT

Preliminary

149 Scope of Chapter II.

(1) This Chapter shall have effect in relation to land falling within any paragraph of Schedule 13 (land affected by planning proposals of public authorities etc.); and in this Chapter such land is referred to as "blighted land".

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(2) Subject to the provisions of sections 161 and 162, an interest qualifies for protection under this Chapter if—

(a) it is an interest in a hereditament or part of a hereditament and on the relevant date it satisfies one of the conditions mentioned in subsection (3); or

(b) it is an interest in an agricultural unit or part of an agricultural unit and on the relevant date it is the interest of an owner-occupier of the unit;

and in this Chapter such an interest is referred to as "a qualifying interest".

(3) The conditions mentioned in subsection (2)(a) are—

(a) that the annual value of the hereditament does not exceed such amount as may be prescribed for the purposes of this paragraph by an order made by the Secretary of State, and the interest is the interest of an owner-occupier of the hereditament; or

(b) that the interest is the interest of a resident owner-occupier of the hereditament.

(4) In this section "the relevant date", in relation to an interest, means the date of service of a notice under section 150 in respect of it.

(5) In this Chapter "blight notice" means a notice served under section 150, 161 or 162.

Blight notices

150 Notices requiring purchase of blighted land.

(1) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

(a) he is entitled to a qualifying interest in that hereditament or unit;

(b) he has made reasonable endeavours to sell that interest; **[**[F242]or the land falls within paragraph 21 or paragraph 22 (disregarding the notes) of Schedule 13 and the powers of compulsory acquisition remain exercisable**]** and

(c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

(2) Subject to subsection (3), subsection (1) shall apply in relation to an interest in part of a hereditament or unit as it applies in relation to an interest in the whole of a hereditament or unit.

(3) Subsection (2) shall not enable any person—

(a) if he is entitled to an interest in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of a hereditament or unit; or

(b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the whole of that part.

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(4) In this Chapter—

(a) subject to section 161(1), "the claimant", in relation to a blight notice, means the person who served that notice, and

(b) any reference to the interest of the claimant, in relation to a blight notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1).

Textual Amendments

F242 Words in s. 150(1)(b) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 para.13** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

151 Counter-notices objecting to blight notices.

(1) Where a blight notice has been served in respect of a hereditament or an agricultural unit, the appropriate authority may serve on the claimant a counter-notice in the prescribed form objecting to the notice.

(2) A counter-notice under subsection (1) may be served at any time before the end of the period of two months beginning with the date of service of the blight notice.

(3) Such a counter-notice shall specify the grounds on which the appropriate authority object to the blight notice (being one or more of the grounds specified in subsection (4) or, as relevant, in section 159(1), 161(5) or 162(5)).

(4) Subject to the following provisions of this Act, the grounds on which objection may be made in a counter-notice to a notice served under section 150 are—

(a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in blighted land;

(b) that the appropriate authority (unless compelled to do so by virtue of this Chapter) do not propose to acquire any part of the hereditament, or in the case of an agricultural unit any part of the affected area, in the exercise of any relevant powers;

(c) that the appropriate authority propose in the exercise of relevant powers to acquire a part of the hereditament or, in the case of an agricultural unit, a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Chapter) do not propose to acquire any other part of that hereditament or area in the exercise of any such powers;

(d) in the case of land falling within paragraph 1, 3 or 13 but not 14, 15 or 16 of Schedule 13, that the appropriate authority (unless compelled to do so by virtue of this Chapter) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or, in the case of an agricultural unit, any part of the affected area during the period of 15 years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice;

(e) that, on the date of service of the notice under section 150, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(f) that (for reasons specified in the counter-notice) the interest of the claimant is not a qualifying interest;

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(g) that the conditions specified in paragraphs (b) and (c) of section 150(1) are not fulfilled.

(5) Where the appropriate enactment confers power to acquire rights over land, subsection (4) shall have effect as if—

(a) in paragraph (b) after the word "acquire" there were inserted the words " or to acquire any rights over ";

(b) in paragraph (c) for the words "do not propose to acquire" there were substituted the words " propose neither to acquire, nor to acquire any right over ";

(c) in paragraph (d) after the words "affected area" there were inserted " or to acquire any right over any part of it ".

(6) An objection may not be made on the grounds mentioned in paragraph (d) of subsection (4) if it may be made on the grounds mentioned in paragraph (b) of that subsection.

(7) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of paragraph 19 of Schedule 13 shall not include those mentioned in subsection (4)(b) or (c).

(8) In this section "relevant powers", in relation to blighted land falling within any paragraph of Schedule 13, means any powers under which the appropriate authority are or could be authorised—

(a) to acquire that land or to acquire any rights over it compulsorily as being land falling within that paragraph; or

(b) to acquire that land or any rights over it compulsorily for any of the relevant purposes;

and "the relevant purposes", in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within the paragraph in question, it is liable to be acquired or is indicated as being proposed to be acquired.

152 Further counter-notices where certain proposals have come into force.

(1) Where—

(a) an appropriate authority have served a counter-notice objecting to a blight notice in respect of any land falling within paragraph 1, 2, 3, 4 or 14 of Schedule 13 by virtue of Note (1) to that paragraph, and

(b) the relevant plan or alterations or, as the case may be, the relevant order or scheme comes into force (whether in its original form or with modifications),

the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection.

(2) Such a further counter-notice shall not be served—

(a) at any time after the end of the period of two months beginning with the date on which the relevant plan or alterations come into force; or

(b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.

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153 Reference of objection to Lands Tribunal: general.

(1) Where a counter-notice has been served under section 151 objecting to a blight notice, the claimant may require the objection to be referred to the Lands Tribunal.

(2) Such a reference may be required under subsection (1) at any time before the end of the period of two months beginning with the date of service of the counter-notice.

(3) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider—

(a) the matters set out in the notice served by the claimant, and

(b) the grounds of the objection specified in the counter-notice;

and, subject to subsection (4), unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.

(4) An objection on the grounds mentioned in section 151(4)(b), (c) or (d) shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.

(5) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.

(6) If the Tribunal upholds the objection, but only on the grounds mentioned in section 151(4)(c), the Tribunal shall declare that the notice is a valid notice in relation to the part of the hereditament, or in the case of an agricultural unit the part of the affected area, specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in that notice, but not in relation to any other part of the hereditament or affected area.

(7) In a case falling within subsection (5) or (6), the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in section 154) is to be deemed to have been served.

(8) This section shall have effect in relation to a further counter-notice served by virtue of section 152(1) as it has effect in relation to the counter-notice for which it is substituted.

154 Effect of valid blight notice.

(1) Subsection (2) applies where a blight notice has been served and either—

(a) no counter-notice objecting to that notice is served in accordance with this Chapter; or

(b) where such a counter-notice has been served, the objection is withdrawn or, on a reference to the Lands Tribunal, is not upheld by the Tribunal.

(2) Where this subsection applies, the appropriate authority shall be deemed—

(a) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or in the case of an agricultural unit the interest of the claimant in so far as it subsists in the affected area, and

(b) to have served a notice to treat in respect of it on the date mentioned in subsection (3).

(3) The date referred to in subsection (2)—

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(a) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with section 153(7);

(b) in any other case, is the date on which the period of two months beginning with the date of service of the blight notice comes to an end.

(4) Subsection (5) applies where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 151(4)(c) and either—

(a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired—

(i) gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and

(ii) withdraws his claim as to the remainder of that hereditament or area; or

(b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with section 153(6) in respect of that part of the hereditament or affected area.

(5) Where this subsection applies, the appropriate authority shall be deemed—

(a) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the hereditament or affected area specified in the counter-notice (but not in so far as it subsists in any other part of that hereditament or area), and

(b) to have served a notice to treat in respect of it on the date mentioned in subsection (6).

(6) The date referred to in subsection (5)—

(a) in a case falling within paragraph (a) of subsection (4), is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Lands Tribunal in accordance with section 153(7).

155 Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire.

(1) Subsection (2) shall have effect where the grounds of objection specified in a counter-notice served under section 151 consist of or include the grounds mentioned in paragraph (b) or (d) of subsection (4) of that section and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal; or

(b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.

(2) If—

(a) a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or

(b) the land in question falls within paragraph 21 of Schedule 13,

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any power conferred by that order or, as the case may be, by special enactment for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part of it shall cease to have effect.

(3) Subsection (4) shall have effect where the grounds of objection specified in a counter-notice under section 151 consist of or include the grounds mentioned in paragraph (c) of subsection (4) of that section and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal; or

(b) the time for referring that objection to the Lands Tribunal expires without its having been so referred;

and in subsection (4) any reference to "the part of the hereditament or affected area not required" is a reference to the whole of that hereditament or area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

(4) If—

(a) a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the hereditament or affected area not required, or

(b) the land in question falls within paragraph 21 of Schedule 13,

any power conferred by that order or, as the case may be, by the special enactment for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the hereditament or affected area not required shall cease to have effect.

156 Withdrawal of blight notice.

(1) Subject to subsection (3), the person by whom a blight notice has been served may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal or, if there has been such a determination, at any time before the end of the period of six weeks beginning with the date of the determination.

(2) Where a blight notice is withdrawn by virtue of subsection (1) any notice to treat deemed to have been served in consequence of it shall be deemed to have been withdrawn.

(3) A person shall not be entitled by virtue of subsection (1) to withdraw a notice after the appropriate authority have exercised a right of entering and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.

(4) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (2).

Compensation

157 Special provisions as to compensation for acquisitions in pursuance of blight notices.

(1) Where—

(a) an interest in land is acquired in pursuance of a blight notice, and

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(b) the interest is one in respect of which a compulsory purchase order is in force under section 1 of the [M75]Acquisition of Land Act 1981, as applied by section 47 of the [M76]Planning (Listed Buildings and Conservation Areas) Act 1990, containing a direction for minimum compensation under section 50 of that Act of 1990,

the compensation payable for the acquisition shall be assessed in accordance with that direction and as if the notice to treat deemed to have been served in respect of the interest under section 154 had been served in pursuance of the compulsory purchase order.

(2) Where—

(a) an interest in land is acquired in pursuance of a blight notice, and

(b) the interest is one in respect of which a compulsory purchase order is in force under section 290 of the [M77]Housing Act 1985 (acquisition of land for clearance);

the compensation payable for the acquisition shall be assessed in accordance with that Act and as if the notice to treat deemed to have been served in respect of the interest under section 154 had been served in pursuance of the compulsory purchase order.

(3) The compensation payable in respect of the acquisition by virtue of section 160 of an interest in land comprised in—

(a) the unaffected area of an agricultural unit; or

(b) if the appropriate authority have served a counter-notice objecting to the blight notice on the grounds mentioned in section 151(4)(c), so much of the affected area of the unit as is not specified in the counter-notice,

shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) of the [M78]Land Compensation Act 1973.

(4) In subsection (3) the reference to "the appropriate authority" shall be construed as if the unaffected area of an agricultural unit were part of the affected area.

Marginal Citations

M75 1981 c.67.
M76 1990 c. 9.
M77 1985 c.68.
M78 1973 c.26.

Special provisions for requiring purchase of whole of partially affected agricultural unit

158 Inclusion in blight notices of requirement to purchase parts of agricultural units unaffected by blight.

(1) This section applies where—

(a) a blight notice is served in respect of an interest in the whole or part of an agricultural unit, and

(b) on the date of service that unit or part contains land ("the unaffected area") which is not blighted land as well as land ("the affected area") which is such land.

(2) Where this section applies the claimant may include in the blight notice—

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(a) a claim that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and

(b) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.

(3) Subject to section 159(4), "other relevant land" in subsection (2) means—

(a) if the blight notice is served only in respect of part of land comprised in the agricultural unit, the remainder of it; and

(b) land which is comprised in any other agricultural unit occupied by the claimant on the date of service and in respect of which he is then entitled to an owner's interest as defined in section 168(4).

159 Objections to s. 158 notices.

(1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of section 158 shall include the ground that the claim made in the notice is not justified.

(2) Objection shall not be made to a blight notice served by virtue of section 158 on the grounds mentioned in section 151(4)(c) unless it is also made on the grounds mentioned in subsection (1).

(3) The Lands Tribunal shall not uphold an objection to a notice served by virtue of section 158 on the grounds mentioned in section 151(4)(c) unless it also upholds the objection on the grounds mentioned in subsection (1).

(4) Where objection is made to a blight notice served by virtue of section 158 on the ground mentioned in subsection (1) and also on those mentioned in section 151(4)(c), the Lands Tribunal, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in "other relevant land" as defined in section 158(3).

(5) If the Lands Tribunal upholds an objection but only on the ground mentioned in subsection (1), the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.

(6) If the Tribunal upholds an objection both on the ground mentioned in subsection (1) and on the grounds mentioned in section 151(4)(c) (but not on any other grounds) the Tribunal shall declare that the blight notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in that notice but not in relation to any other part of the affected area or in relation to the unaffected area.

(7) In a case falling within subsection (5) or (6), the Tribunal shall give directions specifying a date on which notice to treat (as mentioned in sections 154 and section 160) is to be deemed to have been served.

(8) Section 153(6) shall not apply to any blight notice served by virtue of section 158.

160 Effect of notices served by virtue of s. 158.

(1) In relation to a blight notice served by virtue of section 158—

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(a) subsection (2) of section 154 shall have effect as if for the words "or in the case of an agricultural unit the interest of the claimant in so far as it subsists in the affected area" there were substituted the words " or agricultural unit "; and

(b) subsections (4) and (5) of that section shall not apply to any such blight notice.

(2) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 159(1), then if either—

(a) the claimant, without referring that objection to the Lands Tribunal and before the time for so referring it has expired, gives notice to the appropriate authority that he withdraws his claim as to the unaffected area; or

(b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 159(5),

the appropriate authority shall be deemed—

(i) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the affected area (but not in so far as it subsists in the unaffected area), and

(ii) to have served a notice to treat in respect of it on the date mentioned in subsection (3).

(3) The date referred to in subsection (2)—

(a) in a case falling within paragraph (a) of subsection (2), is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 159(7).

(4) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 159(1) and also on the grounds mentioned in section 151(4)(c), then if either—

(a) the claimant, without referring that objection to the Lands Tribunal and before the time for so referring it has expired—

(i) gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice, and

(ii) withdraws his claim as to the remainder of that area and as to the unaffected area; or

(b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 159(6) in respect of that part of the affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) and to have served a notice to treat in respect of it on the date mentioned in subsection (5).

(5) The date referred to in subsection (4)—

(a) in a case falling within paragraph (a) of that subsection, is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 159(7).

(6) In relation to a blight notice served by virtue of section 158 references to "the appropriate authority" and "the appropriate enactment" shall be construed as if the unaffected area of an agricultural unit were part of the affected area.

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Personal representatives, mortgagees and partnerships

161 Powers of personal representatives in respect of blight notice.

(1) In relation to any time after the death of a person who has served a blight notice, sections 151(1), 152(1), 153(1), 154(4) and (5), 156(1) and 160(2) and (4) shall apply as if any reference in them to the claimant's personal representatives.

(2) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

(a) he is the personal representative of a person ("the deceased") who at the date of his death was entitled to an interest in that hereditament or unit;

(b) the interest was one which would have been a qualifying interest if a notice under section 150 had been served in respect of it on that date;

(c) he has made reasonable endeavours to sell that interest **[**[F243]or the land falls within paragraph 21 or paragraph 22 (disregarding the notes) of Schedule 13 and the powers of compulsory acquisition remain exercisable**]**;

(d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land; and

(e) one or more individuals are (to the exclusion of any body corporate) beneficially entitled to that interest,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

(3) Subject to subsection (4), subsection (2) shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the whole of a hereditament or agricultural unit.

(4) Subsection (3) shall not enable any person—

(a) if the deceased was entitled to an interest in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of the deceased's interest in part of the hereditament or unit; or

(b) if the deceased was entitled to an interest only in part of the hereditament or agricultural unit, to make or serve any such claim or notice in respect of the deceased's interest in less than the whole of that part.

(5) Subject to sections 151(7) and 159(2) and (3), the grounds on which objection may be made in a counter-notice under section 151 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (4) of that section and, in a case to which it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—

(a) that the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in subsection (2)(b);

(c) that the conditions specified in subsection (2)(c), (d) or (e) are not satisfied.

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Textual Amendments

F243 Words in s. 161(2)(c) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 para.13** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

162 Power of mortgagees to serve blight notice.

(1) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

(a) he is entitled as mortgagee (by virtue of a power which has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land;

(b) he has made reasonable endeavours to sell that interest **[**F244or the land falls within paragraph 21 or paragraph 22 (disregarding the notes) of Schedule 13 and the powers of compulsory acquisition remain exercisable**]**; and

(c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

then, subject to the provisions of this section, he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

(2) Subject to subsection (3), subsection (1) shall apply in relation to an interest in part of a hereditament or unit as it applies in relation to an interest in the whole of a hereditament or unit.

(3) Subsection (2) shall not enable a person—

(a) if his interest as mortgagee is in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of any interest in part of the hereditament or unit; or

(b) if his interest as mortgagee is only in part of a hereditament or agricultural unit, to make or serve any such notice or claim in respect of any interest in less than the whole of that part.

(4) Notice under this section shall not be served unless the interest which the mortgagee claims he has the power to sell—

(a) could be the subject of a notice under section 150 served by the person entitled to it on the date of service of the notice under this section; or

(b) could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.

(5) Subject to sections 151(7) and 159(2) and (3), the grounds on which objection may be made in a counter-notice under section 151 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (4) of that section and, in a case to which it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—

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(a) that, on the date of service of the notice under this section, the claimant had no interest as mortgagee in any part of the hereditament or agricultural unit to which the notice relates;

(b) that (for reasons specified in the counter-notice) the claimant had not on that date the power referred to in subsection (1)(a);

(c) that the conditions specified in subsection (1)(b) and (c) are not fulfilled;

(d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (4) was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.

Textual Amendments

F244 Words in s. 162(1)(b) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 para.13** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

163 Prohibition on service of simultaneous notices under ss. 150, 161 and 162.

(1) No notice shall be served under section 150 or 161 in respect of a hereditament or agricultural unit, or any part of it, at a time when a notice already served under section 162 is outstanding with respect to it, and no notice shall be served under section 162 at a time when a notice already served under section 150 or 161 is outstanding with respect to the relevant hereditament, unit or part.

(2) For the purposes of subsection (1), a notice shall be treated as outstanding with respect to a hereditament, unit or part—

(a) until it is withdrawn in relation to the hereditament, unit or part; or

(b) in a case where an objection to the notice has been made by a counter-notice under section 151, until either—

(i) the period of two months specified in section 153 elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section; or

(ii) the objection, having been so referred, is upheld by the Tribunal with respect to the hereditament, unit or part.

164 Special provisions as to partnerships.

(1) This section shall have effect for the purposes of the application of this Chapter to a hereditament or agricultural unit occupied for the purposes of a partnership firm.

(2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of "owner-occupier" in section 168(1) and (2) shall apply in relation to the firm accordingly.

(3) If, after the service by the firm of a blight notice, any change occurs (whether by death or otherwise) in the constitution of the firm, any proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or, as the case may be, shall be incumbent upon, the partners for the time being constituting the firm.

(4) Nothing in this Chapter shall be construed as indicating an intention to exclude the operation of the definition of "person" in Schedule 1 to the [M79]Interpretation Act

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1978 (by which, unless the contrary intention appears, "person" includes any body of persons corporate or unincorporate) in relation to any provision of this Chapter.

(5) Subsection (2) shall not affect the definition of "resident owner-occupier" in section 168(3).

Marginal Citations
M79 1978 c. 30.

Miscellaneous and supplementary provisions

165 Power of Secretary of State to acquire land affected by orders relating to new towns etc. where blight notice served.

(1) Where a blight notice has been served in respect of land falling within paragraph 7, 8 or 9 of Schedule 13, then until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area the Secretary of State shall have power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.

(2) Where the Secretary of State acquires an interest under subsection (1), then—

(a) if the land is or becomes land within paragraph 8 or, as the case may be, paragraph 9(b) of Schedule 13, the interest shall be transferred by him to the development corporation established for the new town or, as the case may be, the urban development corporation established for the urban development area; and

(b) in any other case, the interest may be disposed of by him in such manner as he thinks fit.

(3) The [M80]Land Compensation Act 1961 shall have effect in relation to the compensation payable in respect of the acquisition of an interest by the Secretary of State under subsection (1) as if—

(a) the acquisition were by a development corporation under the [M81]New Towns Act 1981 or, as the case may be, by an urban development corporation under Part XVI of the [M82]Local Government, Planning and Land Act 1980;

(b) in the case of land within paragraph 7 of Schedule 13, the land formed part of an area designated as the site of a new town by an order which has come into operation under section 1 of the New Towns Act 1981; and

(c) in the case of land within paragraph 9(a) of Schedule 13, the land formed part of an area designated as an urban development area by an order under section 134 of the [M83]Local Government, Planning and Land Act 1980 which has come into operation.

Marginal Citations
M80 1961 c. 33.
M81 1981 c. 64.
M82 1980 c. 65.
M83 1980 c. 65.

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VALID FROM 06/04/2009

[F245 165A Power of Secretary of State to acquire land identified in national policy statements where blight notice served

Where a blight notice has been served in respect of land falling within paragraph 25 of Schedule 13, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.**]**

Textual Amendments

F245 S. 165A inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(5)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

166 Saving for claimant's right to sell whole hereditament, etc.

(1) The provisions of sections 151(4)(c), 153(6), 154(4) and (5) and 155(3) and (4) relating to hereditaments shall not affect—

(a) the right of a claimant under section 92 of the M84 Lands Clauses Consolidation Act 1845 to sell the whole of the hereditament or, in the case of an agricultural unit, the whole of the affected area, which he has required the authority to purchase; or

(b) the right of a claimant under section 8 of the M85 Compulsory Purchase Act 1965 to sell (unless the Lands Tribunal otherwise determines) the whole of the hereditament or, as the case may be, affected area which he has required that authority to purchase.

(2) In accordance with subsection (1)(b), in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in section 151(4)(c), the Lands Tribunal shall consider (in addition to the other matters which they are required to consider) whether—

(a) in the case of a house, building or factory, the part proposed to be acquired can be taken without material detriment to the house, building or factory; or

(b) in the case of a park or garden belonging to a house, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

Marginal Citations

M84 1845 c. 18.
M85 1965 c. 56.

167 No withdrawal of constructive notice to treat.

Without prejudice to the provisions of section 156(1) and (2), a notice to treat which is deemed to have been served by virtue of this Chapter may not be withdrawn under section 31 of the M86 Land Compensation Act 1961.

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Marginal Citations
M86 1961 c. 33.

168 Meaning of "owner-occupier" and "resident owner-occupier".

(1) Subject to the following provisions of this section, in this Chapter "owner-occupier", in relation to a hereditament, means—

(a) a person who occupies the whole or a substantial part of the hereditament in right of an owner's interest in it, and has so occupied the hereditament or that part of it during the whole of the period of six months ending with the date of service; or

(b) if the whole or a substantial part of the hereditament was unoccupied for a period of not more than 12 months ending with that date, a person who so occupied the hereditament or, as the case may be, that part of it during the whole of a period of six months ending immediately before the period when it was not occupied.

(2) Subject to the following provisions of this section, in this Chapter "owner-occupier", in relation to an agricultural unit, means a person who—

(a) occupies the whole of that unit and has occupied it during the whole of the period of six months ending with the date of service; or

(b) occupied the whole of that unit during the whole of a period of six months ending not more than 12 months before the date of service,

and, at all times material for the purposes of paragraph (a) or, as the case may be, paragraph (b) has been entitled to an owner's interest in the whole or part of that unit.

(3) In this Chapter "resident owner-occupier", in relation to a hereditament, means—

(a) an individual who occupies the whole or a substantial part of the hereditament as a private dwelling in right of an owner's interest in it, and has so occupied the hereditament or, as the case may be, that part during the whole of the period of six months ending with the date of service; or

(b) if the whole or a substantial part of the hereditament was unoccupied for a period of not more than 12 months ending with that date, an individual who so occupied the hereditament or, as the case may be, that part during the whole of a period of six months ending immediately before the period when it was not occupied.

(4) In this section—

"owner's interest", in relation to a hereditament or agricultural unit, means a freehold interest in it or a tenancy of it granted or extended for a term of years certain not less than three years of which remain unexpired on the date of service; and

"date of service", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect of it under section 150.

169 "Appropriate authority" for purposes of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter "the appropriate authority", in relation to any land, means the government department, local authority **[**[F246]National Park authority**]** or other body or person by whom, in accordance with the

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circumstances by virtue of which the land falls within any paragraph of Schedule 13, the land is liable to be acquired or is indicated as being proposed to be acquired or, as the case may be, any right over the land is proposed to be acquired.

(2) If any question arises—

(a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a local highway authority; or

(b) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes; or

(c) which of two or more local authorities is the appropriate authority in relation to any land for those purposes,

that question shall be referred to the Secretary of State, whose decision shall be final.

(3) If any question arises which authority is the appropriate authority for the purposes of this Chapter—

(a) section 151(2) shall have effect as if the reference to the date of service of the blight notice were a reference to that date or, if it is later, the date on which that question is determined;

(b) section 162(4)(b) shall apply with the substitution for the period of six months of a reference to that period extended by so long as it takes to obtain a determination of the question; and

(c) section 168(1)(b), (2)(b) and (3)(b) shall apply with the substitution for the reference to 12 months before the date of service of a reference to that period extended by so long as it takes to obtain a determination of the question.

(4) In relation to land falling within paragraph 7, 8 or 9 of Schedule 13, until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area, this Chapter shall have effect as if "the appropriate authority" were the Secretary of State.

(5) In relation to land falling within paragraph 19 of Schedule 13, "the appropriate authority" shall be the highway authority for the highway in relation to which the order mentioned in that paragraph was made.

Textual Amendments

F246 Words in s. 169(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(5)** (with ss. 7(6), 115, 117, Sch. 8 para. 3); S.I. 1995/2950, **art. 2(1)**

170 "Appropriate enactment" for purposes of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter "the appropriate enactment", in relation to land falling within any paragraph of Schedule 13, means the enactment which provides for the compulsory acquisition of land as being land falling within that paragraph or, as respects paragraph 22(b), the enactment under which the compulsory purchase order referred to in that paragraph was made.

(2) In relation to land falling within paragraph 2, 3 or 4 of that Schedule, an enactment shall for the purposes of subsection (1) be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that paragraph if—

(a) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the

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functions for the purposes of which the land is allocated or is proposed to be developed; or

(b) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority **[**F247National Park authority**]** or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.

(3) In relation to land falling within paragraph 2, 3 or 4 of that Schedule by virtue of Note (1) to that paragraph, "the appropriate enactment" shall be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to any such plan, proposal or modifications as are mentioned in paragraph (a), (b) or (c) of that Note.

(4) In relation to land falling within paragraph 5 or 6 of that Schedule, "the appropriate enactment" shall be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to the resolution or direction in question.

(5) In relation to land falling within paragraph 7, 8 or 9 of that Schedule, until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area, this Chapter shall have effect as if "the appropriate enactment" were section 165(1).

(6) In relation to land falling within paragraph 10 or 11 of that Schedule, "the appropriate enactment" shall be section 290 of the M87Housing Act 1985.

(7) In relation to land falling within paragraph 19 of that Schedule, "the appropriate enactment" shall be section 239(6) of the M88Highways Act 1980.

(8) In relation to land falling within paragraph 22 of that Schedule by virtue of Note (1) to that paragraph, "the appropriate enactment" shall be the enactment which would provide for the compulsory acquisition of the land or of the rights over the land if the relevant compulsory purchase order were confirmed or made.

(9) Where, in accordance with the circumstances by virtue of which any land falls within any paragraph of that Schedule, it is indicated that the land is proposed to be acquired for highway purposes, any enactment under which a highway authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for highway purposes shall, for the purposes of subsection (1), be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within that paragraph.

(10) In subsection (9) the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question—

(a) the coming into operation of any requisite order or scheme made, or having effect as if made, under the provisions of Part II of the Highways Act 1980;

(b) the coming into operation of any requisite scheme made, or having effect as if made, under section 106(3) of that Act;

(c) the making or approval of any requisite plans.

(11) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of this Chapter, the appropriate enactment for those purposes shall be taken to be that one of those enactments under

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which, in the circumstances in question, it is most likely that (apart from this Chapter) the land would have been acquired by the appropriate authority.

(12) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of this Chapter, that question shall be referred—

(a) where the appropriate authority are a government department, to the Minister in charge of that department;

(b) where the appropriate authority are statutory undertakers, to the appropriate Minister; and

(c) in any other case, to the Secretary of State,

and the decision of the Minister or, as the case may be, the Secretary of State shall be final.

Textual Amendments

F247 Words in s. 170(2) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(5)** (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2(1)**

Marginal Citations

M87 1985 c. 68.

M88 1980 c. 66.

171 General interpretation of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter—

"the affected area", in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any paragraph of Schedule 13;

"agricultural" has the same meaning as in section 109 of the [M89]Agriculture Act 1947 and references to the farming of land include references to the carrying on in relation to the land of agricultural activities;

"agricultural unit" means land which is occupied as a unit for agricultural purposes, including any dwellinghouse or other building occupied by the same person for the purpose of farming the land;

"annual value" means—

(a) in the case of a hereditament which is shown in a local non-domestic rating list and none of which consists of domestic property or property exempt from local non-domestic rating, the value shown in that list as the rateable value of that hereditament on the date of service;

(b) in the case of a hereditament which is shown in a local non-domestic rating list and which includes domestic property or property exempt from local non-domestic rating, the sum of—

(i) the value shown in that list as the rateable value of that hereditament on the date of service; and

(ii) the value attributable to the non-rateable part of that hereditament in accordance with subsections (2) and (3);

(c) in the case of any other hereditament, the value attributable to that hereditament in accordance with subsections (2) and (3);

"blight notice" has the meaning given in section 149(5);

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"the claimant" has the meaning given in section 150(4);

"hereditament" means a relevant hereditament within the meaning of section 64(4)(a) to (c) of the [M90]Local Government Finance Act 1988;

"special enactment" means a local enactment, or a provision contained in an Act other than a local or private Act, which is a local enactment or provision authorising the compulsory acquisition of land specifically identified in it; and in this definition "local enactment" means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

(2) The value attributable to a hereditament, or the non-rateable part of it, in respect of domestic property shall be the value certified by the relevant valuation officer as being 5 per cent. of the compensation which would be payable in respect of the value of that property if it were purchased compulsorily under statute with vacant possession and the compensation payable were calculated in accordance with Part II of the [M91]Land Compensation Act 1961 by reference to the relevant date.

(3) The value attributable to a hereditament, or the non-rateable part of it, in respect of property exempt from local non-domestic rating shall be the value certified by the relevant valuation officer as being the value which would have been shown as the rateable value of that property on the date of service if it were a relevant non-domestic hereditament consisting entirely of non-domestic property, none of which was exempt from local non-domestic rating.

(4) Land which (apart from this subsection) would comprise separate hereditaments solely by reason of being divided by a boundary between rating areas shall be treated for the purposes of the definition of "hereditament" in subsection (1) as if it were not so divided.

(5) In this section—

"date of service" has the same meaning as in section 168;

"relevant valuation officer" means the valuation officer who would have determined the rateable value in respect of the hereditament for the purposes of Part III of the [M92]Local Government Finance Act 1988 if the hereditament had fulfilled the conditions set out in section 42(1)(b) to (d) of that Act;

"relevant date" is the date by reference to which that determination would have been made;

and expressions used in the definition of "annual value" in subsection (1) or in subsection (2) or (3) which are also used in Part III of that Act have the same meaning as in that Part.

Marginal Citations

M89 1947 c.48.
M90 1988 c. 41.
M91 1961 c. 33.
M92 1988 c.41.

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PART VII

ENFORCEMENT

Modifications etc. (not altering text)

C78 Pt. VII (ss. 172-196C) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **regs. 2(1)(b)**, 3-11
Pt. VII (ss. 172-196C) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

[F248 Introductory

Textual Amendments

F248 Ss. 171A, 171B and cross heading inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 4(1)**, (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, **art. 2** (with art. 3(1))

F249 171A Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission; or

(b) failing to comply with any condition or limitation subject to which planning permission has been granted,

constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 172); or

(b) the service of a breach of condition notice (defined in section 187A),

constitutes taking enforcement action.

(3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

Textual Amendments

F249 Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 4(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, **art. 2** (with art. 3(1))

F250 171B Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.**]**

Textual Amendments

F250 Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 4(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, **art. 2** (with art. 3(1))

[F251 Planning contravention notices

Textual Amendments

F251 Ss. 171C, 171D and cross heading inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.1** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

[F252 171C Power to require information about activities on land.

(1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land, they may serve notice to that effect (referred to in this Act as a "planning contravention notice") on any person who—

(a) is the owner or occupier of the land or has any other interest in it; or

(b) is carrying out operations on the land or is using it for any purpose.

(2) A planning contravention notice may require the person on whom it is served to give such information as to—

(a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and

(b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted,

as may be specified in the notice.

(3) Without prejudice to the generality of subsection (2), the notice may require the person on whom it is served, so far as he is able—

(a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;

(b) to state when any use, operations or activities began;

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(c) to give the name and address of any person known to him to use or have used the land for any purpose or to be carrying out, or have carried out, any operations or activities on the land;

(d) to give any information he holds as to any planning permission for any use or operations or any reason for planning permission not being required for any use or operations;

(e) to state the nature of his interest (if any) in the land and the name and address of any other person known to him to have an interest in the land.

(4) A planning contravention notice may give notice of a time and place at which—

(a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from carrying out any operations or activities or to undertake remedial works; and

(b) any representations which he may wish to make about the notice,

will be considered by the authority, and the authority shall give him an opportunity to make in person any such offer or representations at that time and place.

(5) A planning contravention notice must inform the person on whom it is served—

(a) of the likely consequences of his failing to respond to the notice and, in particular, that enforcement action may be taken; and

(b) of the effect of section 186(5)(b).

(6) Any requirement of a planning contravention notice shall be complied with by giving information in writing to the local planning authority.

(7) The service of a planning contravention notice does not affect any other power exercisable in respect of any breach of planning control.

(8) In this section references to operations or activities on land include operations or activities in, under or over the land.**]**

Textual Amendments

F252 Ss. 171C, 171D inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.1**(with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C79 S. 171C: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C80 S. 171C: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

F253 171D Penalties for non-compliance with planning contravention notice.

(1) If, at any time after the end of the period of twenty-one days beginning with the day on which a planning contravention notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence.

(2) An offence under subsection (1) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

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(3) It shall be a defence for a person charged with an offence under subsection (1) to prove that he had a reasonable excuse for failing to comply with the requirement.

(4) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) If any person—

(a) makes any statement purporting to comply with a requirement of a planning contravention notice which he knows to be false or misleading in a material particular; or

(b) recklessly makes such a statement which is false or misleading in a material particular,

he shall be guilty of an offence.

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

Textual Amendments

F253 Ss. 171C, 171D inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.1**(with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C81 S. 171D: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

VALID FROM 06/08/2004

I[F254]Temporary stop notices

Textual Amendments

F254 Ss. 171E-171H and cross-heading inserted (6.8.2004 for certain purposes, 7.3.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 52**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2005/204, **art. 2**

171E Temporary stop notice

(1) This section applies if the local planning authority think—

(a) that there has been a breach of planning control in relation to any land, and

(b) that it is expedient that the activity (or any part of the activity) which amounts to the breach is stopped immediately.

(2) The authority may issue a temporary stop notice.

(3) The notice must be in writing and must—

(a) specify the activity which the authority think amounts to the breach;

(b) prohibit the carrying on of the activity (or of so much of the activity as is specified in the notice);

(c) set out the authority's reasons for issuing the notice.

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(4) A temporary stop notice may be served on any of the following—

(a) the person who the authority think is carrying on the activity;

(b) a person who the authority think is an occupier of the land;

(c) a person who the authority think has an interest in the land.

(5) The authority must display on the land—

(a) a copy of the notice;

(b) a statement of the effect of the notice and of section 171G.

(6) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (5).

(7) A temporary stop notice ceases to have effect—

(a) at the end of the period of 28 days starting on the day the copy notice is so displayed,

(b) at the end of such shorter period starting on that day as is specified in the notice, or

(c) if it is withdrawn by the local planning authority.

171F Temporary stop notice: restrictions

(1) A temporary stop notice does not prohibit—

(a) the use of a building as a dwelling house;

(b) the carrying out of an activity of such description or in such circumstances as is prescribed.

(2) A temporary stop notice does not prohibit the carrying out of any activity which has been carried out (whether or not continuously) for a period of four years ending with the day on which the copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (2) does not prevent a temporary stop notice prohibiting—

(a) activity consisting of or incidental to building, engineering, mining or other operations, or

(b) the deposit of refuse or waste materials.

(4) For the purposes of subsection (2) any period during which the activity is authorised by planning permission must be ignored.

(5) A second or subsequent temporary stop notice must not be issued in respect of the same activity unless the local planning authority has first taken some other enforcement action in relation to the breach of planning control which is constituted by the activity.

(6) In subsection (5) enforcement action includes obtaining the grant of an injunction under section 187B.

171G Temporary stop notice: offences

(1) A person commits an offence if he contravenes a temporary stop notice—

(a) which has been served on him, or

(b) a copy of which has been displayed in accordance with section 171E(5).

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(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this section may be charged by reference to a day or a longer period of time.

(4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.

(5) A person does not commit an offence under this section if he proves—
(a) that the temporary stop notice was not served on him, and
(b) that he did not know, and could not reasonably have been expected to know, of its existence.

(6) A person convicted of an offence under this section is liable—
(a) on summary conviction, to a fine not exceeding £20,000;
(b) on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

171H Temporary stop notice: compensation

(1) This section applies if and only if a temporary stop notice is issued and at least one of the following paragraphs applies—
(a) the activity which is specified in the notice is authorised by planning permission or a development order or local development order;
(b) a certificate in respect of the activity is issued under section 191 or granted under that section by virtue of section 195;
(c) the authority withdraws the notice.

(2) Subsection (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in subsection (2).

(4) A person who at the time the notice is served has an interest in the land to which the notice relates is entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(5) Subsections (3) to (7) of section 186 apply to compensation payable under this section as they apply to compensation payable under that section; and for that purpose references in those subsections to a stop notice must be taken to be references to a temporary stop notice.**]**

Enforcement notices

[F255172 Issue of enforcement notice.

(1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them—

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(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

(a) not more than twenty-eight days after its date of issue; and

(b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.**]**

Textual Amendments

F255 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, **s. 5(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C82 S. 172: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C83 S. 172: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

173 [F256]Contents and effect of notice.

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

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(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

(a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

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Textual Amendments

F256 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, **s. 5(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C84 S. 173: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C85 S. 173(10) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

173A F257 Variation and withdrawal of enforcement notices.

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Textual Amendments

F257 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, **s. 5(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C86 S. 173A applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 173A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

174 Appeal against enforcement notice.

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

[F258(2) An appeal may be brought on any of the following grounds—

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

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(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

F258(3) An appeal under this section shall be made either—

(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.**]**

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "relevant occupier" means a person who—

(a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [F259. . .; and

(b) continues so to occupy the land when the appeal is brought.

Textual Amendments

F258 S. 174(2)(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F259 Words in s. 174(6) omitted (2.1.1992) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1),s. 32, Sch. 7 para. 22 (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

Modifications etc. (not altering text)

C87 S. 174: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C88 S. 174 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. I**
S. 174: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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175 Appeals: supplementary provisions.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

(a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

(b) specify the matters to be included in such a statement;

(c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;

(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Where an appeal is brought under section 174 the enforcement notice shall **[**F260subject to any order under section 289(4A)**]** be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

[F261(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.**]**

Textual Amendments

F260 Words in s. 175(4) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F261 S. 175(7) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **3** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Modifications etc. (not altering text)

C89 S. 175: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C90 S. 175(1)–(4)(6): power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

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C91 S. 175(3)(6) applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. I**
C92 S. 175(5)(7) applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

176 General provisions relating to determination of appeals.

[F262(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.**]**

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Textual Amendments

F262 S. 176(1)(2)(2A) substituted (2.1.1992) for s. 176(1)(2) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.23** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

Modifications etc. (not altering text)

C93 Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C94 S. 176 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. I**
S. 176: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

177 Grant or modification of planning permission on appeals against enforcement notices.

(1) On the determination of an appeal under section 174, the Secretary of State may—

[F263(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the

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whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;**]**

(b) discharge any condition or limitation subject to which planning permission was granted;

[F264(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194**]**

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[F265(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.**]**

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission **[**F266in respect of the matters stated in the enforcement notice as constituting a breach of planning control**]**.

[F267(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.**]**

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

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(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Textual Amendments

F263 S. 177(1)(a) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(1)(a)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F264 S. 177(1)(c)(1A)(1B) substituted (27.7.1992) for s. 177(1)(c) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(1)(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F265 S. 177(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(2)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F266 Words in s. 177(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24** (3) (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F267 S. 177(5A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(3)**, (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C95 Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C96 S. 177 applied (with modifications) (1.6.1992) by S.I.1992/656, reg. 18(1), **Sch. 4 Pt. I**
S. 177: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

178 Execution and cost of works required by enforcement notice.

[F268(1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may—

(a) enter the land and take the steps; and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.**]**

(2) Where a copy of an enforcement notice has been served in respect of any breach of planning control F269. . .—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,

shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.

(3) Regulations made under this Act may provide that—

(a) section 276 of the M93Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and

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(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).

[F270(6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

Textual Amendments

F268 S. 178(1) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 7(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F269 Words in s. 178(2) repealed (2.1.1992) by Planning and Compensation Act 1991 (c.34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 25, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.2** (subject to art. 5)

F270 178(6) substituted (2.1.1992) for s. 178(6)(7) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 7(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C97 S. 178 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4 Pt. 2**
S. 178: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C98 S. 178: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)** (as amended (2.1.1992) by 1991 c. 34, s. 84, **Sch. 19**; S.I. 1991/2905, art. 3, **Sch. 2**); S.I. 1992/725, **arts. 2**, 3

Marginal Citations

M93 1936 c. 49.

[F271**179 Offence where enforcement notice not complied with.**

(1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.

(2) Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence.

(3) In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

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(4) A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.

(5) A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.

(6) An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the subsection in question by reference to any period of time following the preceding conviction for such an offence.

(7) Where—

(a) a person charged with an offence under this section has not been served with a copy of the enforcement notice; and

(b) the notice is not contained in the appropriate register kept under section 188,

it shall be a defence for him to show that he was not aware of the existence of the notice.

(8) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000; and

(b) on conviction on indictment, to a fine.

(9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.**]**

Textual Amendments

F271 S. 179 substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.8** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C99 S. 179: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3
S. 179 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4 Pt. 2**
S. 179 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 179: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 179 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

[F272 180 Effect of planning permission, etc., on enforcement or breach of condition notice.

(1) Where, after the service of—

(a) a copy of an enforcement notice; or

(b) a breach of condition notice,

planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

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(2) Where after a breach of condition notice has been served any condition to which the notice relates is discharged, the notice shall cease to have effect so far as it requires any person to secure compliance with the condition in question.

(3) The fact that an enforcement notice or breach of condition notice has wholly or partly ceased to have effect by virtue of this section shall not affect the liability of any person for an offence in respect of a previous failure to comply, or secure compliance, with the notice.**]**

Textual Amendments

F272 S. 180 substituted (2.1.1992 for certain purposes, otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.26** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C100 S. 180: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (C.10,SIF 123:1),s. 25(1)(c); S.I. 1992/725, **arts. 2**,3
S. 180 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4**
S. 180: power to apply conferred (10.11.1993) by 1993 c.28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C101 S. 180(1)(3) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

181 Enforcement notice to have effect against subsequent development.

(1) Compliance with an enforcement notice, whether in respect of—

(a) the completion, **[**F273removal**]** or alteration of any buildings or works;

(b) the discontinuance of any use of land; or

(c) any other requirements contained in the notice,

shall not discharge the notice.

(2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been **[**F274removed**]** or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were **[**F274removed**]** or altered; and, subject to subsection (4), the provisions of section 178(1) and (2) shall apply accordingly.

(4) Where, at any time after an enforcement notice takes effect—

(a) any development is carried out on land by way of reinstating or restoring buildings or works which have been **[**F274removed**]** or altered in compliance with the notice; and

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(b) the local planning authority propose, under section 178(1), to take any steps required by the enforcement notice for the **[**F273removal**]** or alteration of the buildings or works in consequence of the reinstatement or restoration,

the local planning authority shall, not less than 28 days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.

(5) Where without planning permission a person carries out any development on land by way of reinstating or restoring buildings or works which have been **[**F274removed**]** or altered in compliance with an enforcement notice—

(a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, and

(b) no person shall be liable under **[**F275section 179(2)**]** for failure to take any steps required to be taken by an enforcement notice by way of **[**F273removal**]** or alteration of what has been so reinstated or restored.

Textual Amendments

F273 Word in s. 181(1)(a)(4)(b)(5)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 27(a)** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

F274 Word in s. 181(3)(4)(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 27(b)** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1**(subject to art. 5)

F275 Words in s. 181(5)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 27(c)** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

Modifications etc. (not altering text)

C102 S. 181: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C103 S. 181 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4 Pt. 2**
S. 181 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 181: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

182 Enforcement by the Secretary of State.

(1) If it appears to the Secretary of State to be expedient that an enforcement notice should be issued in respect of any land, he may issue such a notice.

(2) The Secretary of State shall not issue such a notice without consulting the local planning authority.

(3) An enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

(4) In relation to an enforcement notice issued by the Secretary of State, sections 178 and 181 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

Modifications etc. (not altering text)

C104 S. 182: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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Stop notices

183 Stop notices.

[[F276](1) Where the local planning authority consider it expedient that any relevant activity should cease before the expiry of the period for compliance with an enforcement notice, they may, when they serve the copy of the enforcement notice or afterwards, serve a notice (in this Act referred to as a "stop notice") prohibiting the carrying out of that activity on the land to which the enforcement notice relates, or any part of that land specified in the stop notice.

(2) In this section and sections 184 and 186 "relevant activity" means any activity specified in the enforcement notice as an activity which the local planning authority require to cease and any activity carried out as part of that activity or associated with that activity.

(3) A stop notice may not be served where the enforcement notice has taken effect.

(4) A stop notice shall not prohibit the use of any building as a dwellinghouse.

(5) A stop notice shall not prohibit the carrying out of any activity if the activity has been carried out (whether continuously or not) for a period of more than four years ending with the service of the notice; and for the purposes of this subsection no account is to be taken of any period during which the activity was authorised by planning permission.

(5A) Subsection (5) does not prevent a stop notice prohibiting any activity consisting of, or incidental to, building, engineering, mining or other operations or the deposit of refuse or waste materials.**]**

(6) A stop notice may be served by the local planning authority on any person who appears to them to have an interest in the land or to be engaged in any activity prohibited by the notice.

(7) The local planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on persons served with the stop notice.

Textual Amendments

F276 S. 183(1)-(5A) substituted (2.1.1992) for s. 183(1)-(5) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C105 S. 183: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C106 S. 183 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch**
S. 183: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C107 S. 183(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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184 Stop notices: supplementary provisions.

(1) A stop notice must refer to the enforcement notice to which it relates and have a copy of that notice annexed to it.

(2) A stop notice must specify the date on which it will take effect (and it cannot be contravened until that date).

[F277(3) That date—

(a) must not be earlier than three days after the date when the notice is served, unless the local planning authority consider that there are special reasons for specifying an earlier date and a statement of those reasons is served with the stop notice; and

(b) must not be later than twenty-eight days from the date when the notice is first served on any person.**]**

(4) A stop notice shall cease to have effect when—

(a) the enforcement notice to which it relates is withdrawn or quashed; or

(b) the **[**F278period for compliance with the enforcement notice**]** expires; or

(c) notice of the withdrawal of the stop notice is first served under section 183(7).

(5) A stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be **[**F279relevant activities**]**.

(6) Where a stop notice has been served in respect of any land, the local planning authority may display there a notice (in this section and section 187 referred to as a "site notice") —

(a) stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under section 187,

(b) giving the date when the stop notice takes effect, and

(c) indicating its requirements.

(7) If under section 183(7) the local planning authority withdraw a stop notice in respect of which a site notice was displayed, they must display a notice of the withdrawal in place of the site notice.

(8) A stop notice shall not be invalid by reason that a copy of the enforcement notice to which it relates was not served as required by section **[**F280172**]**if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.

Textual Amendments

F277 S. 184(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F278 Words in s. 184(4)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 28(a)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F279 Words in s. 184(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 28(b)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F280 Word in s. 184(8) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 28(c)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

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Modifications etc. (not altering text)

C108 S. 184: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **art. 2**, 3

C109 S. 184 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 184: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

185 Service of stop notices by Secretary of State.

(1) If it appears to the Secretary of State to be expedient that a stop notice should be served in respect of any land, he may himself serve such a notice.

(2) A notice served by the Secretary of State under subsection (1) shall have the same effect as if it had been served by the local planning authority.

(3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

Modifications etc. (not altering text)

C110 S. 185: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

186 Compensation for loss due to stop notice.

(1) Where a stop notice is served under section 183 compensation may be payable under this section in respect of a prohibition contained in the notice only if—

(a) the enforcement notice is quashed on grounds other than those mentioned in paragraph (a) of section 174(2);

(b) the enforcement notice is varied (otherwise than on the grounds mentioned in that paragraph) so that **[**F281any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity**]**;

(c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates F282. . . ; or

(d) the stop notice is withdrawn.

(2) A person who, when the stop notice is first served, has an interest in or occupies the land to which the notice relates shall be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice or, in a case within subsection (1)(b), **[**F283the prohibition of such of the activities prohibited by the stop notice as cease to be relevant activities**]**.

(3) A claim for compensation under this section shall be made to the local planning authority within the prescribed time and in the prescribed manner.

(4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include any sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

[F284(5) No compensation is payable under this section—

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(a) in respect of the prohibition in a stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control; or

(b) in the case of a claimant who was required to provide information under section 171C or 330 or section 16 of the [M94]Local Government (Miscellaneous Provisions) Act 1976, in respect of any loss or damage suffered by him which could have been avoided if he had provided the information or had otherwise co-operated with the local planning authority when responding to the notice.**]**

(6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

(7) In relation to the determination of any such question, the provisions of sections 2 and 4 of the [M95]Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Textual Amendments

F281 Words in s. 186(1)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1) s. 32, Sch. 7 para. 29(a) (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F282 Words in s. 186(1)(c) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 29(b), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art.3, Schs. 1, **2** (subject to art. 5)

F283 Words in s. 186(2) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 29(c)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F284 S. 186(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(3)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C111 S. 186 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

Marginal Citations

M94 1976 c. 57

M95 1961 c.33.

187 Penalties for contravention of stop notice.

[[F285](1) If any person contravenes a stop notice after a site notice has been displayed or the stop notice has been served on him he shall be guilty of an offence.

(1A) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.

(1B) References in this section to contravening a stop notice include causing or permitting its contravention.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000; and

(b) on conviction on indictment, to a fine.

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(2A) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.**]**

(3) In proceedings for an offence under this section it shall be a defence for the accused to prove—

(a) that the stop notice was not served on him, and

(b) that he did not know, and could not reasonably have been expected to know, of its existence.

Textual Amendments

F285 S. 187(1)(1A)(1B)(2)(2A) substituted (2.1.1992) for s. 187(1)(2) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(4)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C112 S. 187: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C113 S. 187 applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 187: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 187 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

I[F286] Breach of condition

Textual Amendments

F286 S. 187A and cross heading inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.2** (with s. 84(5)); S.I. 1992/1630, **art. 2** (with art. 3(1))

[F287] 187A Enforcement of conditions.

(1) This section applies where planning permission for carrying out any development of land has been granted subject to conditions.

(2) The local planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a "breach of condition notice") on—

(a) any person who is carrying out or has carried out the development; or

(b) any person having control of the land,

requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of subsection (2)(b) are any of the conditions regulating the use of the land.

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(5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.

(6) The authority may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is—

(a) such period of not less than twenty-eight days beginning with the date of service of the notice as may be specified in the notice; or

(b) that period as extended by a further notice served by the local planning authority on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice—

(a) any of the conditions specified in the notice is not complied with; and

(b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

(10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under subsection (9) to prove—

(a) that he took all reasonable measures to secure compliance with the conditions specified in the notice; or

(b) where the notice was served on him by virtue of subsection (2)(b), that he no longer had control of the land.

(12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this section—

(a) "conditions" includes limitations; and

(b) references to carrying out any development include causing or permitting another to do so.**]**

Textual Amendments

F287 S. 187A and cross heading inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.2** (with s. 84(5)); S.I. 1992/1630, **art. 2** (with art. 3(1))

Modifications etc. (not altering text)

C114 S. 187A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C115 S. 187A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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S. 187A restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

[F288 Injunctions

Textual Amendments

F288 S. 187B and cross heading inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.3** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 5)

F289 187B Injunctions restraining breaches of planning control.

(1) Where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.

(2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.

(3) Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.

(4) In this section "the court" means the High Court or the county court.**]**

Textual Amendments

F289 S. 187B and cross heading inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.3** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C116 S. 187B: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C117 S. 187B: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Registers

188 Register of enforcement and stop notices.

(1) Every district planning authority **[**F290, every local planning authority for an area in Wales**]** and the council of every metropolitan district or London borough shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect—

(a) to enforcement notices; F291 . . .

(b) to stop notices,**[**F292 and

(c) to breach of condition notices**]**

which relate to land in their area.

(2) A development order may make provision—

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(a) for the entry relating to any enforcement notice **[**F293stop notice or breach of condition notice**]**, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order; and

(b) for requiring a county planning authority to supply to a district planning authority such information as may be so specified with regard to enforcement notices issued and stop notices **[**F294and breach of condition notices**]** served by the county planning authority.

(3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Textual Amendments

F290 Words in s. 188(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(5)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F291 Word in s. 188(1)(a) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 30(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F292 S. 188(1)(c) and 'and' preceding it inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 30(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F293 Words in s. 188(2)(a) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 30(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F294 Words in s. 188(2)(b) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 30(c)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C118 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C119 S. 188 applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 188 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 21(1), **Sch. 4 Pt. 3**
S. 188: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Enforcement of orders for discontinuance of use, etc.

189 Penalties for contravention of orders under s. 102 and Schedule 9.

(1) Any person who without planning permission—

(a) uses land, or causes or permits land to be used—

(i) for any purpose for which an order under section 102 or paragraph 1 of Schedule 9 has required that its use shall be discontinued; or

(ii) in contravention of any condition imposed by such an order by virtue of subsection (1) of that section or, as the case may be, sub-paragraph (1) of that paragraph; or

(b) resumes, or causes or permits to be resumed, development consisting of the winning and working of minerals **[**F295 or involving the depositing of mineral waste**]** the the resumption of which an order under paragraph 3 of that Schedule has prohibited; or

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(c) contravenes, or causes or permits to be contravened, any such requirement as is specified in sub-paragraph (3) or (4) of that paragraph,

shall be guilty of an offence.

(2) Any person who contravenes any requirement of an order under paragraph 5 or 6 of that Schedule or who causes or permits any requirement of such an order to be contravened shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(4) It shall be a defence for a person charged with an offence under this section to prove that he took all reasonable measures and exercised all due diligence to avoid commission of the offence by himself or by any person under his control.

(5) If in any case the defence provided by subsection (4) involves an allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

Textual Amendments

F295 Words in s. 189(1)(b) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 21 Sch. 1 para. 11** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C120 S. 189: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

190 Enforcement of orders under s. 102 and Schedule 9.

(1) This section applies where—

(a) any step required by an order under section 102 or paragraph 1 of Schedule 9 to be taken for the alteration or removal of any buildings or works or any plant or machinery;

(b) any step required by an order under paragraph 3 of that Schedule to be taken—

(i) for the alteration or removal of plant or machinery; or

(ii) for the removal or alleviation of any injury to amenity; or

(c) any step for the protection of the environment required to be taken by an order under paragraph 5 or 6 of that Schedule,

has not been taken within the period specified in the order or within such extended period as the local planning authority or, as the case may be, the mineral planning authority may allow.

(2) Where this section applies the local planning authority or, as the case may be, the mineral planning authority may enter the land and take the required step.

(3) Where the local planning authority or, as the case may be, the mineral planning authority have exercised their power under subsection (2) they may recover from the

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person who is then the owner of the land any expenses reasonably incurred by them in doing so.

F296(4) . . . . . .

(5) Section 276 of the M96Public Health Act 1936 shall apply in relation to any works executed by an authority under subsection (2) as it applies in relation to works executed by a local authority under that Act.

Textual Amendments

F296 S. 190(4) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32 , 84(6), Sch. 7 para. 31, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, Sch. 1, **Sch.2** (subject to art. 5)

Modifications etc. (not altering text)

C121 S. 190: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M96 1936 c.49.

[F297 Certificate of lawful use or development

Textual Amendments

F297 Ss. 191 - 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

F298191 Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

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(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use, operations or other matter to be lawful; and

(d) specify the date of the application for the certificate.

(6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

(7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—

(a) section 3(3) of the [M97]Caravan Sites and Control of Development Act 1960;

(b) section 5(2) of the [M98]Control of Pollution Act 1974; and

(c) section 36(2)(a) of the [M99]Environmental Protection Act 1990.

Textual Amendments

F298 S. 191 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C122 S. 191: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C123 S. 191 modified (1.8.2000) by S.I. 2000/1973, **reg. 10(3)** (with reg. 10(14))

C124 S. 191(4): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M97 1960 c. 62.

M98 1974 c. 40.

M99 1990 c. 43.

[F299]192 Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land,

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would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Textual Amendments

F299 S. 192 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C125 S. 192: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C126 S. 192 modified (1.8.2000) by S.I. 2000/1973, **reg. 10(5)** (with reg. 10(14))

C127 S. 192(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

F300 193 Certificates under sections 191 and 192: supplementary provisions.

(1) An application for a certificate under section 191 or 192 shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order or by the local planning authority.

(2) Provision may be made by a development order for regulating the manner in which applications for certificates under those sections are to be dealt with by local planning authorities.

(3) In particular, such an order may provide for requiring the authority—

(a) to give to any applicant within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with; and

(b) to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.

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(4) A certificate under either of those sections may be issued—

(a) for the whole or part of the land specified in the application; and

(b) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them;

and shall be in such form as may be prescribed by a development order.

(5) A certificate under section 191 or 192 shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certificate.

(6) In section 69 references to applications for planning permission shall include references to applications for certificates under section 191 or 192.

(7) A local planning authority may revoke a certificate under either of those sections if, on the application for the certificate—

(a) a statement was made or document used which was false in a material particular; or

(b) any material information was withheld.

(8) Provision may be made by a development order for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

Textual Amendments

F300 S. 193 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C128 S. 193: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

[F301]194 Offences.

(1) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for the issue of a certificate under section 191 or 192—

(a) knowingly or recklessly makes a statement which is false or misleading in a material particular;

(b) with intent to deceive, uses any document which is false or misleading in a material particular; or

(c) with intent to deceive, withholds any material information,

he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

(3) Notwithstanding section 127 of the [M100]Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.**]**

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Textual Amendments

F301 S. 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C129 S. 194: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M100 1980 c. 43.

195 Appeals against refusal or failure to give decision on application.

(1) Where an application is made to a local planning authority for **[**F302a certificate under section 191 or 192**]** and—

(a) the application is refused or is refused in part, or

(b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority,

the applicant may by notice appeal to the Secretary of State.

(2) On any such appeal, if and so far as the Secretary of State is satisfied—

(a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or

(b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded,

he shall grant the appellant **[**F303a certificate under section 191 or, as the case may be, 192**]** accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.

(3) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.

[F304(4) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the use, operations or other matter in question.**]**

(5) For the purposes of the application of section 288(10)(b) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.

(6) Schedule 6 applies to appeals under this section.

Textual Amendments

F302 Words in s. 195(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 32(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F303 Words in s. 195(2) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch.7 para. 32(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

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F304 S. 195(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 32(c)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C130 S. 195: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

196 Further provisions as to references and appeals to the Secretary of State.

(1) Before determining [F305]. . . an appeal to him under section 195(1), the Secretary of State shall, if either the **[**[F306]appellant**]** or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(2) Where the Secretary of State grants **[**[F307]a certificate under section 191 or 192 on**]** such a reference or such an appeal, he shall give notice to the local planning authority of that fact.

(3) The decision of the Secretary of State on such [F308]. . . appeal shall be final.

(4) The information which may be prescribed as being required to be contained in a register kept under section 69 shall include information with respect to **[**[F309]certificates under section 191 or 192**]** granted by the Secretary of State.

[F310](5) . . . . . .

[F310](6) . . . . . .

[F310](7) . . . . . .

[[F311](8) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 195 as if those proceedings were an inquiry held by the Secretary of State under section 250.**]**

Textual Amendments

F305 Words in s. 196(1) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 33(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F306 Word in s. 196(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F307 Words in s. 196(2) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F308 Words in s. 196(3) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 33(c), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F309 Words in s. 196(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(d)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F310 S. 196(5)-(7) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 33(e), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F311 S. 196(8) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **4** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

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Modifications etc. (not altering text)
C131 S. 196: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

I[F312 Rights of entry for enforcement purposes

Textual Amendments
F312 Ss. 196A - 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F313 196A Rights to enter without warrant.

(1) Any person duly authorised in writing by a local planning authority may at any reasonable hour enter any land—

(a) to ascertain whether there is or has been any breach of planning control on the land or any other land;

(b) to determine whether any of the powers conferred on a local planning authority by this Part should be exercised in relation to the land or any other land;

(c) to determine how any such power should be exercised in relation to the land or any other land;

(d) to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land or any other land,

if there are reasonable grounds for entering for the purpose in question.

(2) Any person duly authorised in writing by the Secretary of State may at any reasonable hour enter any land to determine whether an enforcement notice should be issued in relation to the land or any other land, if there are reasonable grounds for entering for that purpose.

(3) The Secretary of State shall not so authorise any person without consulting the local planning authority.

(4) Admission to any building used as a dwellinghouse shall not be demanded as of right by virtue of subsection (1) or (2) unless twenty-four hours' notice of the intended entry has been given to the occupier of the building.

Textual Amendments
F313 S. 196A: ss. 196A - 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)
C132 S. 196A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
C133 S. 196A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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[F314]196B Right to enter under warrant.

(1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 196A(1) or (2); and

(b) that—

(i) admission to the land has been refused, or a refusal is reasonably apprehended; or

(ii) the case is one of urgency,

the justice may issue a warrant authorising any person duly authorised in writing by a local planning authority or, as the case may be, the Secretary of State to enter the land.

(2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—

(a) within one month from the date of the issue of the warrant; and

(b) at a reasonable hour, unless the case is one of urgency.

Textual Amendments

F314 196B: Ss. 196A- 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C134 S. 196B: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

[F315]196C Rights of entry: supplementary provisions.

(1) A person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 196A or 196B (referred to in this section as "a right of entry")—

(a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;

(b) may take with him such other persons as may be necessary; and

(c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any damage is caused to land or chattels in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.

(4) The provisions of section 118 shall apply in relation to compensation under subsection (3) as they apply in relation to compensation under Part IV.

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(5) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.

(6) Subsection (5) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.

(7) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(8) In sections 196A and 196B and this section references to a local planning authority include, in relation to a building situated in Greater London, a reference to the Historic Buildings and Monuments Commission for England.**]**

Textual Amendments

F315 S. 196C: ss. 196A- 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C135 S. 196C: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

PART VIII

SPECIAL CONTROLS

Modifications etc. (not altering text)

C136 Pt. VIII (ss. 197-225) except s. 223 applied (with modifications) (17.7.1992) by S.I. 1992/1492, **reg. 2(1)(b)**
Pt. VIII (ss. 197-225) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **reg. 2(2)**
Pt. VIII (ss. 197-225) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

CHAPTER I

TREES

General duty of planning authorities as respects trees

197 Planning permission to include appropriate provision for preservation and planting of trees.

It shall be the duty of the local planning authority—

(a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and

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(b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Modifications etc. (not altering text)

C137 S. 197: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C138 S. 197: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Tree preservation orders

198 Power to make tree preservation orders.

(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.

(2) An order under subsection (1) is in this Act referred to as a "tree preservation order".

(3) A tree preservation order may, in particular, make provision—

(a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;

(c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.

(4) The provisions referred to in subsection (3)(c) are—

(a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 56, 62, 65 [F316]. . ., 69(3) and (4), 71, [F317]. . ., 91 to 96, 100 and 101 and Schedule 8; and

(b) sections 137 to 141, 143 and 144 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 137(1)(b) or (c));

(c) section 316.

(5) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 197(a), as from the time when those trees are planted.

(6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply—

(a) to the cutting down, uprooting, topping or lopping of trees which are dying or dead or have become dangerous, or

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(b) to the cutting down, uprooting, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

(7) This section shall have effect subject to—

(a) section 39(2) of the [M101]Housing and Planning Act 1986 (saving for effect of section 2(4) of the [M102]Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal); and

(b) section 15 of the [M103]Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).

Textual Amendments

F316 Words in s. 198(4)(a) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 34, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F317 Words in s. 198(4)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 20, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C139 S. 198: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C140 S. 198: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M101 1986 c. 63.

M102 1958 c.69.

M103 1967 c.10.

199 Form of and procedure applicable to orders.

(1) A tree preservation order shall not take effect until it is confirmed by the local planning authority and the local planning authority may confirm any such order either without modification or subject to such modifications as they consider expedient.

(2) Provision may be made by regulations under this Act with respect—

(a) to the form of tree preservation orders, and

(b) to the procedure to be followed in connection with the making and confirmation of such orders.

(3) Without prejudice to the generality of subsection (2), the regulations may make provision—

(a) that, before a tree preservation order is confirmed by the local planning authority, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;

(b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the local planning authority; and

(c) that copies of the order, when confirmed by the authority, shall be served on such persons as may be specified in the regulations.

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Modifications etc. (not altering text)

C141 S. 199: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C142 S. 199: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

200 Orders affecting land where Forestry Commissioners interested.

(1) In relation to land in which the Forestry Commissioners have an interest, a tree preservation order may be made only if—

(a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under a forestry dedication covenant; and

(b) the Commissioners consent to the making of the order.

(2) For the purposes of subsection (1), the Forestry Commissioners are only to be regarded as having an interest in land if—

(a) they have made a grant or loan under section 1 of the [M104]Forestry Act 1979 in respect of it, or

(b) there is a forestry dedication covenant in force in respect of it.

(3) A tree preservation order in respect of such land shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioners, and for the time being in force, under a forestry dedication covenant or under the conditions of a grant or loan made under section 1 of the Forestry Act 1979.

(4) In this section—

(a) "a forestry dedication covenant" means a covenant entered into with the Commissioners under section 5 of the [M105]Forestry Act 1967; and

(b) references to provisions of the Forestry Act 1967 and the Forestry Act 1979 include references to any corresponding provisions replaced by those provisions or by earlier corresponding provisions.

Modifications etc. (not altering text)

C143 S. 200: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C144 S. 200: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M104 1979 c. 21.

M105 1967 c. 10.

201 Provisional tree preservation orders.

(1) If it appears to a local planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order.

Status: *Point in time view as at 14/03/1999. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Notwithstanding section 199(1), an order which contains such a direction—

(a) shall take effect provisionally on such date as may be specified in it, and

(b) shall continue in force by virtue of this section until—

(i) the expiration of a period of six months beginning with the date on which the order was made; or

(ii) the date on which the order is confirmed,

whichever first occurs.

Modifications etc. (not altering text)

C145 S. 201: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 201 applied (2.8.1999) by S.I. 1999/1892, reg. 2(1), **Sch. art. 3**

C146 S. 201: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

202 Power for Secretary of State to make tree preservation orders.

(1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that a tree preservation order or an order amending or revoking such an order should be made, he may himself make such an order.

(2) Any order so made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by them under this Chapter.

(3) The provisions of this Chapter and of any regulations made under it with respect to the procedure to be followed in connection with the making and confirmation of any order to which subsection (1) applies and the service of copies of it as confirmed shall have effect, subject to any necessary modifications—

(a) in relation to any proposal by the Secretary of State to make such an order,

(b) in relation to the making of it by the Secretary of State, and

(c) in relation to the service of copies of it as so made.

Modifications etc. (not altering text)

C147 S. 202: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C148 S. 202: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

VALID FROM 06/04/2012

[F318 202A Tree preservation regulations: general

(1) The appropriate national authority may by regulations make provision in connection with tree preservation orders.

(2) Sections 202B to 202G make further provision about what may, in particular, be contained in regulations under subsection (1).

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(3) In this section and those sections "tree preservation order" includes an order under section 202(1).

(4) In this Act "tree preservation regulations" means regulations under subsection (1).

(5) In subsection (1) "the appropriate national authority"—

(a) in relation to England means the Secretary of State, and

(b) in relation to Wales means the Welsh Ministers.

(6) Section 333(3) does not apply in relation to tree preservation regulations made by the Welsh Ministers.

(7) Tree preservation regulations made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

VALID FROM 06/04/2012

202B Tree preservation regulations: making of tree preservation orders

(1) Tree preservation regulations may make provision about—

(a) the form of tree preservation orders;

(b) the procedure to be followed in connection with the making of tree preservation orders;

(c) when a tree preservation order takes effect.

(2) If tree preservation regulations make provision for tree preservation orders not to take effect until confirmed, tree preservation regulations may—

(a) make provision for tree preservation orders to take effect provisionally until confirmed;

(b) make provision about who is to confirm a tree preservation order;

(c) make provision about the procedure to be followed in connection with confirmation of tree preservation orders.

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

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VALID FROM 06/04/2012

202C Tree preservation regulations: prohibited activities

(1) Tree preservation regulations may make provision for prohibiting all or any of the following—

(a) cutting down of trees;

(b) topping of trees;

(c) lopping of trees;

(d) uprooting of trees;

(e) wilful damage of trees;

(f) wilful destruction of trees.

(2) A prohibition imposed on a person may (in particular) relate to things whose doing the person causes or permits (as well as to things the person does).

(3) A prohibition may be imposed subject to exceptions.

(4) In particular, provision may be made for a prohibition not to apply to things done with consent.

(5) In this section "tree" means a tree in respect of which a tree preservation order is in force.

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

VALID FROM 06/04/2012

202D Tree preservation regulations: consent for prohibited activities

(1) This section applies if tree preservation regulations make provision under section 202C(4).

(2) Tree preservation regulations may make provision—

(a) about who may give consent;

(b) for the giving of consent subject to conditions;

(c) about the procedure to be followed in connection with obtaining consent.

(3) The conditions for which provision may be made under subsection (2)(b) include—

(a) conditions as to planting of trees;

(b) conditions requiring approvals to be obtained from the person giving the consent;

(c) conditions limiting the duration of the consent.

(4) The conditions mentioned in subsection (3)(a) include—

(a) conditions requiring trees to be planted;

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(b) conditions about the planting of any trees required to be planted by conditions within paragraph (a), including conditions about how, where or when planting is to be done;

(c) conditions requiring things to be done, or installed, for the protection of any trees planted in pursuance of conditions within paragraph (a).

(5) In relation to any tree planted in pursuance of a condition within subsection (4)(a), tree preservation regulations may make provision —

(a) for the tree preservation order concerned to apply to the tree;

(b) authorising the person imposing the condition to specify that the tree preservation order concerned is not to apply to the tree.

(6) "The tree preservation order concerned" is the order in force in relation to the tree in respect of which consent is given under tree preservation regulations.

(7) The provision that may be made under subsection (2)(c) includes provision about applications for consent, including provision as to—

(a) the form or manner in which an application is to be made;

(b) what is to be in, or is to accompany, an application.

(8) Tree preservation regulations may make provision for appeals—

(a) against refusal of consent;

(b) where there is a failure to decide an application for consent;

(c) against conditions subject to which consent is given;

(d) against refusal of an approval required by a condition;

(e) where there is a failure to decide an application for such an approval.

(9) Tree preservation regulations may make provision in connection with appeals under provision made under subsection (8), including—

(a) provision imposing time limits;

(b) provision for further appeals;

(c) provision in connection with the procedure to be followed on an appeal (or further appeal);

(d) provision about who is to decide an appeal (or further appeal);

(e) provision imposing duties, or conferring powers, on a person deciding an appeal (or further appeal).

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

VALID FROM 06/04/2012

202E Tree preservation regulations: compensation

(1) Tree preservation regulations may make provision for the payment of compensation—

(a) where any consent required under tree preservation regulations is refused;

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(b) where any such consent is given subject to conditions;

(c) where any approval required under such a condition is refused.

(2) Tree preservation regulations may provide for entitlement conferred under subsection (1) to apply only in, or to apply except in, cases specified in tree preservation regulations.

(3) Tree preservation regulations may provide for entitlement conferred by provision under subsection (1) to be subject to conditions, including conditions as to time limits.

(4) Tree preservation regulations may, in relation to compensation under provision under subsection (1), make provision about—

(a) who is to pay the compensation;

(b) who is entitled to the compensation;

(c) what the compensation is to be paid in respect of;

(d) the amount, or calculation of, the compensation.

(5) Tree preservation regulations may make provision about the procedure to be followed in connection with claiming any entitlement conferred by provision under subsection (1).

(6) Tree preservation regulations may make provision for the determination of disputes about entitlement conferred by provision under subsection (1), including provision for and in connection with the referral of any such disputes to, and their determination by the First-tier Tribunal or the Upper Tribunal.

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

VALID FROM 06/04/2012

202F Tree preservation regulations: registers

Tree preservation regulations may make provision for the keeping of, and public access to, registers containing information related to tree preservation orders.

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

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VALID FROM 06/04/2012

202G Tree preservation regulations: supplementary

(1) Tree preservation regulations may provide for the application (with or without modifications) of, or make provision comparable to, any provision of this Act mentioned in subsection (2).

(2) The provisions are any provision of Part 3 relating to planning permission or applications for planning permission, except sections 56, 62, 65, 69(3) and (4), 71, 91 to 96, 100 and 101 and Schedule 8.

(3) Tree preservation regulations may make provision comparable to—

(a) any provision made by the Town and Country Planning (Tree Preservation Order) Regulations 1969 or the Town and Country Planning (Trees) Regulations 1999;

(b) any provision that could have been made under section 199(2) and (3).

(4) Tree preservation regulations may contain incidental, supplementary, consequential, transitional and transitory provision and savings.**]**

Textual Amendments

F318 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

Compensation for loss or damage caused by orders, etc.

203 Compensation in respect of tree preservation orders.

A tree preservation order may make provision for the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence—

(a) of the refusal of any consent required under the order, or

(b) of the grant of any such consent subject to conditions.

Modifications etc. (not altering text)

C149 S. 203: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

204 Compensation in respect of requirement as to replanting of trees.

(1) This section applies where—

(a) in pursuance of provision made by a tree preservation order, a direction is given by the local planning authority or the Secretary of State for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order; and

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(b) the Forestry Commissioners decide not to make any grant or loan under section 1 of the [M106]Forestry Act 1979 in respect of the replanting by reason that the direction frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry.

(2) Where this section applies, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the direction.

(3) The Forestry Commissioners shall, at the request of the person under a duty to comply with such a direction as is mentioned in subsection (1)(a), give a certificate stating—

(a) whether they have decided not to make such a grant or loan as is mentioned in subsection (1)(b), and

(b) if so, the grounds for their decision.

(4) A claim for compensation under this section must be served on the local planning authority—

(a) within 12 months from the date on which the direction was given, or

(b) where an appeal has been made to the Secretary of State against the decision of the local planning authority, within 12 months from the date of the decision of the Secretary of State on the appeal,

but subject in either case to such extension of that period as the local planning authority may allow.

Modifications etc. (not altering text)
C150 S. 204: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations
M106 1979 c. 21.

205 Determination of compensation claims.

(1) Except in so far as may be otherwise provided by any tree preservation order or any regulations made under this Act, any question of disputed compensation under section 203 or 204 shall be referred to and determined by the Lands Tribunal.

(2) In relation to the determination of any such question, the provisions of sections 2 and 4 of the [M107]Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Modifications etc. (not altering text)
C151 S. 205: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations
M107 1961 c.33.

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Consequences of tree removal, etc.

206 Replacement of trees.

(1) If any tree in respect of which a tree preservation order is for the time being in force—

(a) is removed, uprooted or destroyed in contravention of the order, or

(b) except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of section 198(6)(a),

it shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) The duty imposed by subsection (1) does not apply to an owner if on application by him the local planning authority dispense with it.

(3) In respect of trees in a woodland it shall be sufficient for the purposes of this section to replace the trees removed, uprooted or destroyed by planting the same number of trees—

(a) on or near the land on which the trees removed, uprooted or destroyed stood, or

(b) on such other land as may be agreed between the local planning authority and the owner of the land,

and in such places as may be designated by the local planning authority.

(4) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(5) The duty imposed by subsection (1) on the owner of any land shall attach to the person who is from time to time the owner of the land.

Modifications etc. (not altering text)

C152 S. 206: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C153 S. 206: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

207 Enforcement of duties as to replacement of trees.

(1) If it appears to the local planning authority that—

(a) the provisions of section 206, or

(b) any conditions of a consent given under a tree preservation order which require the replacement of trees,

are not complied with in the case of any tree or trees, that authority may serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) A notice under subsection (1) may only be served within four years from the date of the alleged failure to comply with those provisions or conditions.

[[F319](3) A notice under subsection (1) shall specify a period at the end of which it is to take effect.

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[F319(4) The specified period shall be a period of not less than twenty-eight days beginning with the date of service of the notice.**]**

(5) The duty imposed by section 206(1) may only be enforced as provided by this section and not otherwise.

Textual Amendments

F319 S. 207(3)(4) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C154 S. 207: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C155 S. 207: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

208 Appeals against s. 207 notices.

(1) A person on whom a notice under section 207(1) is served may appeal to the Secretary of State against the notice on any of the following grounds—

(a) that the provisions of section 206 or, as the case may be, the conditions mentioned in section 207(1)(b) are not applicable or have been complied with;

[F320(aa) that in all the circumstances of the case the duty imposed by section 206(1) should be dispensed with in relation to any tree;**]**

(b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified in it;

(c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose.

[F321(2) An appeal under subsection (1) shall be made either—

(a) by giving written notice of the appeal to the Secretary of State before the end of the period specified in accordance with section 207(3); or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before the end of that period.**]**

(4) The notice shall indicate the grounds of the appeal and state the facts on which it is based.

(5) On any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) Where such an appeal is brought, the notice under section 207(1) shall be of no effect pending the final determination or the withdrawal of the appeal.

[F322(7) On such an appeal the Secretary of State may—

(a) correct any defect, error or misdescription in the notice; or

(b) vary any of its requirements,

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if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

F322(8) Where the Secretary of State determines to allow the appeal, he may quash the notice.

F322(8A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.**]**

(9) Schedule 6 applies to appeals under this section.

(10) Where any person has appealed to the Secretary of State under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

[F323(11) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under this section as if those proceedings were an inquiry held by the Secretary of State under section 250.**]**

Textual Amendments

F320 S. 208(1)(aa) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F321 S. 208(2) substituted (2.1.1992) for s. 208(2)(3) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(3)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F322 S. 208(7)(8)(8A) substituted (2.1.1992) for s. 208(7)(8) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(4)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F323 S. 208(11) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **5** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Modifications etc. (not altering text)

C156 S. 208: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C157 S. 208: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

209 Execution and cost of works required by s. 207 notice.

(1) If, within the period specified in a notice under section 207(1) for compliance with it, or within such extended period as the local planning authority may allow, any trees which are required to be planted by a notice under that section have not been planted, the local planning authority may—

(a) enter the land and plant those trees, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where such a notice has been served—

(a) any expenses incurred by the owner of any land for the purpose of complying with the notice, and

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(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in planting trees required by such a notice to be planted,

shall be deemed to be incurred or paid for the use and at the request of any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

(3) Regulations made under this Act may provide that—

(a) section 276 of the [M108]Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 207(1).

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority **[**[F324]or National Park authority**]** under subsection (1).

[[F325](6) Any person who wilfully obstructs a person acting in the exercise of the power under subsection (1)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

Textual Amendments

F324 Words in s. 209(5) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(6)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F325 S. 209(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(5)**(with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C158 S. 209: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C159 S. 209: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C160 S. 209(1)(2)(6) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 8(3)(4)**

Marginal Citations

M108 1936 c.49.

210 Penalties for non-compliance with tree preservation order.

(1) If any person, in contravention of a tree preservation order—

(a) cuts down, uproots or wilfully destroys a tree, or

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(b) wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it,

he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

[F326(a) on summary conviction to a fine not exceeding £20,000;**]** or

(b) on conviction on indictment, to a fine.

(3) In determining the amount of any fine to be imposed on a person convicted F327. . . of an offence under subsection (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(4) If any person contravenes the provisions of a tree preservation order otherwise than as mentioned in subsection (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

F328(5) . . . . . .

Textual Amendments

F326 S. 210(2)(a) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(6)(a)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F327 Words in s. 210(3) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(6)(b), 84(6), **Sch. 19 PtI** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 2** (subject to art. 5)

F328 S. 210(5) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(6)(c), 84(6), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 2** (subject to art. 5)

Modifications etc. (not altering text)

C161 S. 210: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C162 S. 210: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Trees in conservation areas

211 Preservation of trees in conservation areas.

(1) Subject to the provisions of this section and section 212, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 198(3)(a) be prohibited by a tree preservation order shall be guilty of an offence.

(2) Subject to section 212, this section applies to any tree in a conservation area in respect of which no tree preservation order is for the time being in force.

(3) It shall be a defence for a person charged with an offence under subsection (1) to prove—

(a) that he served notice of his intention to do the act in question (with sufficient particulars to identify the tree) on the local planning authority in whose area the tree is or was situated; and

(b) that he did the act in question—

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(i) with the consent of the local planning authority in whose area the tree is or was situated, or

(ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.

(4) Section 210 shall apply to an offence under this section as it applies to a contravention of a tree preservation order.

Modifications etc. (not altering text)

C163 S. 211: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 211 excluded (2.8.1999) by S.I. 1999/1892, **reg. 10(1)**

C164 S. 211: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C165 S. 211(1) excluded (18.12.1996) by 1996 c. 61, **s. 28(1)(b)**

C166 S. 211(1) excluded (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 28(4)(b)** (with art. 38)

212 Power to disapply s. 211.

(1) The Secretary of State may by regulations direct that section 211 shall not apply in such cases as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1), the regulations may be framed so as to exempt from the application of that section cases defined by reference to all or any of the following matters—

(a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;

(b) trees in such conservation areas as may be so specified;

(c) trees of a size or species so specified; or

(d) trees belonging to persons or bodies of a description so specified.

(3) The regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.

(4) Regulations under subsection (1) may in particular, but without prejudice to the generality of that subsection, exempt from the application of section 211 cases exempted from section 198 by subsection (6) of that section.

Modifications etc. (not altering text)

C167 S. 212: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C168 S. 212: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

213 Enforcement of controls as respects trees in conservation areas.

(1) If any tree to which section 211 applies—

(a) is removed, uprooted or destroyed in contravention of that section; or

(b) is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of the provisions of such regulations

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under subsection (1) of section 212 as are mentioned in subsection (4) of that section,

it shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) The duty imposed by subsection (1) does not apply to an owner if on application by him the local planning authority dispense with it.

(3) The duty imposed by subsection (1) on the owner of any land attaches to the person who is from time to time the owner of the land and may be enforced as provided by section 207 and not otherwise.

Modifications etc. (not altering text)

C169 S. 213: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C170 S. 213: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

214 Registers of s. 211 notices.

It shall be the duty of a local planning authority to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a register containing such particulars as the Secretary of State may determine of notices under section 211 affecting trees in their area.

Modifications etc. (not altering text)

C171 S. 214: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C172 S. 214: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F329 Injunctions]

Textual Amendments

F329 S. 214A and cross heading inserted (25.11.1991 for certain purposes so far as it relates to s. 214A(2) and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

[F330 214A Injunctions.

(1) Where a local planning authority consider it necessary or expedient for an actual or apprehended offence under section 210 or 211 to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Chapter.

(2) Subsections (2) to (4) of section 187B apply to an application under this section as they apply to an application under that section.]

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Textual Amendments

F330 S. 214A inserted (25.11.1991 for certain purposes so far as it relates to s. 214A(2) and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C173 S. 214A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C174 S. 214A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F331 Rights of entry]

Textual Amendments

F331 Crossheading inserted (2.1.1992 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

214B [F332 Rights to enter without warrant.]

(1) Any person duly authorised in writing by a local planning authority may enter any land for the purpose of—

(a) surveying it in connection with making or confirming a tree preservation order with respect to the land;

(b) ascertaining whether an offence under section 210 or 211 has been committed on the land; or

(c) determining whether a notice under section 207 should be served on the owner of the land,

if there are reasonable grounds for entering for the purpose in question.

(2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land, if there are reasonable grounds for entering for that purpose.

(3) Any person who is duly authorised in writing by a local planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under this Chapter.

(4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of any land which is payable by the local planning authority under this Chapter (other than section 204).

(5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under this Chapter.

(6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the local planning authority.

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(7) Admission shall not be demanded as of right—

(a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or

(b) by virtue of subsection (3), (4) or (5) to any land which is occupied,

unless twenty-four hours' notice of the intended entry has been given to the occupier.

(8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

Textual Amendments

F332 S. 214B inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C175 S. 214B: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C176 S. 214B: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F333 214C Right to enter under warrant.

(1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 214B(1) or (2); and

(b) that—

(i) admission to the land has been refused, or a refusal is reasonably apprehended; or

(ii) the case is one of urgency,

the justice may issue a warrant authorising any person duly authorised in writing by a local planning authority or, as the case may be, the Secretary of State to enter the land.

(2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—

(a) within one month from the date of the issue of the warrant; and

(b) at a reasonable hour, unless the case is one of urgency.]

Textual Amendments

F333 S. 214C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C177 S. 214C: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C178 S. 214C: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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[F334 214D Rights of entry: supplementary provisions.

(1) Any power conferred under or by virtue of section 214B or 214C to enter land (referred to in this section as "a right of entry") shall be construed as including power to take samples from any tree and samples of the soil.

(2) A person authorised to enter land in the exercise of a right of entry—

(a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;

(b) may take with him such other persons as may be necessary; and

(c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any damage is caused to land or chattels in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.

(5) The provisions of section 118 shall apply in relation to compensation under subsection (4) as they apply in relation to compensation under Part IV.**]**

Textual Amendments

F334 S. 214D inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23**(7 (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C179 S. 214D: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C180 S. 214D: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

CHAPTER II

LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

215 Power to require proper maintenance of land.

(1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.

(2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.

(3) Subject to the following provisions of this Chapter, the notice shall take effect at the end of such period as may be specified in the notice.

(4) That period shall not be less than 28 days after the service of the notice.

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Modifications etc. (not altering text)

C181 S. 215: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C182 S. 215 modified (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3), **32(1)**

C183 S. 215(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

216 Penalty for non-compliance with s. 215 notice.

(1) The provisions of this section shall have effect where a notice has been served under section 215.

(2) If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where proceedings have been brought under subsection (2) against a person as the owner of the land and he has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—

(a) duly lays information to that effect, and

(b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have the person who then became the owner of the land brought before the court in the proceedings.

(4) Where proceedings have been brought under subsection (2) against a person as the occupier of the land and he has, at some time before the end of the compliance period, ceased to be the occupier of the land, if he—

(a) duly lays information to that effect, and

(b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or, if nobody then became the occupier, the person who is the owner at the date of the notice.

(5) Where in such proceedings—

(a) it has been proved that any steps required by the notice under section 215 have not been taken within the compliance period, and

(b) the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under subsection (3) or (4),

then—

(i) that person may be convicted of the offence; and

(ii) if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.

(6) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding **[**[F335]one-tenth of level 3 on the standard scale**]** for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

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(7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority who served the notice may allow for compliance.

Textual Amendments

F335 Words in s. 216(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.35** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C184 S. 216: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 216 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

217 Appeal to magistrates' court against s. 215 notice.

(1) A person on whom a notice under section 215 is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds—

(a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

(b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III;

(c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

(d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

(2) Any appeal under this section shall be made to a magistrates' court acting for the petty sessions area in which the land in question is situated.

(3) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On such an appeal the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.

(5) On the determination of such an appeal the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

(6) Where any person has appealed to a magistrates' court under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

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Modifications etc. (not altering text)
C185 S. 217: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

218 Further appeal to the Crown Court.

Where an appeal has been brought under section 217, an appeal against the decision of the magistrates' court on that appeal may be brought to the Crown Court by the appellant or by the local planning authority who served the notice in question under section 215.

Modifications etc. (not altering text)
C186 S. 218: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

219 Execution and cost of works required by s. 215 notice.

(1) If, within the period specified in a notice under section 215 in accordance with subsection (2) of that section, or within such extended period as the local planning authority who served the notice may allow, any steps required by the notice to be taken have not been taken, the local planning authority who served the notice may—

(a) enter the land and take those steps, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a notice has been served under section 215—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice,

shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

(3) Regulations made under this Act may provide that—

(a) section 276 of the [M109]Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 215.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which a notice under section 215 relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

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(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority under subsection (1).

F336(6) . . . . . .

Textual Amendments

F336 S. 219(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 36, **Sch. 19 Pt.I**; S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C187 S. 219: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M109 1936 c.49.

CHAPTER III

ADVERTISEMENTS

Advertisement regulations

220 Regulations controlling display of advertisements.

(1) Regulations under this Act shall make provision for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.

(2) Without prejudice to the generality of subsection (1), any such regulations may provide—

(a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed and the manner in which they are to be affixed to the land;

(b) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;

(c) for applying, in relation to any such consent and to applications for such consent, any of the provisions mentioned in subsection (3), subject to such adaptations and modifications as may be specified in the regulations;

(d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

(3) The provisions referred to in subsection (2)(c) are—

(a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 56, 62, 65 F337. . ., 69(3) and (4), 71, F338. . ., 91 to 96, 100 and 101 and Schedule 8;

(b) sections 137 to 141, 143 and 144 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 137(1)(b) or (c));

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(c) section 316.

(4) Without prejudice to the generality of the powers conferred by this section, regulations made for the purposes of this section may provide that any appeal from the decision of the local planning authority, on an application for their consent under the regulations, shall be to an independent tribunal constituted in accordance with the regulations, instead of being an appeal to the Secretary of State.

(5) If any tribunal is so constituted, the Secretary of State may pay to the chairman and members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as he may with the consent of the Treasury determine.

Textual Amendments

F337 Words in s. 220(3)(a) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 37, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F338 Words in s. 220(3)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 21, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C188 S. 220: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C189 S. 220: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

221 Power to make different advertisement regulations for different areas.

(1) Regulations made for the purposes of section 220 may make different provision with respect to different areas, and in particular may make special provision—

(a) with respect to conservation areas;

(b) with respect to areas defined for the purposes of the regulations as experimental areas, and

(c) with respect to areas defined for the purposes of the regulations as areas of special control.

(2) An area may be defined as an experimental area for a prescribed period for the purpose of assessing the effect on amenity or public safety of advertisements of a prescribed description.

(3) An area may be defined as an area of special control if it is—

(a) a rural area, or

(b) an area which appears to the Secretary of State to require special protection on grounds of amenity.

(4) Without prejudice to the generality of subsection (1), the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.

(5) Areas of special control for the purposes of regulations under this section may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.

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(6) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (5), the regulations shall provide—

(a) for the publication of notice of the proposed order in such manner as may be prescribed,

(b) for the consideration of objections duly made to it, and

(c) for the holding of such inquiries or other hearings as may be prescribed,

before the order is made or approved.

(7) Subject to subsection (8), regulations made under section 220 may be made so as to apply—

(a) to advertisements which are being displayed on the date on which the regulations come into force, or

(b) to the use for the display of the advertisements of any site which was being used for that purpose on that date.

(8) Any regulations made in accordance with subsection (7) shall provide for exempting from them—

(a) the continued display of any such advertisements as there mentioned; and

(b) the continued use for the display of advertisements of any such site as there mentioned,

during such period as may be prescribed.

(9) Different periods may be prescribed under subsection (8) for the purposes of different provisions of the regulations.

Modifications etc. (not altering text)
C190 S. 221: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

222 Planning permission not needed for advertisements complying with regulations.

Where the display of advertisements in accordance with regulations made under section 220 involves development of land—

(a) planning permission for that development shall be deemed to be granted by virtue of this section, and

(b) no application shall be necessary for that development under Part III.

Modifications etc. (not altering text)
C191 S. 222: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Repayment of expense of removing prohibited advertisements

223 Repayment of expense of removing prohibited advertisements.

(1) Where, for the purpose of complying with any regulations made under section 220, works are carried out by any person—

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(a) for removing an advertisement which was being displayed on 1st August 1948; or

(b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,

that person shall, on a claim made to the local planning authority within such time and in such manner as may be prescribed, be entitled to recover from that authority compensation in respect of any expenses reasonably incurred by him in carrying out those works.

(2) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal.

(3) In relation to the determination of any such question, the provisions of sections 2 and 4 of the [M110]Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Marginal Citations
M110 1961 c.33.

Enforcement of control over advertisements

224 Enforcement of control as to advertisements.

(1) Regulations under section 220 may make provision for enabling the local planning authority to require—

(a) the removal of any advertisement which is displayed in contravention of the regulations, or

(b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.

(2) For that purpose the regulations may apply any of the provisions of Part VII with respect to enforcement notices or the provisions of section 186, subject to such adaptations and modifications as may be specified in the regulations.

(3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding level 3 on the standard scale and, in the case of a continuing offence, **[**[F339]one-tenth of level 3 on the standard scale**]** for each day during which the offence continues after conviction.

(4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if—

(a) he is the owner or occupier of the land on which the advertisement is displayed; or

(b) the advertisement gives publicity to his goods, trade, business or other concerns.

(5) A person shall not be guilty of an offence under subsection (3) by reason only—

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(a) of his being the owner or occupier of the land on which an advertisement is displayed, or

(b) of his goods, trade, business or other concerns being given publicity by the advertisement,

if he proves that it was displayed without his knowledge or consent.

Textual Amendments

F339 Words in s. 224(3) substituted (6.4.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.38** (with s. 84(5)); S.I. 1992/665, **art. 2**

Modifications etc. (not altering text)

C192 S. 224: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

225 Power to remove or obliterate placards and posters.

(1) Subject to subsections (2) and (3), the local planning authority may remove or obliterate any placard or poster—

(a) which is displayed in their area; and

(b) which in their opinion is so displayed in contravention of regulations made under section 220.

(2) Subsection (1) does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.

(3) Subject to subsection (4), where a placard or poster identifies the person who displayed it or caused it to be displayed, the local planning authority shall not exercise any power conferred by subsection (1) unless they have first given him notice in writing—

(a) that in their opinion it is displayed in contravention of regulations made under section 220; and

(b) that they intend to remove or obliterate it on the expiry of a period specified in the notice.

(4) Subsection (3) does not apply if—

(a) the placard or poster does not give his address, and

(b) the authority do not know it and are unable to ascertain it after reasonable inquiry.

(5) The period specified in a notice under subsection (3) must be not less than two days from the date of service of the notice.

Modifications etc. (not altering text)

C193 S. 225: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 225 modified (8.1.1996) by 1995 c. x, **s. 10**

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PART IX

ACQUISITION AND APPROPRIATION OF LAND FOR PLANNING PURPOSES, ETC.

Modifications etc. (not altering text)
C194 Pt. IX (ss. 226-246) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Acquisition for planning and public purposes

226 Compulsory acquisition of land for development and other planning purposes.

(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area which—

(a) is suitable for and required in order to secure the carrying out of development, redevelopment or improvement; or

(b) is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(2) A local authority and the Secretary of State in considering for the purposes of subsection (1)(a) whether land is suitable for development, re-development or improvement shall have regard—

(a) to the provisions of the development plan, so far as material;

(b) to whether planning permission for any development on the land is in force; and

(c) to any other considerations which would be material for the purpose of determining an application for planning permission for development on the land.

(3) Where a local authority exercise their power under subsection (1) in relation to any land, they shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—

(a) any land adjoining that land which is required for the purpose of executing works for facilitating its development or use; or

(b) where that land forms part of a common or open space or fuel or field garden allotment, any land which is required for the purpose of being given in exchange for the land which is being acquired.

(4) It is immaterial by whom the local authority propose that any activity or purpose mentioned in subsection (1) or (3)(a) should be undertaken or achieved (and in particular the local authority need not propose to undertake an activity or to achieve that purpose themselves).

(5) Where under subsection (1) the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.

(6) Before giving an authorisation under subsection (5), the Secretary of State shall—

(a) if the land is in a non-metropolitan county **[**F340in England**]**, consult with the councils of the county and the district;

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(b) if the land is in a metropolitan district, consult with the council of the district;

[F341(bb) if the land is in Wales, consult with the council of the county or county borough;**]** and

(c) if the land is in a London borough, consult with the council of the borough.

(7) The M111Acquisition of Land Act 1981 shall apply to the compulsory acquisition of land under this section.

(8) The local authorities to whom this section applies are the councils of counties, **[**F342county boroughs,**]** districts and London boroughs.

Textual Amendments

F340 Words in s. 226(6)(a) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F341 S. 226(6)(bb) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)): S.I. 1996/396, art. 3, **Sch. 1**

F342 Words in s. 226(8) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M111 1981 c.67.

227 Acquisition of land by agreement.

(1) The council of any county, **[**F343county borough,**]** district or London borough may acquire by agreement any land which they require for any purpose for which a local authority may be authorised to acquire land under section 226.

(2) The provisions of Part 1 of the M112Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, section 10 and section 31, shall apply in relation to the acquisition of land under this section.

Textual Amendments

F343 Words in s. 227(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(7)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M112 1965 c.56.

228 Compulsory acquisition of land by [F344the Secretary of State for the Environment, Transport and the Regions].

(1) **[**F345The Secretary of State for the Environment, Transport and the Regions**]** may acquire compulsorily—

(a) any land necessary for the public service; and

(b) any land which it is proposed to use not only for the public service but also—

(i) to meet the interests of proper planning of the area, or

(ii) to secure the best or most economic development or use of the land,

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otherwise than for the public service.

(2) Where the Secretary of State has acquired or proposes to acquire any land under subsection (1) ("the primary land") and in his opinion other land ought to be acquired together with the primary land—

(a) in the interests of the proper planning of the area concerned; or

(b) for the purpose of ensuring that the primary land can be used, or developed and used, (together with that other land) in what appears to him to be the best or most economic way; or

(c) where the primary land or any land acquired, or which he proposes to acquire, by virtue of paragraph (a) or (b) of this subsection or of section 122(1)(a) or (b) of the Local [M113] Government, Planning and Land Act 1980, forms part of a common, open space or fuel or field garden allotment, for the purpose of being given in exchange for that land,

he may compulsorily acquire that other land.

(3) Subject to subsection (4), the power of acquiring land compulsorily under this section shall include power to acquire an easement or other right over land by the grant of a new right.

(4) Subsection (3) shall not apply to an easement or other right over any land which would for the purposes of the [M114]Acquisition of Land Act 1981 form part of a common, open space or fuel or field garden allotment.

(5) References in this section to the public service include the service in the United Kingdom—

(a) of any international organisation or institution whether or not the United Kingdom or Her Majesty's Government in the United Kingdom is or is to become a member;

(b) of any office or agency established by such an organisation or institution or for its purposes, or established in pursuance of a treaty (whether or not the United Kingdom is or is to become a party to the treaty);

(c) of a foreign sovereign Power or the Government of such a Power.

(6) For the purposes of subsection (5)(b) "treaty" includes any international agreement and any protocol or annex to a treaty or international agreement.

(7) The Acquisition of Land Act 1981 shall apply to any compulsory acquisition by **[**[F345]The Secretary of State for the Environment, Transport and the Regions**]** under this section.

Textual Amendments

F344 Words in s. 228 substituted (26.1.1998) by virtue of The Secretary of State for the Environment, Transport and the Regions Order 1997 (S.I. 1997/2971), arts. 1(2), 6(1), Sch. paras. 11, 12

F345 Words in s. 228 substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras.11, **12**

Marginal Citations

M113 1980 c. 65.

M114 1981 c.67.

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229 Appropriation of land forming part of common, etc.

(1) Any local authority may be authorised, by an order made by that authority and confirmed by the Secretary of State, to appropriate for any purpose for which that authority can be authorised to acquire land under any enactment any land to which this subsection applies which is for the time being held by them for other purposes.

(2) Subsection (1) applies to land which is or forms part of a common or fuel or field garden allotment (including any such land which is specially regulated by any enactment, whether public general or local or private), other than land which is Green Belt land within the meaning of the [M115]Green Belt (London and Home Counties) Act 1938.

(3) Section 19 of the [M116]Acquisition of Land Act 1981 (special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common, open space or fuel or field garden allotment) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act.

(4) Where land appropriated under this section was acquired under an enactment incorporating the Lands Clauses Acts, any works executed on the land after the appropriation has been effected shall, for the purposes of section 68 of the [M117]Lands Clauses Consolidation Act 1845 and section 10 of the [M118]Compulsory Purchase Act 1965, be deemed to have been authorised by the enactment under which the land was acquired.

(5) On an appropriation of land by a local authority under this section, where—

(a) the authority is not an authority to whom Part II of the 1959 Act applies;

(b) the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function (within the meaning of that Act); or

(c) the land is appropriated by the authority for the purposes of such a function,

such adjustments shall be made in the accounts of the local authority as the Secretary of State may direct.

(6) On an appropriation under this section which does not fall within subsection (5), such adjustment of accounts shall be made as is required by section 24(1) of the 1959 Act.

Marginal Citations

M115 1938 c. xciii.
M116 1981 c. 67.
M117 1845 c.18.
M118 1965 c.56.

230 Acquisition of land for purposes of exchange.

(1) Without prejudice to the generality of the powers conferred by sections 226 and 227, any power of a local authority to acquire land under those sections, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange—

(a) for land appropriated under section 229; or

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(b) for Green Belt land appropriated in accordance with the Green Belt (London and Home Counties) Act 1938 for any purpose specified in a development plan.

(2) In subsection (1) "Green Belt land" has the same meaning as in that Act.

231 Power of Secretary of State to require acquisition or development of land.

(1) If the Secretary of State is satisfied after holding a local inquiry that the council of a county, **[**F346county borough,**]** district or London borough have failed to take steps for the acquisition of any land which in his opinion ought to be acquired by them under section 226 F347. . ., he may by order require the council to take such steps as may be specified in the order for acquiring the land.

(2) If the Secretary of State is satisfied after holding a local inquiry that a local authority have failed to carry out, on land acquired by them under section 226 (or section 68 of the 1962 Act or section 112 of the 1971 Act) or appropriated by them under section 229 (or section 121 of the 1971 Act), any development which in his opinion ought to be carried out, he may by order require the authority to take such steps as may be specified in the order for carrying out the development.

(3) An order under this section shall be enforceable on the application of the Secretary of State by mandamus.

Textual Amendments

F346 Words in s. 231(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(7)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F347 Words in s. 231 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 70, 84(6), Sch. 15 Pt. II para. 29, **Sch. 19 Pt. III** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C195 S. 231 power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Appropriation, disposal and development of land held for planning purposes, etc.

232 Appropriation of land held for planning purposes.

(1) Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may appropriate the land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment not contained in this Part or in Chapter V of Part I of the M119Planning (Listed Buildings and Conservation Areas) Act 1990.

(2) Land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act shall not be appropriated under this section without the consent of the Secretary of State.

(3) Such consent may be given—

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(a) either in respect of a particular appropriation or in respect of appropriations of any class, and

(b) either subject to or free from any conditions or limitations.

(4) Before appropriating under this section any land which consists of or forms part of an open space, a local authority—

(a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area; and

(b) shall consider any objections to the proposed appropriation which may be made to them.

(5) In relation to any appropriation under this section—

(a) subsection (4) of section 122 of the [M120]Local Government Act 1972 (which relates to the operation of section 68 of the [M121]Lands Clauses Consolidation Act 1845 and section 10 of the [M122]Compulsory Purchase Act 1965) shall have effect as it has effect in relation to appropriations under section 122 of that Act of 1972; and

(b) subsections (5) and (6) of section 229 of this Act shall have effect as they have effect in relation to appropriations under that section.

(6) In relation to any such land as is mentioned in subsection (1), this section shall have effect to the exclusion of the provisions of section 122(1) of the [M123]Local Government Act 1972.

Modifications etc. (not altering text)

C196 Ss. 232, 233, 235(1) amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 66(2)**

Marginal Citations

M119 1990 c. 9.
M120 1972 c. 70.
M121 1845 c.18.
M122 1965 c.56.
M123 1972 c. 70.

233 Disposal by local authorities of land held for planning purposes.

(1) Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as appear to them to be expedient in order—

(a) to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by themselves or by any other person), or

(b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

(2) Land which consists of or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with

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a local Act shall not be disposed of under this section without the consent of the Secretary of State.

(3) The consent of the Secretary of State is also required where the disposal is to be for a consideration less than the best that can reasonably be obtained and is not—

(a) the grant of a term of seven years or less; or

(b) the assignment of a term of years of which seven years or less are unexpired at the date of the assignment.

(4) Before disposing under this section of any land which consists of or forms part of an open space, a local authority—

(a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area; and

(b) shall consider any objections to the proposed disposal which may be made to them.

(5) In relation to land acquired or appropriated for planning purposes for a reason mentioned in section 226(1)(a) or (3) the powers conferred by this section on a local authority, and on the Secretary of State in respect of the giving of consent to disposals under this section, shall be so exercised as to secure to relevant occupiers, so far as may be practicable, a suitable opportunity for accommodation.

(6) A person is a relevant occupier for the purposes of subsection (5) if—

(a) he was living or carrying on business or other activities on any such land as is mentioned in that subsection which the authority have acquired as mentioned in subsection (1),

(b) he desires to obtain accommodation on such land, and

(c) he is willing to comply with any requirements of the authority as to the development and use of such land;

and in this subsection "development" includes redevelopment.

(7) In subsection (5) a suitable opportunity for accommodation means, in relation to any person, an opportunity to obtain accommodation on the land in question which is suitable to his reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from him.

(8) In relation to any such land as is mentioned in subsection (1), this section shall have effect to the exclusion of section 123 of the [M124]Local Government Act 1972 (disposal of land by principal councils).

Modifications etc. (not altering text)

C197 Ss. 232, 233, 235(1) amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 66(2)**

Marginal Citations

M124 1972 c. 70.

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234 Disposal by Secretary of State of land acquired under s. 228.

(1) The Secretary of State may dispose of land held by him and acquired by him or any other Minister under section 228 to such person, in such manner and subject to such conditions as appear to him expedient.

(2) In particular, the Secretary of State may under subsection (1) dispose of land held by him for any purpose in order to secure its use for that purpose.

235 Development of land held for planning purposes.

(1) A local authority may—

(a) erect, construct or carry out on any land to which this section applies any building or work other than a building or work for the erection, construction or carrying out of which, whether by that local authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment; and

(b) repair, maintain and insure any buildings or works on such land and generally deal with such land in a proper course of management.

(2) This section applies to any land which—

(a) has been acquired or appropriated by a local authority for planning purposes, and

(b) is for the time being held by the authority for the purposes for which it was so acquired or appropriated.

(3) A local authority may exercise the powers conferred by subsection (1) notwithstanding any limitation imposed by law on their capacity by virtue of their constitution.

(4) A local authority may enter into arrangements with an authorised association for the carrying out by the association of any operation which, apart from the arrangements, the local authority would have power under this section to carry out, on such terms (including terms as to the making of payments or loans by the authority to the association) as may be specified in the arrangements.

(5) Nothing in this section shall be construed—

(a) as authorising any act or omission on the part of a local authority which is actionable at the suit of any person on any grounds other than such a limitation as is mentioned in subsection (3); or

(b) as authorising an authorised association to carry out any operation which they would not have power to carry out apart from subsection (4).

(6) In this section—

"alternative enactment" means any enactment which is not contained in this Part, in section 2, 5 or 6 of the [M125]Local Authorities (Land) Act 1963, in section 14(1) or (4) or 17(3) of the [M126]Industrial Development Act 1982 or in Chapter V of Part I of the [M127]Planning (Listed Buildings and Conservation Areas) Act 1990; and

"authorised association" means any society, company or body of persons—

(a) whose objects include the promotion, formation or management of garden cities, garden suburbs or garden villages and the erection, improvement or management of buildings for the working classes and others, and

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(b) which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being fixed by the Treasury.

Modifications etc. (not altering text)

C198 Ss. 232, 233, 235(1) amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 66(2)**

Marginal Citations

M125 1963 c.29.
M126 1982 c.52.
M127 1990 c. 9.

Extinguishment of certain rights affecting acquired or appropriated land

236 Extinguishment of rights over land compulsorily acquired.

(1) Subject to the provisions of this section, upon the completion of a compulsory acquisition of land under section 226, 228 or 230—

(a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and

(b) any such apparatus shall vest in the acquiring authority.

(2) Subsection (1) shall not apply—

(a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, or

(c) to any telecommunications apparatus kept installed for the purposes of any such system.

(3) In respect of any right or apparatus not falling within subsection (2), subsection (1) shall have effect subject—

(a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) shall not apply to any right or apparatus specified in the direction; and

(b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

(5) Any compensation payable under this section shall be determined in accordance with the [M128]Land Compensation Act 1961.

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Marginal Citations
M128 1961 c.33.

237 Power to override easements and other rights.

(1) Subject to subsection (3), the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves—

(a) interference with an interest or right to which this section applies, or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) Subject to subsection (3), the interests and rights to which this section applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) Nothing in this section shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land which is—

(a) a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.

(4) In respect of any interference or breach in pursuance of subsection (1), compensation—

(a) shall be payable under section 63 or 68 of the [M129]Lands Clauses Consolidation Act 1845 or under section 7 or 10 of the [M130]Compulsory Purchase Act 1965, and

(b) shall be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where—

(i) the compensation is to be estimated in connection with a purchase under those Acts, or

(ii) the injury arises from the execution of works on land acquired under those Acts.

(5) Where a person deriving title under the local authority by whom the land in question was acquired or appropriated—

(a) is liable to pay compensation by virtue of subsection (4), and

(b) fails to discharge that liability,

the liability shall be enforceable against the local authority.

(6) Nothing in subsection (5) shall be construed as affecting any agreement between the local authority and any other person for indemnifying the local authority against any liability under that subsection.

(7) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in subsection (1).

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Marginal Citations
M129 1845 c.18.
M130 1965 c.56.

238 Use and development of consecrated land.

(1) Notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land, any such land, which has been the subject of a relevant acquisition or appropriation, may subject to the following provisions of this section—

(a) if it has been acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, be used by any person in any manner in accordance with planning permission.

(2) Subsection (1) applies whether or not the land includes a building but it does not apply to land which consists of or forms part of a burial ground.

(3) Any use of consecrated land authorised by subsection (1) shall be subject—

(a) to compliance with the prescribed requirements with respect—

(i) to the removal and reinterment of any human remains, and

(ii) to the disposal of monuments and fixtures and furnishings; and

(b) to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part of it, remains on the land.

(4) Any use of land other than consecrated land which—

(a) has been the subject of a relevant acquisition or appropriation, and

(b) at the time of acquisition or appropriation included a church or other building used or formerly used for religious worship or the site of such a church or building,

shall be subject to compliance with such requirements as are mentioned in subsection (3)(a).

(5) Any regulations made for the purposes of subsection (3) or (4)—

(a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the same control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;

(b) shall contain such requirements relating to the disposal of any such land as is mentioned in subsection (3) or (4) as appear to the Secretary of State requisite for securing that the provisions of those subsections are complied with in relation to the use of the land; and

(c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.

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(6) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in subsection (1).

Modifications etc. (not altering text)

C199 Ss. 238, 239 modified by National Health Service Act 1977 (c. 49, SIF 113:2), **s. 87(6)** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 40**

C200 Ss. 238, 239 excluded (with modifications) by S.I. 2000/90, **art. 4** (with art. 2(5))

C201 Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 238-240 applied (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 86**; S.I. 2004/759 {art. 2}
S. 238 applied (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 211(7)**, 277
S. 238 applied (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 159(7)**, 208 (with s. 19(3))

239 Use and development of burial grounds.

(1) Notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of them, any land consisting of a burial ground or part of a burial ground, which has been the subject of a relevant acquisition or appropriation, may—

(a) if it has been acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, be used by any person in any manner in accordance with planning permission.

(2) This section does not apply to land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, in or upon the land have been complied with.

(3) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1).

Modifications etc. (not altering text)

C202 Ss. 238, 239 modified by National Health Service Act 1977 (c. 49, SIF 113:2), **s. 87(6)** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 40**

C203 Ss. 238, 239 extended (with modifications) (8.2.2000) by S.I. 2000/90, **art. 4** (with art. 2(5))

C204 Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 238-240 applied (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 86**; S.I. 2004/759, **art. 2**

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S. 239 applied (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 211(7)**, 277
S. 239 applied (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 159(7)**, 208 (with s. 19(3))

240 Provisions supplemental to ss. 238 and 239.

(1) Provision shall be made by any regulations made for the purposes of sections 238(3) and (4) and 239(2)—

(a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;

(b) for enabling the personal representatives or relatives of any deceased person themselves to undertake—

(i) the removal and reinterment of the remains of the deceased, and

(ii) the disposal of any monument commemorating the deceased,

and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal (not exceeding such amount as may be prescribed);

(c) for requiring compliance—

(i) with such reasonable conditions (if any) as may be imposed in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal and the place and manner of reinterment of any human remains and the disposal of any monuments, and

(ii) with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.

(2) Subject to the provisions of any such regulations, no faculty is required—

(a) for the removal and reinterment in accordance with the regulations of any human remains, or

(b) for the removal or disposal of any monuments,

and section 25 of the [M131]Burial Act 1857 (prohibition of removal of human remains without the licence of the Secretary of State except in certain cases) does not apply to a removal carried out in accordance with the regulations.

(3) In sections 238 and 239 and this section—

"burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment,

"monument" includes a tombstone or other memorial, and

"relevant acquisition or appropriation" means an acquisition made by a Minister, a local authority or statutory undertakers under this Part or Chapter V of Part I of the [M132]Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment, or an appropriation by a local authority for planning purposes.

Modifications etc. (not altering text)

C205 Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions

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in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 238-240 applied (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 86**; S.I. 2004/759, **art. 2**

Marginal Citations
M131 1857 c. 81.
M132 1990 c. 9.

241 Use and development of open spaces.

(1) Notwithstanding anything in any enactment relating to land which is or forms part of a common, open space or fuel or field garden allotment or in any enactment by which the land is specially regulated, such land which has been acquired by a Minister, a local authority or statutory undertakers under this Part or under Chapter V of Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment, or which has been appropriated by a local authority for planning purposes—

(a) if it has been acquired by a Minister, may be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, may be used by any person in any manner in accordance with planning permission.

(2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in subsection (1).

Modifications etc. (not altering text)
C206 S. 241 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

242 Overriding of rights of possession.

If the Secretary of State certifies that possession of a house which—

(a) has been acquired or appropriated by a local authority for planning purposes, and

(b) is for the time being held by the authority for the purposes for which it was acquired or appropriated,

is immediately required for those purposes, nothing in the [M133]Rent Act 1977 or Part I of the [M134]Housing Act 1988 shall prevent the acquiring or appropriating authority from obtaining possession of the house.

Marginal Citations
M133 1977 c.42.
M134 1988 c. 50.

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Constitution of joint body to hold land for planning purposes

243 Constitution of joint body to hold land for planning purposes.

(1) If it appears to the Secretary of State, after consultation with the local authorities concerned, to be expedient that any land acquired by a local authority for planning purposes should be held by a joint body, consisting of representatives of that authority and of any other local authority, he may by order provide for the establishment of such a joint body and for the transfer to that body of the land so acquired.

(2) Any order under this section providing for the establishment of a joint body may make such provision as the Secretary of State considers expedient with respect to the constitution and functions of that body.

(3) The provisions which may be included under subsection (2) include provisions—

(a) for incorporating the joint body;

(b) for conferring on them, in relation to land transferred to them as mentioned in subsection (1), any of the powers conferred on local authorities by this Part or Chapter V of Part I of the [M135]Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to land acquired and held by such authorities for the purposes of this Part or that Chapter;

(c) for determining the manner in which their expenses are to be defrayed.

(4) Regulations under this Act may make such provision consequential upon or supplementary to the provisions of this section as appears to the Secretary of State to be necessary or expedient.

Marginal Citations
M135 1990 c. 9.

General and supplementary provisions

244 Powers of joint planning boards under Part IX.

(1) A joint planning board [F348]. . . shall, on being authorised to do so by the Secretary of State, have the same power to acquire land compulsorily as the local authorities to whom section 226 applies have under that section.

(2) Such a board shall have the same power to acquire land by agreement as the local authorities mentioned in subsection (1) of section 227 have under that subsection.

(3) Sections 226(1) and (7), 227, 229, 230, 232, 233 and 235 to 242 apply with the necessary modifications as if any such board were a local authority to which those sections applied.

(4) On being authorised to do so by the Secretary of State such a board shall have, for any purpose for which by virtue of this section they may acquire land compulsorily, the power which section 13 of the [M136]Local Government (Miscellaneous Provisions) Act 1976 confers on the local authorities to whom subsection (1) of that section applies to purchase compulsorily rights over land not in existence when their compulsory purchase is authorised, and subsections (2) to (5) of that section shall accordingly

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apply to the purchase of rights under this subsection as they apply to the purchase of rights under subsection (1) of that section.

Textual Amendments

F348 Words in s. 244(1) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M136 1976 c.57.

[F349 244A Powers of National Park authorities under Part IX.

(1) A National Park authority shall, on being authorised to do so by the Secretary of State, have the same power to acquire land compulsorily as the local authorities to whom section 226 applies have under that section.

(2) A National Park authority shall have the same power to acquire land by agreement as the local authorities mentioned in subsection (1) of section 227 have under that subsection.

(3) Sections 226(1) and (7), 227, 229, 230, 232, 233 and 235 to 242 shall apply with the necessary modifications as if a National Park authority were a local authority to which those sections applied and as if the Park in relation to which it carries out functions were the authority's area.**]**

Textual Amendments

F349 S. 244A inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

245 Modification of incorporated enactments for purposes of this Part.

(1) Where—

(a) it is proposed that land should be acquired compulsorily under section 226 or 228, and

(b) a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part II of the M137 Acquisition of Land Act 1981 or, as the case may be, is made in draft by **[**F350 the Secretary of State for the Environment, Transport and the Regions**]** in accordance with Schedule 1 to that Act,

the confirming authority or, as the case may be, that Secretary of State may disregard for the purposes of that Part or, as the case may be, that Schedule any objection to the order or draft which, in the opinion of that authority or Secretary of State, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

(2) Where a compulsory purchase order authorising the acquisition of any land under section 226 is submitted to the Secretary of State in accordance with Part II of the Acquisition of Land Act 1981, then if the Secretary of State—

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(a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised in it; but

(b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land,

he may confirm the order so far as it relates to the land mentioned in paragraph (a) and give directions postponing consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.

(3) Where the Secretary of State gives directions under subsection (2), the notices required by section 15 of the Acquisition of Land Act 1981 to be published and served shall include a statement of the effect of the directions.

(4) In construing the [M138]Compulsory Purchase Act 1965 in relation to any of the provisions of this Part—

(a) references to the execution of the works shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 237;

(b) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section 10 of that Act to the acquiring authority shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and

(c) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

Textual Amendments

F350 Words in s. 245(1) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 11, **13**

Marginal Citations

M137 1981 c.67.

M138 1965 c.56.

246 Interpretation of Part IX.

(1) In this Part—

(a) any reference to the acquisition of land for planning purposes is a reference to the acquisition of it under section 226 or 227 of this Act or section 52 of the [M139]Planning (Listed Buildings and Conservation Areas) Act 1990 (or, as the case may be, under section 112 or 119 of the 1971 Act or section 68 or 71 of the 1962 Act); and

(b) any reference to the appropriation of land for planning purposes is a reference to the appropriation of it for purposes for which land can be (or, as the case may be, could have been) acquired under those sections.

(2) Nothing in sections 237 to 241 shall be construed as authorising any act or omission on the part of a local authority or body corporate in contravention of any limitation imposed by law on their capacity by virtue of their constitution.

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(3) Any power conferred by section 238, 239 or 241 to use land in a manner mentioned in those sections shall be construed as a power so to use the land, whether or not it involves the erection, construction or carrying out of any building or work or the maintenance of any building or work.

Marginal Citations
M139 1990 c. 9.

PART X

HIGHWAYS

Orders made by Secretary of State

247 Highways affected by development: orders by Secretary of State.

(1) The Secretary of State may by order authorise the stopping up or diversion of any highway if he is satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III, or

(b) by a government department.

(2) Such an order may make such provision as appears to the Secretary of State to be necessary or expedient for the provision or improvement of any other highway.

(3) Such an order may direct—

(a) that any highway provided or improved by virtue of it shall for the purposes of the [M140]Highways Act 1980 be a highway maintainable at the public expense;

(b) that the Secretary of State, or any county council, **[**[F351]county borough council,**]** metropolitan district council or London borough council specified in the order or, if it is so specified, the Common Council of the City of London, shall be the highway authority for that highway;

(c) in the case of a highway for which the Secretary of State is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Highways Act 1980.

(4) An order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State to be necessary or expedient, including in particular—

(a) provision for authorising the Secretary of State, or requiring any other authority or person specified in the order—

(i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work; or

(ii) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section 1 or 2 of the [M141]Restriction of Ribbon Development Act 1935 in relation to any highway stopped up or diverted under the order;

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(b) provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates.

(5) An order may be made under this section authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment.

(6) The provisions of this section shall have effect without prejudice to—

(a) any power conferred on the Secretary of State by any other enactment to authorise the stopping up or diversion of a highway;

(b) the provisions of Part VI of the [M142]Acquisition of Land Act 1981; or

(c) the provisions of section 251(1).

Textual Amendments

F351 Words in s. 247(3)(b) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(9)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M140 1980 c. 66.
M141 1935 c. 67.
M142 1981 c. 67.

248 Highways crossing or entering route of proposed new highway, etc.

(1) This section applies where—

(a) planning permission is granted under Part III for constructing or improving, or the Secretary of State proposes to construct or improve, a highway ("the main highway"); and

(b) another highway crosses or enters the route of the main highway or is, or will be, otherwise affected by the construction or improvement of the main highway.

(2) Where this section applies, if it appears to the Secretary of State expedient to do so—

(a) in the interests of the safety of users of the main highway; or

(b) to facilitate the movement of traffic on the main highway,

he may by order authorise the stopping up or diversion of the other highway.

(3) Subsections (2) to (6) of section 247 shall apply to an order under this section as they apply to an order under that section, taking the reference in subsection (2) of that section to any other highway as a reference to any highway other than that which is stopped up or diverted under this section and the references in subsection (3) to a highway provided or improved by virtue of an order under that section as including a reference to the main highway.

249 Order extinguishing right to use vehicles on highway.

(1) This section applies where—

(a) a local planning authority by resolution adopt a proposal for improving the amenity of part of their area, and

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(b) the proposal involves the public ceasing to have any right of way with vehicles over a highway in that area, being a highway which is neither a trunk road nor a road classified as a principal road.

(2) The Secretary of State may, on an application by a local planning authority who have so resolved, by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.

(3) An order under subsection (2) may include such provision as the Secretary of State (after consultation with every authority who are a local planning authority for the area in question and the highway authority) thinks fit for permitting the use on the highway of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that subsection.

(4) Such provision as is mentioned in subsection (3) may be framed by reference to—

(a) particular descriptions of vehicles, or

(b) particular persons by whom, or on whose authority, vehicles may be used, or

(c) the circumstances in which, or the times at which, vehicles may be used for particular purposes.

(5) No provision contained in, or having effect under, any enactment, being a provision prohibiting or restricting the use of footpaths, footways or bridleways shall affect any use of a vehicle on a highway in relation to which an order under subsection (2) has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsection (3).

(6) If any authority who are a local planning authority for the area in which a highway to which an order under subsection (2) relates is situated apply to the Secretary of State in that behalf, he may by order revoke that order, and, if he does so, any right to use vehicles on the highway in relation to which the order was made which was extinguished by virtue of the order under that subsection shall be reinstated.

(7) Such an order as is mentioned in subsection (6) may make provision requiring the removal of any obstruction of a highway resulting from the exercise of powers under Part VIIA of the [M143]Highways Act 1980.

(8) Before making an application under subsection (2) or (6) the local planning authority shall consult with the highway authority (if different) and any other authority who are a local planning authority for the area in question.

(9) Subsections (2), (3), (4) and (6) of section 247 shall apply to an order under this section as they apply to an order under that section.

Modifications etc. (not altering text)

C207 S. 249: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 6** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C208 S. 249: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M143 1980 c. 66.

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250 Compensation for orders under s. 249.

(1) Any person who, at the time of an order under section 249(2) coming into force, has an interest in land having lawful access to a highway to which the order relates shall be entitled to be compensated by the local planning authority on whose application the order was made in respect of—

(a) any depreciation in the value of his interest which is directly attributable to the order; and

(b) any other loss or damage which is so attributable.

F352(2) . . . . . .

(3) A claim for compensation under this section shall be made to the local planning authority on whose application the order was made within the prescribed time and in the prescribed manner.

(4) For the purpose of assessing any such compensation the rules set out in section 5 of the M144Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(5) Where an interest in land is subject to a mortgage—

(a) any compensation to which this section applies which is payable in respect of depreciation of the value of that interest shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee (or, if there is more than one mortgagee, to the first mortgagee) and shall in either case be applied by him as if it were proceeds of sale.

(6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal.

(7) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Textual Amendments

F352 S. 250(2) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 39, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

Modifications etc. (not altering text)

C209 S. 250: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

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Marginal Citations

M144 1961 c. 33.

251 Extinguishment of public rights of way over land held for planning purposes.

(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, the Secretary of State may by order extinguish any public right of way over the land if he is satisfied—

(a) that an alternative right of way has been or will be provided; or

(b) that the provision of an alternative right of way is not required.

(2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

(3) Subsection (1) shall also apply (with the substitution of a reference to the Broads Authority for the reference to the local authority) in relation to any land within the Broads which is held by the Broads Authority and which was acquired by, or vested in, the Authority for any purpose connected with the discharge of any of its functions.

Modifications etc. (not altering text)

C210 S. 251: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 7** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C211 S. 251 restricted (17.7.1992) by S.I. 1992/1492, **reg. 15(5)**
S. 251: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

C212 S. 251 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 7** (with arts. 6, 7)
S. 251 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 251 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 251 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 251 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

C213 S. 251(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

252 Procedure for making of orders.

(1) Before making an order under section 247, 248, 249 or 251 the Secretary of State shall publish in at least one local newspaper circulating in the relevant area, and in the London Gazette, a notice—

(a) stating the general effect of the order;

(b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the publication of the notice ("the publication date"); and

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(c) stating that any person may within that period by notice to the Secretary of State object to the making of the order.

(2) Not later than the publication date, the Secretary of State shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan—

(a) on every local authority in whose area any highway or, as the case may be, any land to which the order relates is situated, and

[F353(aa) on any National Park authority which is the local planning authority for the area in which any highway or, as the case may be, any land to which the order relates is situated, and**]**

(b) on any water, sewerage, hydraulic power or electricity undertakers or **[**F354public gas transporter**]** having any cables, mains, sewers, pipes or wires laid along, across, under or over any highway to be stopped up or diverted, or, as the case may be, any land over which a right of way is proposed to be extinguished, under the order.

(3) Not later than the publication date, the Secretary of State shall also cause a copy of the notice to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted or, as the case may be, of the right of way proposed to be extinguished under the order.

(4) If before the end of the period of 28 days mentioned in subsection (1)(b) an objection is received by the Secretary of State from any local authority **[**F355National Park authority**]** or undertakers or **[**F354public gas transporter**]** on whom a notice is required to be served under subsection (2), or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, then unless subsection (5) applies the Secretary of State shall cause a local inquiry to be held.

(5) If, in a case where the objection is made by a person other than such a local authority or undertakers or **[**F354transporter**]**, the Secretary of State is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary he may dispense with the inquiry.

(6) Subsections (2) to (5) of section 250 of the M145Local Government Act 1972 (local inquiries: evidence and costs) shall apply in relation to an inquiry caused to be held by the Secretary of State under subsection (4).

(7) Where publication of the notice mentioned in subsection (1) takes place on more than one day, the references in this section to the publication date are references to the latest date on which it is published.

(8) After considering any objections to the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may, subject to subsection (9), make the order either without modification or subject to such modifications as he thinks fit.

(9) Where—

(a) the order contains a provision requiring any such payment, repayment or contribution as is mentioned in section 247(4)(a); and

(b) objection to that provision is duly made by an authority or person who would be required by it to make such a payment, repayment or contribution; and

(c) the objection is not withdrawn,

the order shall be subject to special parliamentary procedure.

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(10) Immediately after the order has been made, the Secretary of State shall publish, in the manner specified in subsection (1), a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours.

(11) Subsections (2), (3) and (7) shall have effect in relation to a notice under subsection (10) as they have effect in relation to a notice under subsection (1).

(12) In this section—

"the relevant area", in relation to an order, means the area in which any highway or land to which the order relates is situated;

"local authority" means the council of a county, **[**F356 county borough,**]**district, parish **[**F357, community**]** or London borough, **[**F358a police authority established under **[**F359section 3 of the Police Act 1996**][**F360, the Service Authority for the National Crime Squad, the Service Authority for the National Criminal Intelligence Service**]** ,**]** a joint authority established by Part IV of the M146Local Government Act 1985, a housing action trust established under Part III of the M147Housing Act 1988 **[**F361, the Residuary Body for Wales (Corff Gweddilliol Cymru)**]** and the parish meeting of a F362. . . parish not having a separate parish council;

and in subsection (2)—

(i) the reference to water undertakers shall be construed as including a reference to the National Rivers Authority, and

(ii) the reference to electricity undertakers shall be construed as a reference to holders of licences under section 6 of the M148Electricity Act 1989 who are entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.

Textual Amendments

F353 S. 252(2)(aa) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(7)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F354 Words in s. 252(2)(b)(4)(5) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(1)(a)(b)(c)**; S.I. 1996/218, **art. 2**

F355 Words in s. 252(4) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(7)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F356 Words in the definition of "local authority" in s. 252(12) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(10)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F357 Words in the definition of "local authority" in s. 252(12) inserted (1.10.1995) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(10)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2490, art. 4(1), **Sch. 2**

F358 Words in the definition of "local authority" in s. 252(12) inserted (1.10.1994 for specified purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 63**; S.I. 1994/2025, **art. 6(1)(2)(g)** (with art. 6(6)); S.I. 1994/3262, art. 4(1), **Sch.**

F359 Words in the definition of "local authority" in s. 252(12) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(2)(ze)**

F360 Words in the definition of "local authority"

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in s. 252(12) inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para. 63**; S.I. 1998/354, **art. 2(1)(2)(bb)**

F361 Words in the definition of "local authority" in s. 252(12) inserted (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 32** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2))

F362 Word in the definition of "local authority" in s. 252(12) repealed (8.11.1995) by 1995 c. 44, s. 1(1), **Sch. 1 Pt. VI**

Modifications etc. (not altering text)

C214 S. 252 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 2(b)**

Marginal Citations

M145 1972 c. 70.
M146 1985 c. 51.
M147 1988 c. 50.
M148 1989 c. 29.

253 Procedure in anticipation of planning permission.

(1) Where—

(a) the Secretary of State would, if planning permission for any development had been granted under Part III, have power to make an order under section 247 or 248 authorising the stopping up or diversion of a highway in order to enable that development to be carried out, and

(b) subsection (2), (3) or (4) applies,

then, notwithstanding that such permission has not been granted, the Secretary of State may publish notice of the draft of such an order in accordance with section 252.

(2) This subsection applies where the relevant development is the subject of an application for planning permission and either—

(a) that application is made by a local authority **[**F363National Park authority**]** or statutory undertakers F364. . .; or

(b) that application stands referred to the Secretary of State in pursuance of a direction under section 77; or

(c) the applicant has appealed to the Secretary of State under section 78 against a refusal of planning permission or of approval required under a development order or against a condition of any such permission or approval.

(3) This subsection applies where—

(a) the relevant development is to be carried out by a local authority **[**F363National Park authority**]** or statutory undertakers and requires, by virtue of an enactment, the authorisation of a government department; and

(b) the developers have made an application to the department for that authorisation and also requested a direction under section 90(1) that planning permission be deemed to be granted for that development.

(4) This subsection applies where the council of a county, **[**F365county borough,**]** metropolitan district or London borough **[**F366a National Park authority**]** or a joint planning board certify that they have begun to take such steps, in accordance with

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regulations made by virtue of section 316, as are required to enable them to obtain planning permission for the relevant development.

(5) Section 252(8) shall not be construed as authorising the Secretary of State to make an order under section 247 or 248 of which notice has been published by virtue of subsection (1) until planning permission is granted for the development which occasions the making of the order.

Textual Amendments

F363 Words in s. 253(2)(a)(3)(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(8)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F364 Words in s. 253(2)(a) repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 39(1), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**

F365 Words in s. 253(4) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(11)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F366 Words in s. 253(4) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(8)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

254 Compulsory acquisition of land in connection with highways.

(1) The Secretary of State, or a local highway authority on being authorised by the Secretary of State to do so, may acquire land compulsorily—

(a) for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 247, 248 or 249 or for any other purpose for which land is required in connection with the order; or

(b) for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under an order under section 251.

(2) The [M149]Acquisition of Land Act 1981 shall apply to the acquisition of land under this section.

Marginal Citations

M149 1981 c. 67.

255 Concurrent proceedings in connection with highways.

(1) In relation to orders under sections 247, 248 and 249, regulations made under this Act may make provision for securing that any proceedings required to be taken for the purposes of the acquisition of land under section 254 (as mentioned in subsection (1)(a) of that section) may be taken concurrently with any proceedings required to be taken for the purposes of the order.

(2) In relation to orders under section 251, regulations made under this Act may make provision for securing—

(a) that any proceedings required to be taken for the purposes of such an order may be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished; or

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(b) that any proceedings required to be taken for the purposes of the acquisition of any other land under section 254 (as mentioned in subsection (1)(b) of that section) may be taken concurrently with either or both of the proceedings referred to in paragraph (a).

256 Telecommunication apparatus: orders by Secretary of State.

(1) Where—

(a) in pursuance of an order under section 247, 248 or 249 a highway is stopped up or diverted or, as the case may be, any right to use vehicles on that highway is extinguished; and

(b) immediately before the date on which the order came into force there was under, in, on, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system,

the operator of that system shall have the same powers in respect of the apparatus as if the order had not come into force.

(2) Notwithstanding subsection (1), any person entitled to land over which the highway subsisted shall be entitled to require the alteration of the apparatus.

(3) Where—

(a) any such order provides for the improvement of a **[**F367highway for which the Secretary of State is not the highway authority**]**, and

(b) immediately before the date on which the order came into force there was under, in, on, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system,the local highway authority shall be entitled to require the alteration of the apparatus.

(4) Subsection (3) does not have effect so far as it relates to the alteration of any apparatus for the purpose of **[**F368major highway works, major bridge works or major transport works within the meaning of Part III of the New Roads and Street Works Act 1991**]**.

(5) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of this section as it applies for the purposes of that code.

(6) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.

Textual Amendments

F367 Words in s. 256(3) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 126(1)(2)**; S.I. 1991/2288, art. 3, **Sch.**

F368 Words in s. 256(4) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 126(1)(3)**; S.I. 1992/2984, art. 2(2), **Sch. 2**

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Orders by other authorities

257 Footpaths and bridleways affected by development: orders by other authorities.

(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III, or

(b) by a government department.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

(4) In this section "competent authority" means—

(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and

(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

Modifications etc. (not altering text)

C215 S. 257 modified by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, **Sch. 3 para. 8(1)**

258 Extinguishment of public rights of way over land held for planning purposes.

(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, then, subject to section 259, the local authority may by order extinguish any public right of way over the land, being a footpath or bridleway, if they are satisfied—

(a) that an alternative right of way has been or will be provided; or

(b) that the provision of an alternative right of way is not required.

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(2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

(3) Subsection (1) shall also apply (with the substitution of a reference to the Broads Authority for the reference to the local authority) in relation to any land within the Broads which is held by the Broads Authority and which was acquired by, or vested in, the Authority for any purpose connected with the discharge of any of its functions.

Modifications etc. (not altering text)

C216 S. 258: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 8** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C217 S. 258: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

C218 S. 258 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 8** (with arts. 6, 7)
S. 258 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 258 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 258 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**

C219 S. 258(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 118, Sch. 8 para. 7)

259 Confirmation of orders made by other authorities.

(1) An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

(2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3) The time specified—

(a) in an order under section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or

(b) in an order under section 258 as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

(4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.

260 Telecommunication apparatus: orders by or on application of other authorities.

(1) This section applies where—

(a) any order is made by a local authority under section 258(1), or on the application of a local authority under section 251(1), which extinguishes a public right of way; or

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(b) any order is made by a competent authority under section 257 which authorises the stopping up or diversion of a footpath or bridleway,

and at the time of the publication of the notice required by section 252(1) or, as the case may be, paragraph 1 of Schedule 14 any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted.

(2) In subsection (1) "competent authority" has the same meaning as in section 257 and in the following provisions of this section references to the authority are to the authority who made the order or, as the case may be, to the authority on whose application it was made.

(3) The power of the operator of the telecommunications code system to remove the apparatus—

(a) shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished or authorised to be stopped up or diverted; and

(b) if before the end of that period the operator of the system has given notice to the authority of his intention to remove the apparatus or a part of it, shall be exercisable in respect of the whole or, as the case may be, that part of the apparatus after the end of that period.

(4) The operator of the system may by notice given in that behalf to the authority not later than the end of that period abandon the telecommunication apparatus or any part of it.

(5) Subject to subsection (4), the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which the operator has then neither removed nor given notice of his intention to remove.

(6) The operator of the system shall be entitled to recover from the authority the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require.

(7) Where under the previous provisions of this section the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

(8) As soon as reasonably practicable after the making of any such order as is mentioned in paragraph (a) or (b) of subsection (1) in circumstances in which that subsection applies in relation to the operator of any telecommunications code system, the person by whom the order was made shall give notice to the operator of the making of the order.

(9) Subsections (5) and (6) of section 256 apply for the purposes of this section as they apply for the purposes of that section.

Modifications etc. (not altering text)

C220 S. 260 applied (25.11.1998 for specified purposes otherwise 3.7.2000) by 1998 c. 45, s. 23, **Sch. 6**, para. 16(2); S.I. 1998/2952, **art. 2(1)**; S.I. 2000/1173, **art. 2(2)(c)**

C221 S. 260(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(1), **Sch. 8 para. 2(3)(a)**

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Temporary highway orders: mineral workings

261 Temporary stopping up of highways for mineral workings.

(1) Where the Secretary of State is satisfied—

(a) that an order made by him under section 247 for the stopping up or diversion of a highway is required for the purpose of enabling minerals to be worked by surface working; and

(b) that the highway can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,

the order may provide for the stopping up or diversion of the highway during such period as may be prescribed by or under the order and for its restoration at the expiration of that period.

(2) Where a competent authority within the meaning of section 257 are satisfied—

(a) that an order made by them under that section for the stopping up or diversion of a footpath or bridleway is required for the purpose of enabling minerals to be worked by surface working; and

(b) that the footpath or bridleway can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,

the order may provide for the stopping up or diversion of the footpath or bridleway during such period as may be prescribed by or under the order and for its restoration at the expiration of that period.

(3) Without prejudice to the provisions of section 247 or 257, any such order as is authorised by subsection (1) or (2) may contain such provisions as appear to the Secretary of State or, as the case may be, the competent authority to be expedient—

(a) for imposing upon persons who, apart from the order, would be subject to any liability with respect to the repair of the original highway during the period prescribed by or under the order a corresponding liability in respect of any highway provided in pursuance of the order;

(b) for the stopping up at the expiry of that period of any highway so provided and for the reconstruction and maintenance of the original highway;

and any provision included in the order in accordance with subsection (4) of section 247 or subsection (2) of section 257 requiring payment to be made in respect of any cost or expenditure under the order may provide for the payment of a capital sum in respect of the estimated amount of that cost or expenditure.

(4) In relation to any highway which is stopped up or diverted by virtue of an order under section 247 or 248, sections 271 and 272 shall have effect—

(a) as if for references to land which has been acquired as there mentioned and to the acquiring or appropriating authority there were substituted respectively references to land over which the highway subsisted and to the person entitled to possession of that land; and

(b) as if references in subsection (5) of each of those sections to a local authority or statutory undertakers included references to any person (other than a Minister) who is entitled to possession of that land,

and sections 275 to 278 shall have effect accordingly.

(5) Subsection (4) shall not apply to land constituting the site of a highway in respect of which opencast planning permission (within the meaning of section 51 of the [M150]Opencast Coal Act 1958) has been granted.

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Modifications etc. (not altering text)
C222 S. 261 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)**

Marginal Citations
M150 1958 c. 69.

PART XI

STATUTORY UNDERTAKERS

Modifications etc. (not altering text)
C223 Pt XI (ss. 262-283) applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 19(3)**; S.I. 1993/2762, **art. 3**
Pt. XI (ss. 262-283) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(4)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. XI (ss. 262-283) applied (25.11.1998 for specified purposes otherwise 3.7.2000) by 1998 c. 45, s. 23, **Sch. 6 para. 16(2)(3)**; S.I. 1998/2952, **art. 2(1)**; S.I. 2000/1173, **art. 2(2)(c)**
Pt. XI (ss. 262-283) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

Preliminary

262 Meaning of "statutory undertakers".

(1) Subject to the following provisions of this section, in this Act "statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the [M151]Airports Act 1986).

(2) Subject to the following provisions of this section, in this Act "statutory undertaking" shall be construed in accordance with subsection (1) and, in relation to a relevant airport operator (within the meaning of that Part), means an airport to which that Part of that Act applies.

(3) Subject to subsection (5), for the purposes of the provisions mentioned in subsection (4) any **[**[F369]public gas transporter**]**, water or sewerage undertaker, the National Rivers Authority, the Post Office and the Civil Aviation Authority shall be deemed to be statutory undertakers and their undertakings statutory undertakings.

(4) The provisions referred to in subsection (3) are sections 55, 90, 101, 108(3), [F370]. . ., 139 to 141, 143, 148, 170(12)(b), 236(2)(a), 237 to 241, 245, 247(4)(b), 253, 257(2), 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9), 336(2) and (3), paragraph 18 of Schedule 1 and Schedules 8, 13 and 14.

(5) Subsection (4) shall apply—

(a) as respects the Post Office, as if the reference to sections 55, 247(4)(b), 253 and 257(2) were omitted; and

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(b) as respects the Post Office and the Civil Aviation Authority as if—

(i) the references to sections 245, 263(1) and (2) and 336(2) and (3) were omitted; and

(ii) after the words " 266 to 283" there were inserted the words "(except section 271 as applied by section 13 of the Opencast Coal Act 1958)".

(6) Any holder of a licence under section 6 of the [M152]Electricity Act 1989 shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking—

(a) for the purposes of the provisions mentioned in subsection (7)(a), if he holds a licence under subsection (1) of that section;

(b) for the purposes of the provisions mentioned in subsection (7)(b), if he is entitled to exercise any power conferred by Schedule 3 to that Act; and

(c) for the purposes of the provisions mentioned in subsection (7)(c), if he is entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.

(7) The provisions referred to in subsection (6) are—

(a) sections 55, 108(3), [F370]. . ., 139 to 141, 143, 148, 236(2)(a), 237, 245, 253, 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9) and 336(2) and (3), paragraph 18 of Schedule 1 and Schedule 13;

(b) sections 170(12)(b) and 238 to 241; and

(c) sections 247(4) and 257(2) and Schedule 14.

Textual Amendments

F369 Words in s. 262(3) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(2)**; S.I. 1996/218, **art. 2**

F370 Word in s. 262(4)(7)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 22, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C224 S. 262 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 19(2)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M151 1986 c. 31.

M152 1989 c. 29.

263 Meaning of "operational land".

(1) Subject to the following provisions of this section and to section 264, in this Act "operational land" means, in relation to statutory undertakers—

(a) land which is used for the purpose of carrying on their undertaking; and

(b) land in which an interest is held for that purpose.

(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

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(3) In sections 108(3), [F371]. . ., 266 to 283 and Part II of Schedule 8 "operational land", in relation to the Post Office and the Civil Aviation Authority, means land of the Post Office's or, as the case may be, of the Authority's of any such class as may be prescribed by regulations.

(4) Such regulations—

(a) shall be made—

(i) in the case of the Post Office, by the appropriate Minister and the Secretary of State acting jointly; and

(ii) in the case of the Civil Aviation Authority, by the appropriate Minister;

(b) may define a class of land by reference to any circumstances whatsoever, and

(c) in the case of the Civil Aviation Authority, may make provision for different circumstances, including prescribing different classes of land for the purposes of different provisions.

Textual Amendments

F371 Words in s. 263(3) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 23, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

264 Cases in which land is to be treated as not being operational land.

(1) This section applies where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—

(a) the interest was acquired by them on or after 6th December 1968; or

(b) it was held by them immediately before that date but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the 1962 Act.

(2) Where this section applies in respect of any land then, notwithstanding the provisions of section 263, the land shall not be treated as operational land for the purposes of this Act unless it falls within subsection (3) or (4).

(3) Land falls within this subsection if—

(a) there is, or at some time has been, in force with respect to it a specific planning permission for its development; and

(b) that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking.

(4) Land falls within this subsection if—

(a) the undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of the [M153]Transport Act 1968, the [M154]Transport (London) Act 1969, the [M155]Gas Act 1986, the [M156]Airports Act 1986 **[**[F372]the Water Act 1989 or the Water Industry Act 1991**]** from other statutory undertakers; and

(b) immediately before transfer the land was operational land of those other undertakers.

(5) A specific planning permission for the purpose of subsection (3)(a) is a planning permission—

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(a) granted on an application in that behalf made under Part III; or

(b) granted by provisions of a development order granting planning permission generally for development which has received specific parliamentary approval; or

(c) granted by a special development order in respect of development specifically described in the order; or

(d) deemed to be granted by virtue of a direction of a government department under section 90(1).

(6) In subsection (5)—

(a) the reference in paragraph (a) to Part III includes a reference to Part III of the 1971 Act and the enactments in force before the commencement of that Act and replaced by Part III of it; and

(b) the reference in paragraph (b) to development which has received specific parliamentary approval is a reference to development authorised—

(i) by a local or private Act of Parliament,

(ii) by an order approved by both Houses of Parliament; or

(iii) by an order which has been brought into operation in accordance with the provisions of the [M157]Statutory Orders (Special Procedure) Act 1945,

being an Act or order which designates specifically both the nature of the development authorised by it and the land upon which it may be carried out;

(c) the reference in paragraph (d) to section 90(1) includes a reference to section 40 of the 1971 Act, section 41 of the 1962 Act and section 35 of the 1947 Act.

(7) This section shall not apply to land in the case of which an interest of the Postmaster General's vested in the Post Office by virtue of section 16 of the [M158]Post Office Act 1969.

(8) Where an interest in land is held by the Civil Aviation Authority this section shall not apply for the purpose of determining whether the land is operational land in relation to the Authority for the purposes of this Act.

Textual Amendments

F372 Words in s. 264(4)(a) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para.54**

Modifications etc. (not altering text)

C225 S. 264(3)(a) modified (18.12.1996) by 1996 c. 61, **s. 9(9)**
S. 264(3)(a) extended (22.3.2001) by S.I. 2001/1451, **art. 7(1)**
S. 264(3)(a) modified (29.3.2001) by S.I. 2001/1347, **art. 20(3)**
S. 264(3)(a) modified (24.7.2001) by S.I. 2001/3627, **art. 31**
S. 264(3)(a) modified (9.11.2001) by S.I. 2001/3682, **art. 17(3)**
S. 264(3)(a) modified (18.7.2001) by S.I. 2001/2870, **art. 23(1)**

Marginal Citations

M153 1968 c. 73.
M154 1969 c. 35.
M155 1986 c. 44.

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M156 1986 c. 31.
M157 1945 c. 18.
M158 1969 c. 49.

265 Meaning of "the appropriate Minister".

(1) Subject to the following provisions of this section, in this Act "the appropriate Minister" means—

F373(a) . . . . . .

(b) in relation to statutory undertakers carrying on an undertaking for the supply of hydraulic power, the **[**F374Secretary of State for Trade and Industry**]**;

(c) in relation to the Post Office, the Secretary of State for Trade and Industry; and

[F375(d) in relation to any other statutory undertakers or the Civil Aviation Authority, the Secretary of State for the Environment, Transport and the Regions.**]**

(2) For the purposes of sections 170(12), 266 to 280, 325(9) and 336(2) and (3) and Part II of Schedule 8, "the appropriate Minister", in relation to a **[**F376public gas transporter**]** or a holder of a licence under section 6 of the M159Electricity Act 1989, means the **[**F374Secretary of State for Trade and Industry**]**.

(3) For the purposes of sections 170(12), 266 to 280, 325(9) and 336(2) and (3) and Part II of Schedule 8 and Schedule 14 "the appropriate Minister"—

(a) in relation to the National Rivers Authority, means the Secretary of State or the Minister of Agriculture, Fisheries and Food; and

(b) in relation to a water or sewerage undertaker, means the Secretary of State.

(4) References in this Act to the Secretary of State and the appropriate Minister—

(a) if the appropriate Minister is not the one concerned as the Secretary of State, shall be construed as references to the Secretary of State and the appropriate Minister; and

(b) if the one concerned as the Secretary of State is also the appropriate Minister, shall be construed as references to him alone,

and similarly with references to a Minister and the appropriate Minister and with any provision requiring the Secretary of State to act jointly with the appropriate Minister.

Textual Amendments

F373 S. 265(1)(a) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 11, **14(a)**

F374 Words in s. 265(1)(2) substituted (5.7.1992) by S.I. 1992/1314, art. 3(3), **Sch. para. 1(f)**

F375 S. 265(1)(d) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 11, **14(b)**

F376 Words in s. 265(2) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(3)**; S.I. 1996/218, **art. 2**

Marginal Citations

M159 1989 c. 29.

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Application of Part III to statutory undertakers

266 Applications for planning permission by statutory undertakers.

(1) Where—

(a) an application for planning permission to develop land to which this subsection applies is made by statutory undertakers and is referred to the Secretary of State under Part III; or

(b) an appeal is made to the Secretary of State under that Part from the decision on such an application; or

(c) such an application is deemed to be made under subsection (5) of section 177 on an appeal under section 174 by statutory undertakers,

the application or appeal shall be dealt with by the Secretary of State and the appropriate Minister.

(2) Subsection (1) applies—

(a) to operational land; and

(b) to land in which the statutory undertakers hold or propose to acquire an interest with a view to its being used for the purpose of carrying on their undertaking, where the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose.

F377(3) . . . . . .

(4) Subject to the provisions of this Part as to compensation, the provisions of this Act shall apply to an application which is dealt with under this section by the Secretary of State and the appropriate Minister as if it had been dealt with by the Secretary of State.

(5) Subsection (2)(b) shall have effect in relation to the Civil Aviation Authority as if for the reference to development involving the use of land for the purpose of carrying on the Civil Aviation Authority's undertaking there were substituted a reference to development involving the use of land for such of the purposes of carrying on that undertaking as may be prescribed by the appropriate Minister.

Textual Amendments

F377 S. 266(3) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 40, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

267 Conditional grants of planning permission.

Notwithstanding anything in Part III, planning permission to develop operational land of statutory undertakers shall not, except with their consent, be granted subject to conditions requiring—

(a) that any buildings or works authorised by the permission shall be removed, or

(b) that any use of the land so authorised shall be discontinued,

at the end of a specified period.

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268 Development requiring authorisation of government department.

(1) The Secretary of State and the appropriate Minister shall not be required under section 266(1) to deal with an application for planning permission for the development of operational land if the authorisation of a government department is required in respect of that development.

(2) Subsection (1) does not apply where the relevant authorisation has been granted without any direction as to the grant of planning permission.

(3) For the purposes of this section development shall be taken to be authorised by a government department if—

(a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;

(b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;

(d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or

(e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,

and references in this section to the authorisation of a government department shall be construed accordingly.

269 Revocation or modification of permission to develop operational land.

In relation to any planning permission granted on the application of statutory undertakers for the development of operational land, the provisions of Part III with respect to the revocation and modification of planning permission shall have effect as if for any reference in them to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

270 Order requiring discontinuance of use etc. of operational land.

The provisions of Part III with respect to the making of orders—

(a) requiring the discontinuance of any use of land;

(b) imposing conditions on the continuance of it; or

(c) requiring buildings or works on land to be altered or removed,

and the provisions of Schedule 9 with respect to the making of orders under that Schedule shall have effect in relation to operational land of statutory undertakers as if for any reference in them to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

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Extinguishment of rights of statutory undertakers, etc.

271 Extinguishment of rights of statutory undertakers: preliminary notices.

(1) This section applies where any land has been acquired by a Minister, a local authority or statutory undertakers under Part IX of this Act or Chapter V of Part I of the [M160]Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment or has been appropriated by a local authority for planning purposes, and—

(a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land; or

(b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(2) If the acquiring or appropriating authority is satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus, is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, they may serve on the statutory undertakers a notice—

(a) stating that at the end of the relevant period the right will be extinguished; or

(b) requiring that before the end of that period the apparatus shall be removed.

(3) The statutory undertakers on whom a notice is served under subsection (2) may, before the end of the period of 28 days from the date of service of the notice, serve a counter-notice on the acquiring or appropriating authority—

(a) stating that they object to all or any of the provisions of the notice; and

(b) specifying the grounds of their objection.

(4) If no counter-notice is served under subsection (3)—

(a) any right to which the notice relates shall be extinguished at the end of the relevant period; and

(b) if at the end of that period any requirement of the notice as to the removal of any apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(5) If a counter-notice is served under subsection (3) on a local authority or on statutory undertakers, the authority or undertakers may either—

(a) withdraw the notice (without prejudice to the service of a further notice); or

(b) apply to the Secretary of State and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification.

(6) If a counter-notice is served under subsection (3) on a Minister—

(a) he may withdraw the notice (without prejudice to the service of a further notice); or

(b) he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.

(7) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

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(8) For the purposes of this section the relevant period, in relation to a notice served in respect of any right or apparatus, is the period of 28 days from the date of service of the notice or such longer period as may be specified in it in relation to that right or apparatus.

Modifications etc. (not altering text)

C226 Ss. 271-274 applied (with modifications) (19.12.2007) by The Felixstowe Dock and Railway Company (Land Acquisition) Order 2007 (S.I. 2007/3345), art. 10, **Sch. 2 Pt. 1**

C227 Ss. 271-274 applied (with modifications) (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), art. 33, **Sch. 8 para. 1** (with arts. 3(6), 12(3))

C228 Ss. 271-274 applied (19.3.2007) by The Ouseburn Barrage Order 2007 (S.I. 2007/608), art. 45, **Sch. 5 para. 1**

C229 S. 271 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-273 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 8(1)-(3)**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, arts. 28(2), 29, Sch. 10 Pt. I para. 2(6), **Sch. 11 para. 1**
Ss. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**
Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C230 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1**, Sch. 6 Pt. II para. 2(4) (with art. 38)
Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002 (S.I. 2002/1064), art. 28, **Sch. 3 para. 1**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 paras. 1-6**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**
Ss. 271-274 applied (with modifications) (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 41, **Sch. 12 para. 1** (with art. 40)
Ss. 271-274 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 271 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)

Ss. 271-274 applied (with modifications) (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 10, 35, 41, **Sch. 12 para. 1**

Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)

C231 Ss. 271-274 applied (with modifications) (28.1.2005) by The East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), art. 13, **Sch. 2**

Ss. 271-274 applied (with modifications) (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 11, 40, 64, **Sch. 11 para. 1** (with arts. 65, 66, Sch. 12 para. 2)

Ss. 271-274 applied (with modifications) (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), art. 49, **Sch. 10 para. 1** (with art. 51)

Ss. 271-274 applied (with modifications) (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), art. 26, **Sch. 7 para. 1(1)** (with art. 30)

Ss. 271-274 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), art. 45, **Sch. 7 para. 1(1)** (with art. 47)

Ss. 271-274 applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), arts. 8, 9, 30, 48, **Sch. 10 para. 1** (with art. 50)

Ss. 271-274 applied (with modifications) (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), arts. 5, 7, 47, **Sch. 11 para. 1** (with arts. 45(1), 48, Sch. 10 para. 21, 29)

Ss. 271-274 applied (with modifications) (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 39, 40, 44, **Sch. 9 para. 1**, Sch. 10 para. 3(2), Sch. 14 para. 3(5) (with arts. 3(5), 15(3))

Ss. 271-274 applied (with modifications) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 8, 10, 32, 50, 51, **Sch. 10 para. 1**, Sch. 11 para. 20 (with art. 52)

Ss. 271-274 applied (with modifications) (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), arts. 7, 8, 44, **Sch. 8 para. 1** (with art. 40, Sch. 7 para. 12)

Ss. 271-274 applied (with modifications) (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 10, 31, 36, 40, **Sch. 11 para. 1**, Sch. 15 para. 2 (with art. 43)

Ss. 271-274 applied (with modifications) (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 46, **Sch. 9 para. 1(1)** (with arts. 34, 35(2))

Ss. 271-274 applied (with modifications) (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 46, **Sch. 10 para. 1(1)**

C232 S. 271 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 36, **Sch. 6 Pt. II para. 2(4)** (with art. 38)

C233 Ss. 271-273 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(1)-(3)**

C234 Ss. 271-274 applied (with modifications) (21.5.2008) by The Teesport (Land Acquisition) Order 2008 (S.I. 2008/1238), art. 10, **Sch. 2**

C235 Ss. 271-274 applied (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), art. 64, **Sch. 11 para. 1**

C236 Ss. 271-274 applied (with modifications) (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), art. 45, **Sch. 9 para. 1** (with art. 36(3))

C237 Ss. 271-274 applied (with modifications) (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 11, 41, 67, **Sch. 11 para. 1** (with Sch. 12 para. 2)

C238 Ss. 271-274 applied (with modifications) (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 8, 29, 31, **Sch. 8 para. 1**

C239 Ss. 271-274 applied (with modifications) (28.10.2009) by The Network Rail (Reading) (Land Acquisition) Order 2009 (S.I. 2009/2728), art. 18, **Sch. 6**

C240 Ss. 271-274 applied (with modifications) (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), art. 30, **Sch. 8 para. 1**

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Marginal Citations
M160 1990 c. 9.

272 Extinguishment of rights of telecommunications code system operators: preliminary notices.

(1) This section applies where any land has been acquired by a Minister, a local authority or statutory undertakers under Part IX of this Act or under Chapter V of Part I of the [M161]Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment or has been appropriated by a local authority for planning purposes, and—

(a) there subsists over that land a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land; or

(b) there is on, under or over the land telecommunication apparatus kept installed for the purposes of any such system.

(2) If the acquiring or appropriating authority is satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, they may serve on the operator of the telecommunications code system a notice—

(a) stating that at the end of the relevant period the right will be extinguished; or

(b) requiring that before the end of that period the apparatus shall be removed.

(3) The operator of the telecommunications code system on whom a notice is served under subsection (2) may, before the end of the period of 28 days from the date of service of the notice, serve a counter-notice on the acquiring or appropriating authority—

(a) stating that he objects to all or any of the provisions of the notice; and

(b) specifying the grounds of his objection.

(4) If no counter-notice is served under subsection (3)—

(a) any right to which the notice relates shall be extinguished at the end of the relevant period; and

(b) if at the end of that period any requirement of the notice as to the removal of any apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(5) If a counter-notice is served under subsection (3) on a local authority or on statutory undertakers, the authority or undertakers may either—

(a) withdraw the notice (without prejudice to the service of a further notice); or

(b) apply to the Secretary of State and the Secretary of State for Trade and Industry for an order under this section embodying the provisions of the notice, with or without modification.

(6) If a counter-notice is served under subsection (3) on a Minister—

(a) he may withdraw the notice (without prejudice to the service of a further notice); or

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(b) he and the Secretary of State for Trade and Industry may make an order under this section embodying the provisions of the notice, with or without modification.

(7) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

(8) For the purposes of this section the relevant period, in relation to a notice served in respect of any right or apparatus, is the period of 28 days from the date of service of the notice or such longer period as may be specified in it in relation to that right or apparatus.

Modifications etc. (not altering text)

C241 Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-273 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 8(1)-(3)**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
S. 272 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, arts. 28(2), 29, Sch. 10 Pt. I para. 2(6), **Sch. 11 para. 1**
Ss. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**
Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C242 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1**, Sch. 6 Pt. II para. 2(4) (with art. 38)
Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002 (S.I. 2002/1064), art. 28, **Sch. 3 para. 1**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 para. 1-6**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**
Ss. 271-274 applied (with modifications) (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 41, **Sch. 12 para. 1** (with art. 40)
Ss. 271-274 applied (25.7.2003 for specified purposes and 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 272 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)

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Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)
Ss. 271-274 applied (with modifications) (28.1.2005) by The East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), art. 13, **Sch. 2**
Ss. 271-274 applied (with modifications) (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 11, 40, 64, **Sch. 11 para. 1** (with arts. 65, 66)
Ss. 271-274 applied (with modifications) (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), art. 49, **Sch. 10 para. 1** (with art. 51)
Ss. 271-274 applied (with modifications) (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), art. 26, **Sch. 7 para. 1(1)** (with art. 30)
Ss. 271-274 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), art. 45, **Sch. 7 para. 1** (with art. 47)
Ss. 271-274 applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), arts. 8, 9, 30, 48, **Sch. 10 para. 1** (with art. 50)
Ss. 271-274 applied (with modifications) (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), arts. 5, 7, 47, **Sch. 11 para. 1** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)
Ss. 271-274 applied (with modifications) (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 39, 40, 44, **Sch. 9 para. 1**, Sch. 10 para. 3(2), Sch. 14 para. 3(5) (with arts. 3(5), 15(3))
Ss. 271-274 applied (with modifications) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 8, 10, 32, 50, 51, Sch. 10 para. 1, **Sch. 11 para. 20(4)** (with art. 52)
Ss. 271-274 applied (with modifications) (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), arts. 7, 8, 44, **Sch. 8 para. 1** (with art. 40, Sch. 7 para. 12)
Ss. 271-274 applied (with modifications) (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 10, 31, 36, 40, **Sch. 11 para. 1**, Sch. 15 para. 2, (with art. 43)
Ss. 271-274 applied (with modifications) (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 46, **Sch. 9 para. 1(1)** (with arts. 34, 35(2))
Ss. 271-274 applied (with modifications) (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 46, **Sch. 10 para. 1(1)**

Marginal Citations
M161 1990 c. 9.

273 Notice for same purposes as ss. 271 and 272 but given by undertakers to developing authority.

(1) Subject to the provisions of this section, where land has been acquired or appropriated as mentioned in section 271(1), and—

(a) there is on, under or over the land any apparatus vested in or belonging to statutory undertakers; and

(b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,

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the undertakers may serve on the acquiring or appropriating authority a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

(2) No notice under this section shall be served later than 21 days after the beginning of the development of land which has been acquired or appropriated as mentioned in section 271(1).

(3) Where a notice is served under this section, the authority on whom it is served may, before the end of the period of 28 days from the date of service, serve on the statutory undertakers a counter-notice—

(b) specifying the grounds of their objection.

(4) If no counter-notice is served under subsection (3), the statutory undertakers shall, after the end of that period, have the rights claimed in their notice.

(5) If a counter-notice is served under subsection (3), the statutory undertakers who served the notice under this section may either withdraw it or may apply to the Secretary of State and the appropriate Minister for an order under this section conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.

(6) Where, by virtue of this section or of an order of Ministers under it, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the acquiring or appropriating authority for the works to be carried out by that authority, under the superintendence of the undertakers, instead of by the undertakers themselves.

(7) In subsection (1)(a), the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system.

(8) For the purposes of subsection (7), in this section—

(a) references (except in subsection (1)(a)) to statutory undertakers shall have effect as references to the operator of any such system; and

(b) references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.

Modifications etc. (not altering text)

C243 Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-273 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 8(1)-(3)**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C244 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1** (with art. 38)

Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002 (S.I. 2002/1064), art. 28, **Sch. 3 para. 1**

Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 para. 1-6**

Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**

Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**

Ss. 271-274 applied (with modifications) (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 41, **Sch. 12 para. 1** (with art. 40)

Ss. 271-274 applied (25.7.2003 for specified purposes and 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**

S. 273 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)

Ss. 271-274 applied (with modifications) (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 10, 35, 41, **Sch. 12 para. 1**, Sch. 16 para. 2

Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)

274 Orders under ss. 271 and 272.

(1) Where a Minister and the appropriate Minister propose to make an order under section 271(6) or 272(6), they shall prepare a draft of the order.

(2) Before making an order under subsection (5) or (6) of section 271, or under subsection (5) or (6) of section 272, the Ministers proposing to make the order shall give the statutory undertakers or, as the case may be, the operator of the telecommunications code system on whom notice was served under subsection (2) of section 271 or, as the case may be, under subsection (2) of section 272 an opportunity of objecting to the application for, or proposal to make, the order.

(3) If any such objection is made, before making the order the Ministers shall consider the objection and give those statutory undertakers or, as the case may be, that operator (and, in a case falling within subsection (5) of either of those sections, the local authority or statutory undertakers on whom the counter-notice was served) an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Secretary of State and the appropriate Minister.

(4) After complying with subsections (2) and (3) the Ministers may, if they think fit, make the order in accordance with the application or, as the case may be, in accordance with the draft order, either with or without modification.

(5) Where an order is made under section 271 or 272—

(a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order; and

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(b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(6) In this section references to the appropriate Minister shall in the case of an order under section 272 be taken as references to the Secretary of State for Trade and Industry.

Modifications etc. (not altering text)

C245 Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
S. 274 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
S. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**
Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C246 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1** (with art. 38)
Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002 (S.I. 2002/1064), art. 28, **Sch. 3 para. 1**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 para. 1-6**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**
Ss. 271-274 applied (with modifications) (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 41, **Sch. 12 para. 1** (with art. 40)
Ss. 271-274 applied (25.7.2003 for specified purposes and 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 274 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)
Ss. 271-274 applied (with modifications) (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 10, 35, 41, **Sch. 12 para. 1**, Sch. 16 para. 2
Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)

C247 S. 274(3) modified (18.12.1996) by 1996 c. 61, **s. 8(5)(a)**

C248 S. 274(5) modified (18.12.1996) by 1996 c. 61, **s. 8(5)(b)**

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Extension or modification of statutory undertakers' functions

275 Extension or modification of functions of statutory undertakers.

(1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

(a) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local authority or Minister may be authorised under Part IX of this Act or under Chapter V of Part I of the [M162]Planning (Listed Buildings and Conservation Areas) Act 1990 to acquire land or in connection with which any such person may compulsorily acquire land under any other enactment; or

(b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in subsection (2).

(2) The said acts and events are—

(a) the acquisition under Part IX of this Act or that Chapter or compulsorily under any other enactment of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question;

(b) the extinguishment of a right or the imposition of any requirement by virtue of section 271 or 272;

(c) a decision on an application made by the statutory undertakers for planning permission to develop any such land as is mentioned in paragraph (a);

(d) the revocation or modification of planning permission granted on any such application;

(e) the making of an order under section 102 or paragraph 1 of Schedule 9 in relation to any such land.

(3) The powers conferred by this section shall also be exercisable where, on a representation made by a local authority or Minister, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified in order to secure the provision of new services, or the extension of existing services, for any purpose in connection with which the local authority or Minister making the representation may be authorised under Part IX of this Act or under Chapter V of Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 to acquire land or in connection with which the local authority or Minister may compulsorily acquire land under any other enactment.

(4) Where the powers conferred by this section are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order—

(a) to secure the services in question, as mentioned in subsection (1)(a) or (3), or

(b) to secure the adjustment in question, as mentioned in subsection (1)(b),

as the case may be.

(5) Without prejudice to the generality of subsection (4), an order under this section may make provision—

(a) for empowering the statutory undertakers—

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(i) to acquire (whether compulsorily or by agreement) any land specified in the order, and

(ii) to erect or construct any buildings or works so specified;

(b) for applying in relation to the acquisition of any such land or the construction of any such works enactments relating to the acquisition of land and the construction of works;

(c) where it has been represented that the making of the order is expedient for the purposes mentioned in subsection (1)(a) or (3), for giving effect to such financial arrangements between the local authority or Minister and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order;

(d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

Modifications etc. (not altering text)

C249 S. 275 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**.

Marginal Citations

M162 1990 c.9.

276 Procedure in relation to orders under s. 275.

(1) As soon as possible after making such a representation as is mentioned in subsection (1) or subsection (3) of section 275 the statutory undertakers, the local authority or Minister making the representation shall—

(a) publish notice of the representation; and

(b) if the Secretary of State and the appropriate Minister so direct, serve a similar notice on such persons, or persons of such classes, as they may direct.

(2) A notice under subsection (1)—

(a) shall be published in such form and manner as the Secretary of State and the appropriate Minister may direct;

(b) shall give such particulars as they may direct of the matters to which the representation relates; and

(c) shall specify the time within which, and the manner in which, objections to the making of an order on the representation may be made.

(3) Orders under section 275 shall be subject to special parliamentary procedure.

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Modifications etc. (not altering text)

C250 S. 276 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

277 Relief of statutory undertakers from obligations rendered impracticable.

(1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.

(2) Subsection (1) applies to the following acts and events—

(a) the compulsory acquisition under Part IX of this Act or under Chapter V of Part I of the [M163]Planning (Listed Buildings and Conservation Areas) Act 1990 or under any other enactment of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers; and

(b) the acts and events specified in section 275(2)(b) to (e).

(3) The appropriate Minister may direct statutory undertakers who have made a representation to him under subsection (1) to publicise it in either or both of the following ways—

(a) by publishing in such form and manner as he may direct a notice, giving such particulars as he may direct of the matters to which the representation relates and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made;

(b) by serving such a notice on such persons, or persons of such classes, as he may direct.

(4) The statutory undertakers shall comply with any direction given to them under subsection (3) as soon as possible after the making of the representation under subsection (1).

(5) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.

(6) Immediately after an order is made under this section by the appropriate Minister, he shall—

(a) publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours; and

(b) serve a similar notice—

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(i) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this subsection, specifying an address for service; and

(ii) on such other persons (if any) as the appropriate Minister thinks fit.

(7) Subject to subsection (8), and to the provisions of Part XII, an order under this section shall become operative on the date on which the notice required by subsection (6) is first published.

(8) Where in accordance with subsection (5) the order is subject to special parliamentary procedure, subsection (7) shall not apply.

Modifications etc. (not altering text)

C251 Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282, modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282, modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

Marginal Citations

M163 1990 c. 9.

278 Objections to orders under ss. 275 and 277.

(1) For the purposes of sections 275 to 277, an objection to the making of an order shall not be treated as duly made unless—

(a) the objection is made within the time and in the manner specified in the notice required by section 276 or, as the case may be, section 277; and

(b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(2) Where an objection to the making of such an order is duly made in accordance with subsection (1) and is not withdrawn, the following provisions of this section shall have effect in relation to it.

(3) Unless the appropriate Minister decides without regard to the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, before he makes a final decision he—

(a) shall consider the grounds of the objection as set out in the statement; and

(b) may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

(4) In so far as the appropriate Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.

(5) If—

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(a) after considering the grounds of the objection as so set out, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates; or

(b) in a case where a further statement has been required, it is not submitted within the specified period,

the appropriate Minister may make a final decision without further investigation as to those matters.

(6) Subject to subsections (4) and (5), before making a final decision the appropriate Minister shall give the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister.

(7) If the objector takes that opportunity, the appropriate Minister shall give an opportunity of appearing and being heard on the same occasion to the statutory undertakers, local authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to him to be expedient to give such an opportunity.

(8) Notwithstanding anything in the previous provisions of this section, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held.

(9) Where the appropriate Minister determines to cause such an inquiry to be held, any of the requirements of subsections (3) to (7) to which effect has not been given at the time of that determination shall be dispensed with.

(10) In this section any reference to making a final decision in relation to an order is a reference to deciding whether to make the order or what modification (if any) ought to be made.

(11) In the application of this section to an order under section 275, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.

Modifications etc. (not altering text)

C252 Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

Compensation

279 Right to compensation in respect of certain decisions and orders.

(1) Statutory undertakers shall, subject to the following provisions of this Part, be entitled to compensation from the local planning authority—

(a) in respect of any decision made in accordance with section 266 by which planning permission to develop operational land of those undertakers is refused or is granted subject to conditions where—

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(i) planning permission for that development would have been granted by a development order but for a direction given under such an order that planning permission so granted should not apply to the development; and

(ii) it is not development which has received specific parliamentary approval (within the meaning of section 264(6));

(b) in respect of any order under section 97, as modified by section 269, by which planning permission which was granted on the application of those undertakers for the development of any such land is revoked or modified.

(2) Where by virtue of section 271—

(a) any right vested in or belonging to statutory undertakers is extinguished; or

(b) any requirement is imposed on statutory undertakers,

those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

(3) Where by virtue of section 272—

(a) any right vested in or belonging to an operator of a telecommunications code system is extinguished; or

(b) any requirement is imposed on such an operator,

the operator shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

(4) Where—

(a) works are carried out for the removal or re-siting of statutory undertakers' apparatus; and

(b) the undertakers have the right to carry out those works by virtue of section 273 or an order of Ministers under that section,

the undertakers shall be entitled to compensation from the acquiring or appropriating authority.

(5) Subsection (1) shall not apply in respect of a decision or order if—

(a) it relates to land acquired by the statutory undertakers after 7th January 1947; and

(b) the Secretary of State and the appropriate Minister include in the decision or order a direction that subsection (1) shall not apply to it.

(6) The Secretary of State and the appropriate Minister may only give a direction under subsection (5) if they are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of the decision or order in question.

(7) For the purposes of this section the conditions referred to in sections 91 and 92 shall be disregarded.

Modifications etc. (not altering text)

C253 S. 279(2)-(4) applied (with modifications) (14.3.2002) by S.I. 2002/412, art. 35, **Sch. 5 para. 1** (with art. 38)

C254 S. 279(2)-(4) modified (18.12.1996) by 1996 c. 61, **s. 8(5)(b)**
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**

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Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
C255 Ss. 279(2)-(4), 280, 282 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 279(2)-(4), 280, 282 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

280 Measure of compensation to statutory undertakers, etc.

(1) Where statutory undertakers are entitled to compensation—

(a) as mentioned in subsection (1), (2) or (4) of section 279;

(b) under the provisions of section 115 in respect of an order made under section 102 or paragraph 1, 3, 5 or 6 of Schedule 9, as modified by section 270; or

(c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate,

or the operator of a telecommunications code system is entitled to compensation as mentioned in section 279(3), the amount of the compensation shall (subject to section 281) be an amount calculated in accordance with this section.

(2) Subject to subsections (4) to (6), that amount shall be the aggregate of—

(a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking or, as the case may be, the running of the telecommunications code system rendered necessary by the proceeding giving rise to compensation (a "business adjustment");

(b) the appropriate amount for loss of profits; and

(c) where the compensation is under section 279(2) or (3), and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers or, as the case may be, the operator in complying with the requirement, reduced by the value after removal of the apparatus removed.

(3) In subsection (2) "the appropriate amount for loss of profits" means—

(a) where a business adjustment is made, the aggregate of—

(i) the estimated amount of any decrease in net receipts from the carrying on of the undertaking or, as the case may be, the running of the telecommunications code system pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation; and

(ii) such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking or, as the case may be, the running of the telecommunications code system in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;

(b) where no business adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking or, as the case may be, the running of the

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telecommunications code system which is directly attributable to the proceeding giving rise to compensation.

(4) Where a business adjustment is made, the aggregate amount mentioned in subsection (2) shall be reduced by such amount (if any) as appears to the Lands Tribunal to be appropriate to offset—

(a) the estimated value of any property (whether moveable or immoveable) belonging to the statutory undertakers or the operator and used for the carrying on of their undertaking or, as the case may be, the running of the telecommunications code system which in consequence of the adjustment ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of that subsection; and

(b) the estimated amount of any increase in net receipts from the carrying on of the undertaking or the running of the telecommunications code system in the period after the adjustment has been completed, in so far as that amount has not been taken into account in determining the amount mentioned in paragraph (b) of that subsection and is directly attributable to the adjustment.

(5) Where a business adjustment is made the aggregate amount mentioned in subsection (2) shall be further reduced by any amount which appears to the Lands Tribunal to be appropriate, having regard to any increase in the capital value of immoveable property belonging to the statutory undertakers or the operator which is directly attributable to the adjustment, allowance being made for any reduction made under subsection (4)(b).

(6) Where—

(a) the compensation is under section 279(4); and

(b) the acquiring or appropriating authority carry out the works,

then, in addition to any reduction falling to be made under subsection (4) or (5), the aggregate amount mentioned in subsection (2) shall be reduced by the actual cost to the authority of carrying out the works.

(7) References in this section to a decrease in net receipts shall be construed as references—

(a) to the amount by which a balance of receipts over expenditure is decreased;

(b) to the amount by which a balance of expenditure over receipts is increased; or

(c) where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, to the aggregate of the two balances;

and references to an increase in net receipts shall be construed accordingly.

(8) In this section—

"proceeding giving rise to compensation" means—

(a) except in relation to compensation under section 279(4), the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken;

(b) in relation to compensation under section 279(4), the circumstances making it necessary for the apparatus in question to be removed or re-sited;

"the appropriate Minister's certificate" means such a certificate as is mentioned in section 16 of or paragraph 3 of Schedule 3 to the [M164]Acquisition of Land Act 1981.

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Modifications etc. (not altering text)

C256 S. 280 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 12(6)**; S.I. 1993/2762, **art. 3**
S. 280 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 14(8)**; S.I. 1993/2762, **art. 3**
S. 280 applied (1.10.1998) by 1975 c. 70, Sch. 4 Pt. III para. 11(7), **13(9)** (as inserted (1.10.1998) by 1998 c. 38, s. 127, **Sch. 13 para. 3** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**)
S. 280 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, s. 23, Sch. 6 paras. 9(6), **11(8)**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, 2(2)(c)
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 279(2)-(4), 280, 282 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 279(2)-(4), 280, 282 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

C257 S. 280 applied (with modifications) (14.3.2002) by S.I. 2002/412, art. 35, **Sch. 5 para. 1** (with art. 38)

C258 S. 280(6) modified (18.12.1996) by 1996 c. 61, **s. 8(5)**

Marginal Citations

M164 1981 c. 67.

281 Exclusion of s. 280 at option of statutory undertakers.

(1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as is mentioned in section 280(1)(c), the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 5 of the [M165]Land Compensation Act 1961) which would be applicable apart from section 280.

(2) If the statutory undertakers so elect the compensation shall be ascertained accordingly.

(3) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.

(4) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

Marginal Citations

M165 1961 c. 33.

282 Procedure for assessing compensation.

(1) Where the amount of any such compensation as is mentioned in subsection (1) of section 280 falls to be ascertained in accordance with the provisions of that section, the compensation shall, in default of agreement, be assessed by the Lands Tribunal, if apart from this section it would not fall to be so assessed.

(2) For the purposes of any proceedings arising before the Lands Tribunal in respect of compensation falling to be ascertained as mentioned in subsection (1), the provisions

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of sections 2 and 4 of the [M166]Land Compensation Act 1961 shall apply as they apply to proceedings on a question referred to the Tribunal under section 1 of that Act, but with the substitution in section 4 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

Modifications etc. (not altering text)

C259 S. 282 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 12(6)**; S.I. 1993/2762, **art. 3**
S. 282 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 14(8)**; S.I. 1993/2762, **art. 3**
S. 282 applied (1.10.1998) by 1975 c. 70, Sch. 4 Pt. III para. 11(7), **13(9)** (as inserted (1.10.1998) by 1998 c. 38, s. 127, **Sch. 13 para. 3** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**)
S. 282 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, s. 23, Sch. 6 paras. 9(9), **11(8)**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(2)(c)**
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 279(2)-(4), 280, 282 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 279(2)-(4), 280, 282 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

C260 S. 282 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 12, 325, **Sch. 4 para. 7(2)**; S.I. 2008/3068, **art. 2(g)** (with savings and transitional provisions in arts. 6-13)

C261 S. 282 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 12, 325, **Sch. 4 para. 14(2)**; S.I. 2008/3068, **art. 2(g)** (with savings and transitional provisions in arts. 6-13)

Marginal Citations

M166 1961 c.33.

Advertisements

283 Display of advertisements on operational land.

Sections 266 to 270 and 279(1), (5) and (6) do not apply in relation to the display of advertisements on operational land of statutory undertakers.

PART XII

VALIDITY

284 Validity of development plans and certain orders, decisions and directions.

(1) Except in so far as may be provided by this Part, the validity of—

(a) a structure plan, local plan **[**[F378]minerals local plan, waste local plan**]** or unitary development plan or any alteration, [F379]. . . or replacement of any such plan, whether before or after the plan, alteration, [F379]. . . or replacement has been approved or adopted; or

(b) a simplified planning zone scheme or an alteration of such a scheme, whether before or after the adoption or approval of the scheme or alteration; or

(c) an order under any provision of Part X except section 251(1), whether before or after the order has been made; or

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(d) an order under section 277, whether before or after the order has been made; or

(e) any such order as is mentioned in subsection (2), whether before or after it has been confirmed; or

(f) any such action on the part of the Secretary of State as is mentioned in subsection (3),

shall not be questioned in any legal proceedings whatsoever.

(2) The orders referred to in subsection (1)(e) are—

(a) any order under section 97 or under the provisions of that section as applied by or under any other provision of this Act;

(b) any order under section 102;

(c) any tree preservation order;

(d) any order made in pursuance of section 221(5);

(e) any order under paragraph 1, 3, 5 or 6 of Schedule 9.

(3) The action referred to in subsection (1)(f) is action on the part of the Secretary of State of any of the following descriptions—

(a) any decision on an application for planning permission referred to him under section 77;

(b) any decision on an appeal under section 78;

F380(c) . . . . . .

(d) any decision to confirm a completion notice under section 95;

(e) any decision to grant planning permission under paragraph (a) of section 177(1) or to discharge a condition or limitation under paragraph (b) of that section;

(f) any decision to confirm or not to confirm a purchase notice including—

(i) any decision not to confirm such a notice in respect of part of the land to which it relates, or

(ii) any decision to grant any permission, or give any direction, instead of confirming such a notice, either wholly or in part;

(g) any decision F381. . . on an appeal under section 195(1);

(h) any decision relating—

(i) to an application for consent under a tree preservation order,

(ii) to an application for consent under any regulations made in accordance with section 220 or 221, or

(iii) to any certificate or direction under any such order or regulations,

whether it is a decision on appeal or a decision on an application referred to the Secretary of State for determination in the first instance.

(4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such action as is mentioned in subsection (3).

Textual Amendments

F378 Words in s. 284(1)(a) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. II para. 30(a)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

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F379 Word in s. 284(1)(a) repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, 84(6), Sch. 4 Pt. II para. 30(b), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F380 S. 284(3)(c) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 24, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F381 Words in s. 284(3)(g) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 41, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

Modifications etc. (not altering text)

C262 S. 284 extended (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, **Sch. 2 para. 9** (3) (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

285 Validity of enforcement notices and similar notices.

(1) F382. . . The validity of an enforcement notice shall not, except by way of an appeal under Part VII, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

(2) Subsection (1) shall not apply to proceedings brought under section 179 F382. . . against a person who—

(a) has held an interest in the land since before the enforcement notice was issued under that Part;

(b) did not have a copy of the enforcement notice served on him under that Part; and

(c) satisfies the court—

(i) that he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and

(ii) that his interests have been substantially prejudiced by the failure to serve him with a copy of it.

(3) Subject to subsection (4), the validity of a notice which has been served under section 215 on the owner and occupier of the land shall not, except by way of an appeal under Chapter II of Part VIII, be questioned in any proceedings whatsoever on either of the grounds specified in section 217(1)(a) or (b).

(4) Subsection (3) shall not prevent the validity of such a notice being questioned on either of those grounds in proceedings brought under section 216 against a person on whom the notice was not served, but who has held an interest in the land since before the notice was served on the owner and occupier of the land, if he did not appeal against the notice under that Chapter.

F383(5) . . . . . .

F383(6) . . . . . .

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Textual Amendments

F382 Words in s. 285(1)(2) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 42(a)(b), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

F383 S. 285(5)(6) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 42(c), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

Modifications etc. (not altering text)

C263 S. 285: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C264 S. 285 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 22(1), **Sch. 4 Pt. 4**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C265 S. 285(1)(2) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

C266 S. 285(2) modified by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, **Sch. 3 para. 10(1)**; amended by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, **Sch. 3 para. 10(5)**

286 Challenges to validity on ground of authority's powers.

(1) The validity of any permission, determination or certificate granted, made or issued or purporting to have been granted, made or issued by a local planning authority in respect of—

(a) an application for planning permission;

F384(b) . . . . . .

(c) an application for **[**F385F386 a certificate under section 191 or 192**]**;

(d) an application for consent to the display of advertisements under section 220; or

(e) a determination under section 302 or Schedule 15,

shall not be called in question in any legal proceedings, or in any proceedings under this Act which are not legal proceedings, on the ground that the permission, determination or certificate should have been granted, made or given by some other local planning authority.

(2) The validity of any order under section 97 revoking or modifying planning permission, any order under section 102 or paragraph 1 of Schedule 9 requiring discontinuance of use, or imposing conditions on continuance of use, or requiring the alteration or removal of buildings or works, or any enforcement notice under section 172 or stop notice under section 183 **[**or a breach of condition notice under section 187A**]**, being an order or notice purporting to have been made, issued or served by a local planning authority, shall not be called in question in any such proceedings on the ground—

(a) in the case of an order or notice purporting to have been made, issued or served by a district planning authority, that they failed to comply with paragraph 11(2) of Schedule 1;

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(b) in the case of an order or notice purporting to have been made, issued or served by a county planning authority, that they had no power to make, issue or serve it because it did not relate to a county matter within the meaning of that Schedule.

Textual Amendments

F384 S. 286(1)(b) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 43(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F385 Words in s. 286(2) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 43(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F386 Words in s. 286(1)(c) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 43(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C267 Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

287 Proceedings for questioning validity of development plans and certain schemes and orders.

(1) If any person aggrieved by a unitary development plan or a local plan **[**F387minerals local plan or waste local plan**]** or by any alteration, F388. . .or replacement of any such plan or structure plan, desires to question the validity of the plan or, as the case may be, the alteration, F388. . . or replacement on the ground—

(a) that it is not within the powers conferred by Part II, or

(b) that any requirement of that Part or of any regulations made under it has not been complied with in relation to the approval or adoption of the plan or, as the case may be, its alteration, F388. . . or replacement,

he may make an application to the High Court under this section.

(2) On any application under this section the High Court—

(a) may by interim order wholly or in part suspend the operation of the plan, or, as the case may be, the alteration, F388. . . or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(b) if satisfied that the plan or, as the case may be, the alteration, F388. . . or replacement is wholly or to any extent outside the powers conferred by Part II, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of that Part or of any regulations made under it, may wholly or in part quash the plan or, as the case may be, the alteration, F388. . . or replacement either generally or in so far as it affects any property of the applicant.

(3) Subsections (1) and (2) shall apply, subject to any necessary modifications, to a simplified planning zone scheme or an alteration of such a scheme or to an order under section 247, 248, 249, 251, 257, 258 or 277 as they apply to any plan or any alteration, F388. . . or replacement there mentioned.

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(4) An application under this section must be made within six weeks from the relevant date.

(5) For the purposes of subsection (4) the relevant date is—

(a) in the case of an application in respect of such a plan as is mentioned in subsection (1), the date of the publication of the first notice of the approval or adoption of the plan, alteration, [F388]. . . or replacement required by regulations under section 26 or, as the case may be, section 53,

(b) in the case of an application by virtue of subsection (3) in respect of a simplified planning zone scheme or an alteration of such a scheme, the date of the publication of the first notice of the approval or adoption of the scheme or alteration required by regulations under paragraph 13 of Schedule 7,

(c) in the case of an application by virtue of subsection (3) in respect of an order under section 247, 248, 249, or 251, the date on which the notice required by section 252(10) is first published,

(d) in the case of an application by virtue of subsection (3) in respect of an order under section 257 or 258, the date on which the notice required by paragraph 7 of Schedule 14 is first published in accordance with that paragraph,

(e) in the case of an application by virtue of subsection (3) in respect of an order under section 277, the date on which the notice required by subsection (6) of that section is first published;

but subject, in the case of those orders mentioned in paragraphs (c) and (e) to which section 292 applies, to that section.

(6) In their application to simplified planning zone schemes and their alteration, subsections (1) and (2) shall have effect as if they referred to Part III instead of Part II.

Textual Amendments

F387 Words in s. 287(1) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. II**, para. 31(b) (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

F388 Word in s. 287(1)(2)(3)(5) repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(6), Sch. 4 Pt. II, para. 31(b), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, art. 4, **Sch.3**

Modifications etc. (not altering text)

C268 Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

S. 287 applied (with modifications) (1.4.1996) by 1994 c. 19, **s. 66**)7), Sch. 17 Pt. II para. 16(2)(5) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

288 Proceedings for questioning the validity of other orders, decisions and directions.

(1) If any person—

(a) is aggrieved by any order to which this section applies and wishes to question the validity of that order on the grounds—

(i) that the order is not within the powers of this Act, or

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(ii) that any of the relevant requirements have not been complied with in relation to that order; or

(b) is aggrieved by any action on the part of the Secretary of State to which this section applies and wishes to question the validity of that action on the grounds—

(i) that the action is not within the powers of this Act, or

(ii) that any of the relevant requirements have not been complied with in relation to that action,

he may make an application to the High Court under this section.

(2) Without prejudice to subsection (1), if the authority directly concerned with any order to which this section applies, or with any action on the part of the Secretary of State to which this section applies, wish to question the validity of that order or action on any of the grounds mentioned in subsection (1), the authority may make an application to the High Court under this section.

(3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 97 which takes effect under section 99 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.

(4) This section applies to any such order as is mentioned in subsection (2) of section 284 and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of that section.

(5) On any application under this section the High Court—

(a) may, subject to subsection (6), by interim order suspend the operation of the order or action, the validity of which is questioned by the application, until the final determination of the proceedings;

(b) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it, may quash that order or action.

(6) Paragraph (a) of subsection (5) shall not apply to applications questioning the validity of tree preservation orders.

(7) In relation to a tree preservation order, or to an order made in pursuance of section 221(5), the powers conferred on the High Court by subsection (5) shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.

(8) References in this section to the confirmation of an order include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.

(9) In this section "the relevant requirements", in relation to any order or action to which this section applies, means any requirements of this Act or of the [M167]Tribunals and Inquiries Act [F389]1992], or of any order, regulations or rules made under this Act or under that Act which are applicable to that order or action.

(10) Any reference in this section to the authority directly concerned with any order or action to which this section applies—

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(a) in relation to any such decision as is mentioned in section 284(3)(f), is a reference to the council on whom the notice in question was served and, in a case where the Secretary of State has modified such a notice, wholly or in part, by substituting another local authority or statutory undertakers for that council, includes a reference to that local authority or those statutory undertakers;

(b) in any other case, is a reference to the authority who made the order in question or made the decision or served the notice to which the proceedings in question relate, or who referred the matter to the Secretary of State, or, where the order or notice in question was made or served by him, the authority named in the order or notice.

Textual Amendments

F389 Word in s. 288(9) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 25**

Modifications etc. (not altering text)

C269 S. 288 extended (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, **Sch. 2 para. 9** (3) (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 288 modified (2.10.1995) by S.I. 1995/2558, **reg. 13**

C270 S. 288 applied (28.9.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 58(3)**, 121 (with s. 111); S.I. 2004/2202, **art. 3** (subject to transitional provisions and savings in art. 4)

C271 S. 288 modified (W.) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), **reg. 54**

Marginal Citations

M167 1992 c. 53.

289 Appeals to High Court relating to enforcement notices and notices under s. 207.

(1) Where the Secretary of State gives a decision in proceedings on an appeal under Part VII against an enforcement notice the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

(2) Where the Secretary of State gives a decision in proceedings on an appeal under Part VIII against a notice under section 207, the appellant or the local planning authority or any person (other than the appellant) on whom the notice was served may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

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(3) At any stage of the proceedings on any such appeal as is mentioned in subsection (1), the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.

(4) A decision of the High Court on a case stated by virtue of subsection (3) shall be deemed to be a judgment of the court within the meaning of section 16 of the [M168]Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

[[F390](4A) In proceedings brought by virtue of this section in respect of an enforcement notice, the High Court or, as the case may be, the Court of Appeal may, on such terms if any as the Court thinks fit (which may include terms requiring the local planning authority to give an undertaking as to damages or any other matter), order that the notice shall have effect, or have effect to such extent as may be specified in the order, pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.

[F390](4B) Where proceedings are brought by virtue of this section in respect of any notice under section 207, the notice shall be of no effect pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.**]**

(5) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—

(a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and

(b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

[[F391](5A) Rules of court may also provide for the High Court or, as the case may be, the Court of Appeal to give directions as to the exercise, until such proceedings in respect of an enforcement notice are finally concluded and any re-hearing and determination by the Secretary of State has taken place, of any other powers in respect of the matters to which such a notice relates.

(6) No proceedings in the High Court shall be brought by virtue of this section except with the leave of that Court and no appeal to the Court of Appeal shall be so brought except with the leave of the Court of Appeal or of the High Court.**]**

(7) In this section "decision" includes a direction or order, and references to the giving of a decision shall be construed accordingly.

Textual Amendments

F390 S. 289(4A)(4B) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(4)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 4)

F391 S. 289(5A)(6) substituted for s. 289(6) (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(5)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 4)

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Modifications etc. (not altering text)

C272 S. 289: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C273 S. 289 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 22(1), **Sch. 4 Pt. 4**
S. 289 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

C274 S. 289 applied (28.9.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 58(4)**, 121 (with s. 111); S.I. 2004/2202, **art. 3** (subject to transitional provisions and savings in art. 4)

Marginal Citations

M168 1981 c. 54.

[F392]290 . . . . . .

Textual Amendments

F392 S. 290 repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 44, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

291 Special provisions as to decisions relating to statutory undertakers.

In relation to any action which—

(a) apart from the provisions of Part XI would fall to be taken by the Secretary of State and, if so taken, would be action falling within section 284(3); but

(b) by virtue of that Part, is required to be taken by the Secretary of State and the appropriate Minister,

the provisions of sections 284 and 288 shall have effect (subject to section 292) as if any reference in those provisions to the Secretary of State were a reference to the Secretary of State and the appropriate Minister.

292 Special provisions as to orders subject to special parliamentary procedure.

(1) Where an order under section 247, 248, 249 or 277 is subject to special parliamentary procedure, then—

(a) if the order is confirmed by Act of Parliament under section 6 of the [M169]Statutory Orders (Special Procedure) Act 1945, sections 284 and 287 shall not apply to the order;

(b) in any other case, section 287 shall have effect in relation to the order as if, in subsection (4) of that section, for the reference to the date there mentioned there were substituted a reference to the date on which the order becomes operative under section 6 of that Act ("the operative date").

(2) Where by virtue of Part XI any such action as is mentioned in section 291 is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—

(a) if the order in which the action is embodied is confirmed by Act of Parliament under section 6 of that Act, sections 284 and 288 shall not apply;

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(b) in any other case, section 288 shall apply with the substitution for any reference to the date on which the action is taken of a reference to the operative date.

Marginal Citations

M169 1945 c. 18.

PART XIII

APPLICATION OF ACT TO CROWN LAND

Modifications etc. (not altering text)

C275 Pt. XIII (ss. 293-302) modified (17.7.1992) by S.I. 1992/1732, **art. 2(1)(2)**
Pt. XIII (ss. 293-302) extended (17.7.1992) by S.I. 1992/1732, **art. 2(1)(a)**

Preliminary

VALID FROM 06/08/2004

[F393 292A Application to the Crown

(1) This Act binds the Crown.

(2) But subsection (1) is subject to express provision made by this Part.]

Textual Amendments

F393 S. 292A inserted (6.8.2004 for certain purposes and otherwise 7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 79(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2(a)**

293 Preliminary definitions.

(1) In this Part—

"Crown land" means land in which there is a Crown interest or a Duchy interest;

"Crown interest" means an interest belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

"Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall;

"private interest" means an interest which is neither a Crown interest nor a Duchy interest.

(2) For the purposes of this Part "the appropriate authority", in relation to any land—

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(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;

(b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

(c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;

(d) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.

(3) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

(4) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of section 296(1)(c), so far as applicable to Parts III, VII and VIII, and sections 294(2) to (7), 295, 299 and 300 as having an interest in land and references in section 299 to the disposal of an interest in Crown land, and in that section and sections 294(2) and 300 to a private interest in such land, shall be construed accordingly.

Modifications etc. (not altering text)

C276 S. 293(2)(b) modified (17.7.1992) by S.I. 1992/1732, **art. 2(4)(a)**

C277 S. 293(3) applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 221(5)**, 223(2) (with ss. 82(3), 186(1), 188, 222(1), Sch. 14 para. 6) and (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 222(8)(9)**, 225(2) (with ss. 16(6), 178, 179, 222(3), 224(1), Sch. 22 para. 1)
S. 293(3) applied (1.12.2000) by 1991 c. 56, **s. 221(8)** (as substituted (1.12.2000) by 1995 c. 25, s. 116, **Sch. 21 Pt. I para. 1(1)** (with ss. 7(6), 115, 117)); S.I. 2000/3033, **art. 2**
S. 293(3) applied (1.7.1997 for certain purposes and otherwise prosp.) by 1991 c. 57, **s. 222(10)** (as substituted by 1995 c. 25, ss. 116, 125(3), **Sch. 21 Pt. I para. 2(4)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2**)

C278 S. 293(3) applied (1.10.2004 for E. and 11.11.2004 for W.) by Reservoirs Act 1975 (c. 23), s. 27A(8) (as inserted by 2003 c. 37, **s. 80**; S.I. 2004/2528, **art. 2(p)**; S.I. 2004/2916, **art. 2(c)**)

Application of Act as respects Crown land

VALID FROM 06/08/2004

[F394293A Urgent Crown development: application

(1) This section applies to a development if the appropriate authority certifies—

(a) that the development is of national importance, and

(b) that it is necessary that the development is carried out as a matter of urgency.

(2) The appropriate authority may, instead of making an application for planning permission to the local planning authority in accordance with Part 3, make an application for planning permission to the Secretary of State under this section.

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(3) If the appropriate authority proposes to make the application to the Secretary of State it must publish in one or more newspapers circulating in the locality of the proposed development a notice—

(a) describing the proposed development, and

(b) stating that the authority proposes to make the application to the Secretary of State.

(4) For the purposes of an application under this section the appropriate authority must provide to the Secretary of State—

(a) any matter required to be provided by an applicant for planning permission in pursuance of regulations made under section 71A;

(b) a statement of the authority's grounds for making the application.

(5) If the appropriate authority makes an application under this section subsections (6) to (9) below apply.

(6) The Secretary of State may require the authority to provide him with such further information as he thinks necessary to enable him to determine the application.

(7) As soon as practicable after he is provided with any document or other matter in pursuance of subsection (4) or (6) the Secretary of State must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.

(8) The Secretary of State must in accordance with such requirements as are contained in a development order publish notice of the application and of the fact that such documents and other material are available for inspection.

(9) The Secretary of State must consult—

(a) the local planning authority for the area to which the proposed development relates, and

(b) such other persons as are specified or described in a development order,

about the application.

(10) Subsection (7) does not apply to the extent that the document or other matter is subject to a direction under section 321(3)(matters related to national security).

(11) Subsections (4) to (7) of section 77 apply to an application under this section as they apply to an application in respect of which a direction under section 77 has effect.**]**

Textual Amendments

F394 S. 293A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 82**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

294 Control of development on Crown land: special enforcement notices.

(1) No enforcement notice shall be issued under section 172 in respect of development carried out by or on behalf of the Crown after 1st July 1948 on land which was Crown land at the time when the development was carried out.

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(2) The following provisions of this section apply to development of Crown land carried out otherwise than by or on behalf of the Crown at a time when no person is entitled to occupy it by virtue of a private interest.

(3) Where—

(a) it appears to a local planning authority that development to which this subsection applies has taken place in their area, and

(b) they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations,

they may issue a notice under this section (a "special enforcement notice").

(4) No special enforcement notice shall be issued except with the consent of the appropriate authority.

(5) A special enforcement notice shall specify—

(a) the matters alleged to constitute development to which this section applies; and

(b) the steps which the authority issuing the notice require to be taken for restoring the land to its condition before the development took place or for discontinuing any use of the land which has been instituted by the development.

(6) A special enforcement notice shall also specify—

(a) the date on which it is to take effect ("the specified date"), and

(b) the period within which any such steps as are mentioned in subsection (5)(b) are to be taken.

(7) A special enforcement notice may specify different periods for the taking of different steps.

295 Supplementary provisions as to special enforcement notices.

(1) Not later than 28 days after the date of the issue of a special enforcement notice and not later than 28 days before the specified date, the local planning authority who issued it shall serve a copy of it—

(a) on the person who carried out the development alleged in the notice;

(b) on any person who is occupying the land when the notice is issued; and

(c) on the appropriate authority.

(2) The local planning authority need not serve a copy of the notice on the person mentioned in subsection (1)(a) if they are unable after reasonable enquiry to identify or trace him.

(3) Any such person as mentioned in subsection (1)(a) or (b) may appeal against the notice to the Secretary of State on the ground that the matters alleged in the notice—

(a) have not taken place, or

(b) do not constitute development to which section 294 applies.

(4) A person may appeal against a special enforcement notice under subsection (3) whether or not he was served with a copy of it.

(5) The provisions contained in or having effect under sections 174(3) to (5), 175(1) to (4) and 176(1) to (4) shall apply to special enforcement notices issued by local

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planning authorities and to appeals against them under subsection (3) as they apply to enforcement notices and to appeals under section 174.

(6) The Secretary of State may by regulations apply to special enforcement notices and to appeals under subsection (3) such other provisions of this Act (with such modifications as he thinks fit) as he thinks necessary or expedient.

296 Exercise of powers in relation to Crown land.

(1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—

(a) a plan approved, adopted or made under Part II of this Act or Part II of the 1971 Act may include proposals relating to the use of Crown land;

(b) any power to acquire land compulsorily under Part IX may be exercised in relation to any interest in Crown land which is for the time being held otherwise than by or on behalf of the Crown;

(c) any restrictions or powers imposed or conferred by Part III, VII **[**F395except sections 196A and 196B**]**or VIII, by the provisions of Part VI relating to purchase notices, or by any of the provisions of sections 266 to 270, shall apply and be exercisable in relation to Crown land, to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown.

(2) Except with the consent of the appropriate authority—

[F396(aa) in relation to land which for the time being is Crown land—

(i) a planning obligation shall not be enforced by injunction; and

(ii) the power to enter land conferred by section 106(6) shall not be exercised;**]**

(a) no order or notice shall be made, issued or served under any of the provisions of section 102, 103, **[**F397171C, 172, 173A, 183, 187A, 187B**]**, 198, 199 or 215 or Schedule 9 or under any of those provisions as applied by any order or regulations made under Part VIII, in relation to land which for the time being is Crown land;

(b) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part IX.

(3) No purchase notice shall be served in relation to any interest in Crown land unless—

(a) an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on equivalent terms, and

(b) that offer has been refused by the appropriate authority.

(4) In subsection (3) "equivalent terms" means that the price payable for the interest shall be equal to (and shall, in default of agreement, be determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.

(5) The rights conferred by the provisions of Chapter II of Part VI shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

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Textual Amendments

F395 Words in s. 296(1)(c) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 45(1)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1**

F396 S. 296(2)(aa) inserted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(2)** (with s. 84(5)); S.I. 1991/2272, **art. 3**

F397 Words "171C, 172, 173A, 183, 187A, 187B" in s. 296(2)(a) substituted for "172" (2.1.1992 except so far as relating to the reference to s. 187A which exception is 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 45(2)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1**; S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

VALID FROM 07/06/2006

[F398 296A Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.

(2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes—
- (a) entering land;
- (b) bringing proceedings;
- (c) the making of an application.

(6) A step taken for the purposes of enforcement does not include—
- (a) service of a notice;
- (b) the making of an order (other than by a court).

Textual Amendments

F398 Ss. 296A, 296B inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 84(2)**, 121 (with s. 111); S.I. 2006/1281, **art. 2**

VALID FROM 07/06/2006

296B References to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.

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(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land.**]**

Textual Amendments

F398 Ss. 296A, 296B inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 84(2)**, 121 (with s. 111); S.I. 2006/1281, **art. 2**

297 Agreements relating to Crown land.

(1) The appropriate authority and the local planning authority for the area in which any Crown land is situated may make agreements for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable to it.

(2) Any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.

(3) An agreement made under this section by a government department shall not have effect unless it is approved by the Treasury.

(4) In considering whether to make or approve an agreement under this section relating—

(a) to land belonging to a government department, or

(b) to land held in trust for Her Majesty for the purposes of a government department,

the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

298 Supplementary provisions as to Crown and Duchy interests.

[F399(1) Where there is a Crown interest in any land, sections 109 to 112 shall have effect in relation to any private interest or Duchy interest as if the Crown interest were a private interest.

F399(2) Where there is a Duchy interest in any land, those sections shall have effect in relation to that interest or any private interest as if the Duchy interest were a private interest.**]**

(3) Where, in accordance with an agreement under section 297, the approval of a local planning authority is required in respect of any development of land in which there is a Duchy interest, **[**F400sections 109 to 112**]** shall have effect in relation to the withholding of that approval, or the giving of it subject to conditions, as if it were a refusal of planning permission or, as the case may be, a grant of planning permission subject to conditions.

Textual Amendments

F399 S. 298(1)(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s.31, **Sch. 6 para. 25** (1) (with saving in Sch. 6 para. 25(3) and with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F400 Words in s. 298(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 25** (2) (with saving in Sch. 6 para. 25(3) and with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

VALID FROM 06/08/2004

[F401298AApplications for planning permission by Crown

(1) This section applies to an application for planning permission or for a certificate under section 192 made by or on behalf of the Crown.

(2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment.**]**

Textual Amendments

F401 S. 298A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 10(1)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

Provisions relating to anticipated disposal of Crown land

299 Application for planning permission etc. in anticipation of disposal of Crown land.

(1) This section has effect for the purpose of enabling Crown land, or an interest in Crown land, to be disposed of with the benefit of planning permission or a **[**F402certificate under section 192**]**.

(2) Notwithstanding the interest of the Crown in the land in question, an application for any such permission **[**F403or certificate**]** may be made by—

(a) the appropriate authority; or

(b) any person authorised by that authority in writing;

and, subject to subsections (3) to (5), all the statutory provisions relating to the making and determination of any such application shall accordingly apply as if the land were not Crown land.

(3) Any planning permission granted by virtue of this section shall apply only—

(a) to development carried out after the land in question has ceased to be Crown land; and

(b) so long as that land continues to be Crown land, to development carried out by virtue of a private interest in the land.

[F404(4) Any application made by virtue of this section for a certificate under section 192 shall be determined as if the land were not Crown land.**]**

(5) The Secretary of State may by regulations—

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(a) modify or exclude any of the statutory provisions referred to in subsection (2) in their application by virtue of that subsection and any other statutory provisions in their application to permissions or **[**[F405]certificates**]** granted or made by virtue of this section;

(b) make provision for requiring a local planning authority to be notified of any disposal of, or of an interest in, any Crown land in respect of which an application has been made by virtue of this section; and

(c) make such other provision in relation to the making and determination of applications by virtue of this section as he thinks necessary or expedient.

(6) This section shall not be construed as affecting any right to apply for any such permission or **[**[F406]certificate**]**as is mentioned in subsection (1) in respect of Crown land in a case in which such an application can be made by virtue of a private interest in the land.

(7) In this section "statutory provisions" means provisions contained in or having effect under any enactment.

Textual Amendments

F402 Words in s. 299(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (2) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F403 Words in s. 299(2) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (3) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F404 S. 299(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (4) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F405 Word in s. 299(5)(a) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (5) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F406 Word in s. 299(6) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (6) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

[[F407]299A Crown planning obligations.

(1) The appropriate authority in relation to any Crown interest or Duchy interest in land in the area of a local planning authority may enter into an obligation falling within any of paragraphs (a) to (d) of section 106(1) (in this section referred to as a "planning obligation") enforceable to the extent mentioned in subsection (3).

(2) A planning obligation may not be entered into except by an instrument executed as a deed which—

(a) states that the obligation is a planning obligation for the purposes of this section;

(b) identifies the land in relation to which the obligation is entered into;

(c) identifies the appropriate authority who are entering into the obligation and states what the Crown or Duchy interest in the land is; and

(d) identifies the local planning authority by whom the obligation is enforceable.

(3) A planning obligation entered into under this section is enforceable—

(a) against any person with a private interest deriving from the Crown or Duchy interest stated in accordance with subsection (2)(c);

(b) by the authority identified in accordance with subsection (2)(d).

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(4) Subject to subsection (5), subsections (2), (4) to (8) and (10) to (13) of section 106 and sections 106A and 106B apply to a planning obligation entered into under this section as they apply to a planning obligation entered into under that section.

(5) The consent of the appropriate authority must be obtained to—

(a) the enforcement by injunction of a planning obligation against a person in respect of land which is Crown land; and

(b) the exercise, in relation to Crown land, of the power to enter land conferred by section 106(6) (as applied by subsection (4)).**]**

Textual Amendments

F407 S. 299A inserted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(3)** (with s. 84(5)); S.I. 1991/2272, **art.3**

Modifications etc. (not altering text)

C279 S. 299A modified (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 para. 15(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/3198, art. 6(3), **Sch. 5**

300 Tree preservation orders in anticipation of disposal of Crown land.

(1) A local planning authority may make a tree preservation order in respect of Crown land in which no interest is for the time being held otherwise than by or on behalf of the Crown, if they consider it expedient to do so for the purpose of preserving trees or woodlands on the land in the event of its ceasing to be Crown land or becoming subject to a private interest.

(2) No tree preservation order shall be made by virtue of this section except with the consent of the appropriate authority.

(3) A tree preservation order made by virtue of this section shall not take effect until the first occurrence of a relevant event.

(4) For the purposes of subsection (3), a relevant event occurs in relation to any land if it ceases to be Crown land or becomes subject to a private interest.

(5) A tree preservation order made by virtue of this section—

(a) shall not require confirmation under section 199 until after the occurrence of the event by virtue of which it takes effect; and

(b) shall by virtue of this subsection continue in force until—

(i) the expiration of the period of six months beginning with the occurrence of that event; or

(ii) the date on which the order is confirmed,

whichever first occurs.

(6) Where a tree preservation order takes effect in accordance with subsection (3), the appropriate authority shall as soon as practicable give to the authority who made the order a notice in writing of the name and address of the person who has become entitled to the land in question or to a private interest in it.

(7) The procedure prescribed under section 199 in connection with the confirmation of a tree preservation order shall apply in relation to an order made by virtue of this section

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as if the order were made on the date on which the notice under subsection (6) is received by the authority who made it.

301 Requirement of planning permission for continuance of use instituted by the Crown.

(1) A local planning authority in whose area any Crown land is situated may agree with the appropriate authority that subsection (2) shall apply to such use of land by the Crown as is specified in the agreement, being a use resulting from a material change made or proposed to be made by the Crown in the use of the land.

(2) Where an agreement is made under subsection (1) in respect of any Crown land, then, if at any time the land ceases to be used by the Crown for the purposes specified in the agreement, this Act shall have effect in relation to any subsequent private use of the land as if—

(a) the specified use by the Crown had required planning permission, and

(b) that use had been authorised by planning permission granted subject to a condition requiring its discontinuance at that time.

(3) The condition referred to in subsection (2) shall not be enforceable against any person who had a private interest in the land at the time when the agreement was made unless the local planning authority by whom the agreement was made have notified him of the making of the agreement and of the effect of that subsection.

(4) An agreement made under subsection (1) by a local planning authority shall be a local land charge, and for the purposes of the [M170]Local Land Charges Act 1975 the local planning authority by whom such an agreement is made shall be treated as the originating authority as respects the charge constituted by the agreement.

(5) In this section "private use" means use otherwise than by or on behalf of the Crown, and references to the use of land by the Crown include references to its use on behalf of the Crown.

Marginal Citations
M170 1975 c. 76.

Enforcement in respect of war-time breaches of planning control by Crown

302 Enforcement in respect of war-time breaches of planning control by the Crown.

(1) This section applies where during the war period—

(a) works not complying with planning control were carried out on land, or

(b) a use of land not complying with planning control was begun by or on behalf of the Crown.

(2) Subject to subsection (4), if at any time after the end of the war period there subsists in the land a permanent or long-term interest which is neither held by or on behalf of the Crown nor subject to any interest or right to possession so held, the planning control shall, so long as such an interest subsists in the land, be enforceable in respect of those works or that use notwithstanding—

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(a) that the works were carried out or the land used by or on behalf of the Crown, or

(b) the subsistence in the land of any interest held by or on behalf of the Crown in reversion (whether immediate or not) expectant on the termination of that permanent or long-term interest.

(3) A person entitled to make an application under this subsection with respect to any land may apply at any time before the relevant date to an authority responsible for enforcing any planning control for a determination—

(a) whether works on the land carried out, or a use of the land begun, during the war period fail to comply with any planning control which the authority are responsible for enforcing, and

(b) if so, whether the works or use should be deemed to comply with that control.

(4) Where any works on land carried out, or use of land begun, during the war period remain or continues after the relevant date and no such determination has been given, the works or use shall by virtue of this subsection be treated for all purposes as complying with that control unless steps for enforcing the control have been begun before that date.

(5) Schedule 15 shall have effect for the purpose of making supplementary provision concerning the enforcement of breaches of planning control to which this section applies and the making and determination of applications under subsection (3).

(6) In this section and that Schedule—

"authority responsible for enforcing planning control" means, in relation to any works on land or use of land, the authority empowered by virtue of section 75 of the 1947 Act or of paragraph 34 of Schedule 24 to the 1971 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the [M171]Planning (Consequential Provisions) Act 1990) to serve an enforcement notice in respect of it or the authority who would be so empowered if the works had been carried out, or the use begun, otherwise than in compliance with planning control;

"the relevant date", in relation to any land, means the date with which the period of five years from the end of the war period ends, but for the purposes of this definition any time during which, notwithstanding subsection (2), planning control is unenforceable by reason of the subsistence in or over the land of any interest or right to possession held by or on behalf of the Crown shall be disregarded;

"owner" has the same meaning as in the [M172]Housing Act 1985 and "owned" shall be construed accordingly;

"permanent or long-term interest", in relation to any land, means the fee simple in the land, a tenancy of the land granted for a term of more than ten years and not subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of ten years from the beginning of the term, or a tenancy granted for a term of ten years or less with a right of renewal which would enable the tenant to prolong the term of the tenancy beyond ten years;

"tenancy" includes a tenancy under an underlease and a tenancy under an agreement for a lease or underlease, but does not include an option to take a tenancy and does not include a mortgage;

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"war period" means the period extending from 3rd September 1939 to 26th March 1946;

"works" includes any building, structure, excavation or other work on land.

(7) References in this section and that Schedule to non-compliance with planning control mean—

(a) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to a resolution to prepare a scheme under the [M173]Town and Country Planning Act 1932, that the works were carried out or the use begun otherwise than in accordance with the terms of an interim development order or of permission granted under such an order;

(b) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to such a scheme, that the works were carried out or the use begun otherwise than in conformity with the provisions of the scheme;

and references in this Act to compliance with planning control shall be construed accordingly.

(8) References in this section and that Schedule to the enforcement of planning control shall be construed as references to the exercise of the powers conferred by section 75 of the 1947 Act or by paragraph 34 of Schedule 24 to the 1971 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the [M174]Planning (Consequential Provisions) Act 1990).

Marginal Citations

M171 1990 c. 9.
M172 1985 c. 68.
M173 1932 c. 48.
M174 1990 c. 9.

PART XIV

FINANCIAL PROVISIONS

303 Fees for planning applications, etc.

(1) The Secretary of State may by regulations make such provision as he thinks fit for the payment of a fee of the prescribed amount to a local planning authority in respect of an application made to them under the planning Acts or any order or regulations made under them for any permission, consent, approval, determination or certificate.

(2) Regulations under subsection (1) may provide for the transfer of prescribed fees received in respect of any description of application by an authority to whom applications fall to be made to any other authority by whom applications of that description fall to be dealt with.

(3) The Secretary of State may by regulations make such provision as he thinks fit for the payment

[F408](a) of fees of prescribed amounts to him and to the local planning authority in respect of any application for planning permission deemed to be made under section 177(5); and

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(b) of a fee of the prescribed amount to him in respect of any other**]**

application for planning permission which is deemed to be made to him under this Act or any order or regulations made under it.

(4) Regulations under subsection (1) or (3) may provide for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances.

(5) No such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.

(6) The reference to the planning Acts in subsection (1) does not include a reference to section 302 of this Act **[**[F409]or the Planning (Hazardous Substances) Act 1990.**]**

Textual Amendments

F408 S. 303(3)(a)(b) substituted (13.10.1991) for words in s. 303(3) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(6)** (with s. 84(5)); S.I. 1991/2272, **art. 2**

F409 Words inserted (1.1.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 para. 10**; S.I. 1991/2829, **art. 3**

Modifications etc. (not altering text)

C280 S. 303 restricted (18.12.1996) by 1996 c. 61, **s. 11(5)**

VALID FROM 01/10/2009

[[F410]**303ZA Fees for appeals**

(1) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of an appeal to the appropriate authority under any provision made by or under—

(a) this Act;

(b) the Planning (Listed Buildings and Conservation Areas) Act 1990.

(2) The regulations may in particular—

(a) make provision as to when a fee payable under the regulations is to be paid;

(b) make provision as to how such a fee is to be calculated (including who is to make the calculation);

(c) prescribe circumstances in which such a fee is to be remitted or refunded (wholly or in part);

(d) prescribe circumstances in which no fee is to be paid;

(e) make provision as to the effect of paying or failing to pay a fee in accordance with the regulations.

(3) A fee payable to the appropriate authority under regulations made under this section is payable—

(a) by the appellant;

(b) in addition to any fee payable to the appropriate authority under regulations made under section 303.

(4) Regulations under this section may—

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(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) in the case of regulations made by virtue of subsection (2)(e) or paragraph (a) of this subsection, amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(5) In this section "the appropriate authority" means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales.

(6) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by resolution of—

(a) each House of Parliament, in the case of regulations made by the Secretary of State;

(b) the National Assembly for Wales, in the case of regulations made by the Welsh Ministers.

(7) Section 333(3) does not apply in relation to regulations made under this section by the Welsh Ministers.**]**

Textual Amendments

F410 S. 303ZA inserted (1.10.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 200**, 241 (with s. 226); S.I. 2009/2260, **art. 4**

[F411 303A Responsibility of local planning authorities for costs of holding certain inquiries etc.

(1) This section applies in any case where, at any time after its coming into force, the Secretary of State appoints any person to hold, or as one of the persons who are to hold, a qualifying inquiry, within the meaning of this section, that is to say—

(a) to hold a local inquiry or other hearing under section 16 or 42 or under paragraph 8(1)(a) of Schedule 7;

(b) to consider objections under paragraph 8(1)(b) of that Schedule; or

(c) to conduct an examination in public under section 35B(1);

and the references in paragraphs (a) to (c) above to the enactments there mentioned include references to those enactments as from time to time amended, extended or applied by or under any other enactment whether before or after the coming into force of this section.

(2) The Secretary of State may require the whole or any part of the costs borne by him in relation to the qualifying inquiry to be paid by the local planning authority causing the qualifying inquiry to be held.

(3) The Secretary of State may cause the amount of any such costs to be certified; and any amount so certified and required by him to be paid by a local planning authority shall be recoverable from that authority as a civil debt.

(4) What may be recovered under this section by the Secretary of State is the entire administrative cost of, or incidental to, the qualifying inquiry, so far as borne by him,

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including, in particular, such reasonable amount or element as he may determine in respect of the general staff costs and overheads of his department.

(5) For the purposes of subsection (4), the Secretary of State may by regulations prescribe a standard daily amount in relation to any description of qualifying inquiry and any description of person appointed to hold it, or appointed as one of the persons who are to hold it; and where, in relation to a qualifying inquiry of that description, a person of that description is or has been so appointed, what may be recovered in respect of that qualifying inquiry by virtue of the appointment of that person (in addition to what may be recovered by virtue of the appointment of any other person) is—

(a) the prescribed standard amount from time to time applicable in the case of that qualifying inquiry and that person in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is engaged in the holding of, or is otherwise engaged on work connected with, the qualifying inquiry;

(b) any costs actually incurred on travelling or subsistence allowances payable to that person in connection with the qualifying inquiry;

(c) any costs attributable to the appointment of an assessor to assist that person (or, in a case where that person is appointed as one of the persons who are to hold the qualifying inquiry, an appropriate proportion of any costs attributable to the appointment of an assessor to assist those persons); and

(d) any other costs attributable to the appointment of that person.

(6) The cost of, or incidental to, a qualifying inquiry which does not take place may be recovered by the Secretary of State from the local planning authority from which it would have been recoverable, had the qualifying inquiry taken place, to the same extent, and in the same way, as the cost of, or incidental to, a qualifying inquiry which does take place.

(7) In the application of subsections (2) to (6) in relation to an examination in public under section 35B(1), there shall be left out of account any person—

(a) who is appointed to conduct, or is appointed as one of the persons who are to conduct, the examination; and

(b) whose remuneration, and travelling or subsistence allowances (if any), in respect of that appointment are (whether by agreement or arrangement or otherwise) to be paid to him by the local planning authority causing the examination to be held.

(8) The Secretary of State may by regulations prescribe a standard daily amount in relation to any description of person who is appointed to conduct, or is appointed as one of the persons who are to conduct, an examination in public under section 35B(1) and whose remuneration, and travelling or subsistence allowances (if any), in respect of that appointment are to be paid as mentioned in subsection (7)(b); and where—

(a) a standard daily amount is so prescribed in relation to any description of person,

(b) a person of that description is or has been appointed to conduct, or is or has been appointed as one of the persons who are to conduct, such an examination, and

(c) the remuneration, and travelling or subsistence allowances (if any), of that person in respect of that appointment are to be paid as mentioned in subsection (7)(b),

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the amount of the remuneration so payable to that person by the local planning authority in question in respect of the appointment shall be the prescribed standard amount from time to time applicable in the case of that person in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is engaged in the conduct of, or is otherwise engaged on work connected with, that examination (whether that examination does or does not take place).

(9) The Secretary of State may also by regulations under subsection (8) prescribe, in relation to any description of person, the rates or amounts of any travelling or subsistence allowances payable as mentioned in subsection (7)(b) by a local planning authority causing an examination in public under section 35B(1) to be held to a person of that description appointed to conduct, or appointed as one of the persons who are to conduct, the examination.

(10) In this section—

(a) any reference to costs borne by the Secretary of State includes a reference to costs which, apart from this section, would fall, or would have fallen, to be borne by him; and

(b) any reference to any remuneration or allowance being paid or payable to a person includes a reference to its being paid or payable for him.

(11) This section applies in relation to costs arising before, as well as costs arising after, its coming into force.**]**

Textual Amendments

F411 S. 303A inserted (8.11.1995) by 1995 c. 49, **s. 1(1)**

Modifications etc. (not altering text)

C281 S. 303A modified (8.11.1995) by 1995 c. 49, **s. 1(2)(3)(4)**
S. 303A restricted (8.11.1995) by 1995 c. 49, **s. 2(14)**

304 Grants for research and education.

The Secretary of State may, with the consent of the Treasury, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical environment.

VALID FROM 13/05/2004

[F412304A 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;

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(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.**]**

Textual Amendments

F412 S. 304A inserted (13.5.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 115**, 121 (with s. 111)

305 Contributions by Ministers towards compensation paid by local authorities.

(1) Where—
(a) compensation is payable by a local authority **[**[F413]or National Park authority**]** under this Act in consequence of any decision or order to which this section applies, and
(b) that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament,

the Minister responsible for the administration of that service may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.

(2) This section applies to any decision or order given or made under Part III, the provisions of Part VI relating to purchase notices, Part VII, Part VIII or Schedule 5, 6 or 9.

Textual Amendments

F413 Words in s. 305(1)(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(9)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

306 Contributions by local authorities and statutory undertakers.

(1) Without prejudice to section 274 of the [M175]Highways Act 1980 (contributions by local authorities to expenses of highway authorities), any local authority may contribute towards any expenses incurred by a local highway authority—
(a) in the acquisition of land under Part IX of this Act or Chapter V of Part I of the [M176]Planning (Listed Buildings and Conservation Areas) Act 1990,
(b) in the construction or improvement of roads on land so acquired, or
(c) in connection with any development required in the interests of the proper planning of the area of the local authority.

(2) Any local authority and any statutory undertakers may contribute towards—

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(a) any expenses incurred by a local planning authority in or in connection with the carrying out of a survey or the preparation of a unitary development plan or a local plan **[**F414minerals local plan or waste local plan**]**or the alteration, F415. . . or replacement of such a plan or a structure plan under Part II;

(b) any expenses incurred by a local planning authority or a mineral planning authority in or in connection with the performance of any of their functions under Part III, the provisions of Part VI relating to purchase notices, Part VII **[**F416except sections 196A and 196B**]**, Part VIII (except section 207), Part IX or Schedule 5 or 9.

(3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under Part III, the provisions of Part VI relating to purchase notices, Part VII **[**F416except sections 196A and 196B**]**, Part VIII, or Schedule 5 or 9, the Secretary of State may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.

(4) Subsection (3) shall apply in relation to payments made by a local authority to any statutory undertakers in accordance with financial arrangements to which effect is given under section 275(5)(c), as it applies in relation to compensation payable by such an authority in consequence of anything done under Part III, Part VIII or Schedule 5 or 9, and the reference in that subsection to the proceeding giving rise to the compensation shall be construed accordingly.

(5) For the purposes of this section, contributions made by a local planning authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

[F417(6) This section shall have effect as if the references to a local authority included references to a National Park authority.**]**

Textual Amendments

F414 Words in s. 306(2) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(2)-(4), **Sch. 4 para. 32(a)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F415 Word in s. 306(2) repealed (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(6), Sch. 4 Pt. II para. 32(b), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, art. 4, **Sch. 3**

F416 Words in s. 306(2)(b)(3) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, 84(2)-(4), **Sch. 7 para. 47** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 4)

F417 S. 306(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(10)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

C282 S. 306(2)(a) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 17(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**

Marginal Citations

M175 1980 c. 66.

M176 1990 c. 9.

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307 Assistance for acquisition of property where objection made to blight notice in certain cases.

(1) The council of a county, **[**[F418]county borough,**]** district or London borough may advance money to any person for the purposes of enabling him to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 151 specifying the grounds mentioned in subsection (4)(d) of that section as, or as one of, the grounds of objection.

(2) No advance may be made under subsection (1) in the case of a hereditament if its annual value exceeds such amount as may be prescribed for the purposes of section 149(3)(a).

(3) An advance under subsection (1) may be made subject to such conditions as the council may think fit.

Textual Amendments

F418 Words in s. 307(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(12)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

308 Recovery from acquiring authorities of sums paid by way of compensation.

(1) This section applies where—

(a) an interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers, and

(b) a notice is registered under section 110(2) [F419]. . . in respect of any of the land acquired or sold (whether before or after the completion of the acquisition or sale) in consequence of a planning decision or order made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected.

(2) Where this section applies the Secretary of State shall, subject to the following provisions of this section, be entitled to recover from the acquiring authority a sum equal to so much of the amount of the compensation specified in the notice as (in accordance with section 110(5) [F419]. . .) is to be treated as attributable to that land.

(3) If, immediately after the completion of the acquisition or sale, there is outstanding some interest in the land acquired or sold to which a person other than the acquiring authority is entitled, the sum referred to in subsection (2) shall not accrue due until that interest either ceases to exist or becomes vested in the acquiring authority.

(4) No sum shall be recoverable under this section in the case of a compulsory acquisition or sale where the Secretary of State is satisfied that the interest in question is being acquired for the purposes of the use of the land as a public open space.

(5) Where the Secretary of State recovers a sum under this section in respect of any land by reason that it is land in respect of which a notice is registered under the provisions of section 110, section 112(11) to (13) shall have effect in relation to that sum as if it were a sum recovered as mentioned in section 112(11).

(6) In this section [F419]. . . "interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest in it.

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Textual Amendments

F419 Words in s. 308(1)(b)(2)(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 26(1)(a)(b)(c), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F420 309 . . . . . .

Textual Amendments

F420 S. 309 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, 84(6), Sch. 6 para. 27, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

310 Sums recoverable from acquiring authorities reckonable for purposes of grant.

Where—

(a) a sum is recoverable from any authority under section 308 F421. . . by reference to an acquisition or purchase of an interest in land, and

(b) a grant became or becomes payable to that or some other authority under an enactment in respect of that acquisition or purchase or of a subsequent appropriation of the land,

the power conferred by that enactment to pay the grant shall include, and shall be deemed always to have included, power to pay a grant in respect of that sum as if it had been expenditure incurred by the acquiring authority in connection with the acquisition or purchase.

Textual Amendments

F421 Words in s. 310 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 28, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

311 Expenses of government departments.

(1) The following expenses of the Secretary of State shall be paid out of money provided by Parliament—

(a) any expenses incurred by the Secretary of State under subsection (5) of section 220 or in the payment of expenses of any committee established under that section;

(b) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under Part IV F422. . .;

(c) any expenses incurred by the Secretary of State under Part X;

(d) any expenses incurred by the Secretary of State in the making of grants under section 304;

(e) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

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(2) There shall be paid out of money provided by Parliament any expenses incurred by any government department (including the Secretary of State)—

(a) in the acquisition of land under Part IX;

(b) in the payment of compensation under section 236(4), 279(2) or 325;

(c) under section 240(1)(b); or

(d) under section 305.

Textual Amendments

F422 Words in s. 311(1)(b) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 29, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F423 312 . . . . . .

Textual Amendments

F423 S. 312 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 30, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

313 General provision as to receipts of Secretary of State.

F424. . .Subject to the provisions of section 112, any sums received by the Secretary of State under any provision of this Act shall be paid into the Consolidated Fund.

Textual Amendments

F424 Words in s. 313 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 31, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

314 Expenses of county councils.

The council of a county may direct that any expenses incurred by them under the provisions specified in Parts I and II of Schedule 16 shall be treated as special expenses of a county council chargeable upon such part of the county as may be specified in the directions.

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PART XV

MISCELLANEOUS AND GENERAL PROVISIONS

Application of Act in special cases

315 Power to modify Act in relation to minerals.

(1) In relation to development consisting of the winning and working of minerals **[**F425or involving the depositing of mineral waste**]**, the provisions specified in Parts I and II of Schedule 16 shall have effect subject to such adaptations and modifications as may be prescribed.

(2) In relation to interests in land consisting of or comprising minerals (being either the fee simple or tenancies of such land) F426. . ., the provisions specified in Part III of Schedule 16 shall have effect subject to such adaptations and modifications as may be prescribed.

(3) Regulations made for the purposes of this section may only be made with the consent of the Treasury and shall be of no effect unless they are approved by resolution of each House of Parliament.

(4) Any regulations made by virtue of subsection (1) shall not apply—

(a) to the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works on it which are occupied or used for those purposes; F427. . .

F427(b) . . . . . .

(5) Nothing in subsection (1) or (4) shall be construed as affecting the prerogative right of Her Majesty (whether in right of the Crown or of the Duchy of Lancaster) or of the Duke of Cornwall to any gold or silver mine.

Textual Amendments

F425 Words in s. 315(1) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(2)-(4), **Sch. 1 para. 11** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F426 Words in s. 315(2) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 32, **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F427 S. 315(4)(b) and word "or" immediately preceding it repealed (1.11.1994) by 1994 c. 21, s. 67, Sch. 9 para. 39(2), **Sch. 11 Pt. III** (with s. 40(7)); S.I. 1994/2552, art. 3, **Sch. 2**

[F428316 Land of interested planning authorities and development by them.

(1) The provisions of Parts III, VII and VIII of this Act shall apply in relation to—

(a) land of interested planning authorities; and

(b) the development of any land by interested planning authorities or by such authorities jointly with any other persons,

subject to regulations made by virtue of this section.

(2) The regulations may, in relation to such land or such development—

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(a) provide for any of those provisions to apply subject to prescribed exceptions or modifications or not to apply;

(b) make new provision as to any matter dealt with in any of those provisions;

(c) make different provision in relation to different classes of land or development.

(3) Without prejudice to subsection (2), the regulations may provide—

(a) subject to subsection (5), for applications for planning permission to develop such land, or for such development, to be determined by the authority concerned, by another interested planning authority or by the Secretary of State; and

(b) for the procedure to be followed on such applications,

and, in the case of applications falling to be determined by an interested planning authority, they may regulate the authority's arrangements for the discharge of their functions, notwithstanding anything in section 101 of the [M177]Local Government Act 1972.

(4) The regulations shall—

(a) provide for section 71(3), and any provision made by virtue of section 65 or 71 by a development order, to apply to applications for planning permission to develop such land, or for such development, subject to prescribed exceptions or modifications, or

(b) make corresponding provision.

(5) In the case of any application for planning permission to develop land of an interested planning authority where—

(a) the authority do not intend to develop the land themselves or jointly with any other person; and

(b) if it were not such land, the application would fall to be determined by another body,

the regulations shall provide for the application to be determined by that other body, unless the application is referred to the Secretary of State under section 77.

(6) In this section "interested planning authority", in relation to any land, means any body which exercises any of the functions of a local planning authority in relation to that land; and for the purposes of this section land is land of an authority if the authority have any interest in it.

(7) This section applies to any consent required in respect of any land as it applies to planning permission to develop land.

(8) Subsection (1) does not apply to sections 76, 90(2) and (5) and 223.**]**

Textual Amendments

F428 S. 316 substituted (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.20**, (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1491, **art. 2**

Modifications etc. (not altering text)

C283 S. 316: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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Marginal Citations

M177 1972 c. 70.

[F429 316A Local planning authorities as statutory undertakers.

In relation to statutory undertakers who are local planning authorities, section 283 and the provisions specified in that section shall have effect subject to such exceptions and modifications as may be prescribed.]

Textual Amendments

F429 S. 316A inserted (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 48** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1491, art. 2, **Sch. 1**

F430 317 . . . . . .

Textual Amendments

F430 S. 317 repealed (1.11.1994) by 1994 c. 21, s. 67, Sch. 9 para. 39(2), **Sch. 11 Pt. III** (with s. 40(7)); S.I. 1994/2552, art. 3, **Sch. 2**

318 Ecclesiastical property.

(1) Without prejudice to the provisions of the M178Acquisition of Land Act 1981 with respect to notices served under that Act, where under any of the provisions of this Act a notice or copy of a notice is required to be served on an owner of land, and the land is ecclesiastical property, a similar notice or copy of a notice shall be served on the Church Commissioners.

(2) Where the fee simple of any ecclesiastical property is in abeyance—

(a) if the property is situated elsewhere than in Wales, then for the purposes of the provisions specified in Part VI of Schedule 16 the fee simple shall be treated as being vested in the Church Commissioners;

(b) in any case, the fee simple shall, for the purposes of a compulsory acquisition of the property under Part IX, be treated as being vested in the Church Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly.

(3) Any compensation payable under Part IV, section 186, Part VIII (except section 204) or section 250 in respect of land which is ecclesiastical property—

(a) shall [F431in the case of land which is not diocesan glebe land, be paid to the Church Commissioners; and

(b) shall, in the case of diocesan glebe land, be paid to the Diocesan Board of Finance in which the land is vested,

and shall (in either case)] be applied by them for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising or disposing of the proceeds of such a sale.

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(4) Any sum which under any of the provisions specified in Part III of Schedule 16 is payable in relation to land which is, or on 1st July 1948 was, ecclesiastical property, and apart from this subsection would be payable to an incumbent—

(a) shall be paid to the Church Commissioners, and

(b) shall be applied by them for the purposes mentioned in subsection **[**F432(3)**]**.

(5) Where any sum is recoverable under section 111, **[**F433or 112**]** in respect of any such land, the Church Commissioners may apply any money or securities held by them in the payment of that sum.

(6) In this section "ecclesiastical property" means land belonging to an ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction **[**F434or being diocesan glebe land; and "Diocesan Board of Finance" and "diocesan glebe land" have the same meaning as in the Endowments and Glebe Measure 1976**]**.

Textual Amendments

F431 Words in s. 318(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 Pt. II para. 30(1)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F432 Word in s. 318(4)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 Pt. II para. 30(2)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F433 Words in s. 318(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 33** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F434 Words at the end of s. 318(6) added (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 Pt. II para. 30(3)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C284 S. 318(1)(3)(6) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 16(1)**

Marginal Citations

M178 1981 c. 67.

[F435**319 The 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 under this section may in particular provide for the exercise by the Council of the Isles of Scilly of any functions exercisable by a local planning authority or mineral planning authority.

(3) Before making an order under this section the Secretary of State shall consult with that Council.**]**

Textual Amendments

F435 S. 319 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.49** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

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VALID FROM 06/04/2009

I[F436] Determination of procedure

Textual Amendments

F436 S. 319A and preceding cross-heading inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 196(1)**, 241 (with s. 226); S.I. 2009/400, **art. 3** (with art. 6(2))

319A Determination of procedure for certain proceedings

(1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—

(a) at a local inquiry;

(b) at a hearing;

(c) on the basis of representations in writing.

(3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).

(6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).

(7) This section applies to—

(a) an application referred to the Secretary of State under section 77 instead of being dealt with by a local planning authority in England;

(b) an appeal under section 78 against a decision of a local planning authority in England;

(c) an appeal under section 174 against an enforcement notice issued by a local planning authority in England;

(d) an appeal under section 195 against a decision of a local planning authority in England; and

(e) an appeal under section 208 against a notice under section 207(1) issued by a local planning authority in England.

(8) But this section does not apply to proceedings if they are referred to a Planning Inquiry Commission under section 101; and on proceedings being so referred, any determination made in relation to the proceedings under subsection (1) of this section ceases to have effect.

(9) The Secretary of State may by order amend subsection (7) to—

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(a) add proceedings to, or remove proceedings from, the list of proceedings to which this section applies, or

(b) otherwise modify the descriptions of proceedings to which this section applies.

(10) An order under subsection (9) may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.**]**

Local inquiries and other hearings

320 Local inquiries.

(1) The Secretary of State may cause a local inquiry to be held for the purposes of the exercise of any of his functions under any of the provisions of this Act.

(2) Subsections (2) to (5) of section 250 of the [M179]Local Government Act 1972 (local inquiries: evidence and costs) apply to an inquiry held by virtue of this section.

Modifications etc. (not altering text)

C285 S. 320 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**

C286 S. 320: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M179 1972 c. 70.

321 Planning inquiries to be held in public subject to certain exceptions.

(1) This section applies to any inquiry held under section 320(1), paragraph 6 of Schedule 6 or paragraph 5 of Schedule 8.

(2) Subject to subsection (3), at any such inquiry oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(3) If the Secretary of State is satisfied in the case of any such inquiry—

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in subsection (4); and

(b) that the public disclosure of that information would be contrary to the national interest,

he may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry by such persons or persons of such descriptions as he may specify in the direction.

(4) The matters referred to in subsection (3)(a) are—

(a) national security; and

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(b) the measures taken or to be taken to ensure the security of any premises or property.

Modifications etc. (not altering text)

C287 S. 321: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

VALID FROM 06/08/2004

[F437 321A Appointed representative: no inquiry

(1) This section applies if—

(a) a person is appointed under subsection (5) or (6) of section 321, but

(b) no inquiry is held as mentioned in subsection (1) of that section.

(2) Subsections (9) to (12) of section 321 apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.

(3) For the purposes of subsection (2) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under section 321(9) if an inquiry had been held.

(4) This section does not affect section 322A.**]**

Textual Amendments

F437 S. 321A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 80(2)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

VALID FROM 06/08/2004

[F438 321B Special provision in relation to planning inquiries: Wales

(1) This section applies if the matter in respect of which a local inquiry to which section 321 applies is to be held relates to Wales.

(2) The references in section 321(5) and (6) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.

(3) The Assembly may by regulations make provision as mentioned in section 321(7) in connection with a local inquiry to which this section applies.

(4) If the Assembly acts under subsection (3) rules made by the Lord Chancellor under section 321(7) do not have effect in relation to the inquiry.

(5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).

(6) Section 333(3) does not apply to regulations made under subsection (4).**]**

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Textual Amendments

F438 S. 321B inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 81(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

F439 322 Orders as to costs of parties where no local inquiry held.

(1) This section applies to proceedings under this Act where the Secretary of State is required, before reaching a decision, to give any person an opportunity of appearing before and being heard by a person appointed by him.

(2) The Secretary of State has the same power to make orders under section 250(5) of the M180 Local Government Act 1972 (orders with respect to the costs of the parties) in relation to proceedings to which this section applies which do not give rise to a local inquiry as he has in relation to a local inquiry.

Textual Amendments

F439 S. 322 omitted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **6** (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Modifications etc. (not altering text)

C288 S. 322 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3
S. 322 applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 322: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Commencement Information

I1 S. 322 omitted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **6** (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3) thus bringing s. 322 partially into force)

Marginal Citations

M180 1972 c. 70.

[F440 322A Orders as to costs: supplementary.

(1) This section applies where—

(a) for the purposes of any proceedings under this Act—

(i) the Secretary of State is required, before a decision is reached, to give any person an opportunity, or ask any person whether he wishes, to appear before and be heard by a person appointed by him; and

(ii) arrangements are made for a local inquiry or hearing to be held;

(b) the inquiry or hearing does not take place; and

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(c) if it had taken place, the Secretary of State or a person appointed by him would have had power to make an order under section 250(5) of the [M181]Local Government Act 1972 requiring any party to pay any costs of any other party.

(2) Where this section applies the power to make such an order may be exercised, in relation to costs incurred for the purposes of the inquiry or hearing, as if it had taken place.**]**

Textual Amendments

F440 S. 322A inserted (2.1.1992 except for certain purposes which exception is *prosp.*.) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 30(1)**, 84(2)-(4) (with s. 84(5)); S.I. 1991/2728, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C289 S. 322A applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 322A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 322A applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 9(7)**

C290 S. 322A applied (13.2.2004 for E. and 31.5.2005 for W.) by 1981 c. 69, Sch. 15 para. 10A(3) (as inserted by 2000 c. 37, ss. 51, 103(3)-(5), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, **art. 2(d)(iii)** (with art. 3(1); S.I. 2005/1314, **art. 2(a)(iii)**)
S. 322A applied (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes, 11.5.2006 for W. otherwise, and for E. otherwise prosp.) by 1980 c. 66, Sch. 6 para. 2B(3) (as inserted by 2000 c. 37, ss. 57, 103(3)-(5), Sch. 6 para. 23(8); S.I. 2003/272, **art. 2(p)**; S.I. 2005/1314, **art. 3(d)(viii)(gg)**; S.I. 2006/1279, **art. 2(l)(n)**)
S. 322A applied (30.1.2001) by 1981 c. 69, **ss. 28F(11)**, 28L(13) (as substituted (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1**)
S. 322A applied (E.) (1.2.2002) by S.I. 2001/3966, **art. 15(10)**

C291 S. 322A applied (19.8.2002) by The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas)(Wales) Regulations 2002 (S.I. 2002/2127), {reg. 15(10)} (with reg. 17)
S. 322A applied (E.) (1.10.2006) by The Environmental Impact Assessment (Agriculture)(England) Regulations 2006 (S.I. 2006/2362), {reg. 33(13)}
S. 322A applied (E.) (21.5.2007) by Wildlife and Countryside Act 1981 (c. 69), Sch. 15 para. 10A(3) (as inserted by Countryside and Rights of Way Act 2000 (c. 37), ss. 51, 103, **Sch. 5 para. 11**); S.I. 2007/1493, **art. 2**)
S. 322A applied (W.) (31.10.2007) by The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007 (S.I. 2007/2933), **reg. 31(11)**

Marginal Citations

M181 1972 c. 70.

VALID FROM 03/07/2000

[F441322B Local inquiries in London: special provision as to costs in certain cases.

(1) This section applies where—

(a) the local planning authority for a London borough refuse an application for planning permission,

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(b) that refusal is in compliance with a direction made by the Mayor of London in accordance with provision made in a development order by virtue of section 74(1B)(a), and

(c) an appeal against the refusal is made to the Secretary of State under section 78.

(2) If the Secretary of State causes a local inquiry to be held under section 320(1) to determine the appeal, in its application to the inquiry section 250 of the 1972 Act shall be treated as if—

(a) for subsection (4) there were substituted the subsection set out at subsection (5) below, and

(b) for subsection (5) there were substituted the subsection set out at subsection (6) below.

(3) If the appeal does not give rise to a local inquiry under section 320, in the application of section 322(2) in relation to the appeal the reference to section 250(5) of the 1972 Act shall be treated as if it were a reference to that provision as modified by subsection (2)(b) above.

(4) If arrangements are made for a local inquiry in relation to the appeal and the inquiry does not take place, in the application of section 322A in relation to the appeal the reference to section 250(5) of the 1972 Act shall be treated as if it were a reference to that provision as modified by subsection (2)(b) above.

(5) The subsection referred to in subsection (2)(a) above is as follows—

(“) Where this subsection applies to an inquiry, the costs incurred by the Secretary of State in relation to the inquiry shall be paid—

(a) by the Mayor of London, if he is not a party to the inquiry and if the Secretary of State decides that the Mayor acted unreasonably in making the direction in accordance with which the local planning authority refused the planning permission, or

(b) if the Mayor is a party or if the Secretary of State does not so decide, by such local authority or party to the inquiry as he may direct;

and the Secretary of State may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by the Mayor or by any authority or person shall be recoverable from the Mayor or from that authority or person by the Secretary of State summarily as a civil debt. ”

(6) The subsection referred to in subsection (2)(b) above is as follows—

(“) Where this subsection applies to an inquiry, or to costs incurred for the purposes of an inquiry, the Secretary of State may make orders as to the costs of the parties to the inquiry and as to the parties by whom the costs are to be paid; and—

(a) the parties by whom the costs are ordered to be paid may include the Mayor of London if he is not a party to the inquiry and if the Secretary of State decides that the Mayor acted unreasonably in making the direction in accordance with which the local planning authority refused the planning permission;

(b) every such order may be made a rule of the High Court on the application of any party named in the order. ”

(7) In this section “the 1972 Act” means the Local Government Act 1972.**]**

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Textual Amendments

F441 S. 322B inserted (3.7.2000) by 1999 c. 29, **s. 345** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

323 Procedure on certain appeals and applications.

(1) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act where he is required, before reaching a decision, to give any person an opportunity of appearing before and being heard by a person appointed by him and which are to be disposed of without an inquiry or hearing to which rules under **[**F442section 9 of the Tribunals and Inquiries Act 1992**]** apply.

(2) The regulations may in particular make provision as to the procedure to be followed—

(a) where steps have been taken with a view to the holding of such an inquiry or hearing which does not take place, or

(b) where steps have been taken with a view to the determination of any matter by a person appointed by the Secretary of State and the proceedings are the subject of a direction that the matter shall instead be determined by the Secretary of State, or

(c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,

and may provide that such steps shall be treated as compliance, in whole or in part, with the requirements of the regulations.

(3) The regulations may also—

(a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents;

(b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Secretary of State to give directions setting the time limit in a particular case or class of case;

(c) empower the Secretary of State to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit; and

(d) empower the Secretary of State, after giving the parties written notice of his intention to do so, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.

Textual Amendments

F442 Words in s. 323(1) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 26**

Modifications etc. (not altering text)

C292 S. 323 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty,

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1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3

C293 S. 323: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Rights of entry

324 Rights of entry.

(1) Any person duly authorised in writing by the Secretary of State or by a local planning authority may at any reasonable time enter any land for the purpose of surveying it in connection with—

(a) the preparation, approval, adoption or making of a unitary development plan or a local plan **[**F443minerals local plan or waste local plan**]**relating to the land under Part II or the alteration of such a plan or a structure plan relating to the land under that Part, including the carrying out of any survey under that Part;

(b) any application under Part III or sections F444. . ., 220 or 221 or under any order or regulations made under any of those provisions, for any permission, consent or determination to be given or made in connection with that land or any other land under that Part or any of those sections or under any such order or regulations;

(c) any proposal by the local planning authority or by the Secretary of State to make, issue or serve any order or notice under Part III (other than sections 94 and 96), F445. . . **[**F446or Chapter 2 or 3 of Part VIII**]** or under any order or regulations made under any of those provisions.

F447(2) . . . . . .

(3) Any person duly authorised in writing by the local planning authority may at any reasonable time enter any land for the purpose of exercising a power conferred on the authority by section 225 if—

(a) the land is unoccupied; and

(b) it would be impossible to exercise the power without entering the land.

F448(4) . . . . . .

(5) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local planning authority may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land which is payable by the local planning authority under Part IV, section 186, **[**F449Chapter 2 or 3 of Part VIII**]**, section 250(1) or Part XI (other than section 279(2) or (3) or 280(1)(c)).

(6) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local authority or Minister authorised to acquire land under section 226 or 228 or by a local authority who have power to acquire land under Part IX may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land or in connection with any claim for compensation in respect of any such acquisition.

(7) Any person duly authorised in writing by the Secretary of State or by a local planning authority may at any reasonable time enter any land in respect of which an order or notice has been made or served as mentioned in subsection (1)(c) for the purpose of ascertaining whether the order or notice has been complied with.

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(8) Subject to section 325, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.

(9) In subsections (1)(c) and (7) references to a local planning authority include, in relation to a building situated in Greater London, a reference to the Historic Buildings and Monuments Commission for England.

Textual Amendments

F443 Words in s. 324(1)(a) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 27, 84(2)-(4), **Sch. 4 Pt. II para. 33** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.4**

F444 Words in s. 324(1)(b) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(8)(a), 84(6), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.2** (subject to art. 4)

F445 Words in s. 324(1)(c) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 11(2), 84(6), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, **art.3**, (subject to art. 5)

F446 Words in s. 324(1)(c) expressed to be inserted (2.1.1992) for "or Part VIII" by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(8)(b)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

F447 S. 324(2) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(8)(c), 84(6), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.2** (subject to art. 5)

F448 S. 324(4) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31 , 84(6), Sch. 6 para. 34, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F449 Words in s. 324(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(8)(d)**, (with s.84(5))

Modifications etc. (not altering text)

C294 S. 324: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C295 S. 324(1)(a) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 17(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**

C296 S. 324(6) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

C297 S. 324(8) applied (with modifications) (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 6(3)(4)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

325 Supplementary provisions as to rights of entry.

(1) A person authorised under section 324 to enter any land—

(a) shall, if so required, produce evidence of his authority **[**F450and state the purpose of his entry**]** before so entering, and

(b) shall not demand admission as of right to any land which is occupied unless 24 hours' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 324 shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**F451level 3**]** on the standard scale.

(3) If any person who, in compliance with the provisions of section 324, is admitted into a factory, workshop or workplace discloses to any person any information obtained

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by him in it as to any manufacturing process or trade secret, he shall be guilty of an offence.

(4) Subsection (3) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the **[**F452land**]**.

(5) A person who is guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(6) Where any **[**F453damage is caused to land or chattels**]**—

(a) in the exercise of a right of entry conferred under section 324, or

(b) in the making of any survey for the purpose of which any such right of entry has been so conferred,

compensation **[**F453may be recovered by any person suffering the damage**]** from the Secretary of State or authority on whose behalf the entry was effected.

(7) The provisions of section 118 shall apply in relation to compensation under subsection (6) as they apply in relation to compensation under Part IV.

(8) No person shall carry out under section 324 any works authorised by virtue of subsection (8) of that section unless notice of his intention to do so was included in the notice required by subsection (1).

(9) The authority of the appropriate Minister shall be required for the carrying out under that section of works so authorised if the land in question is held by statutory undertakers, and they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.

Textual Amendments

F450 Words in s. 325(1)(a) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 50(2)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F451 Words in s. 325(2) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 50(3)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

F452 Word in s. 325(4) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 50(4)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

F453 Words in s. 325(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(3)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C298 S. 325 applied (with modifications) by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 88(7)**; applied (with modifications) (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 36(6)**; S.I. 1992/725, **arts. 2**, 3

C299 S. 325: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C300 S. 325(1)-(5)(8)(9) applied (with modifications) (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by 2003 c. 21, ss. 118, 411, **Sch. 4 para. 6(3)(4)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

C301 S. 325(9) applied (10.11.1993) by 1993 c. 28, **s. 163(11)**; S.I. 1993/2762, **art. 3**

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VALID FROM 07/06/2006

[F454 325A Rights of entry: Crown land

(1) Section 324 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of—

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (8) the words "Subject to section 325" must be ignored.

(5) Section 325 does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 293(2).**]**

Textual Amendments

F454 S. 325A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 13** (with s. 111); S.I. 2006/1281, **art. 2**

Miscellaneous and general provisions

F455 326 . . . . . .

Textual Amendments

F455 S. 326 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 35, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F456 327 . . . . . .

Textual Amendments

F456 S. 327 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 36, **Sch. 19 Pt.II**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

VALID FROM 06/08/2004

[F457 327A Applications: compliance with requirements

(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—

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(a) the form or manner in which the application must be made;
(b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement.**]**

Textual Amendments

F457 S. 327A inserted (6.8.2004 for certain purposes, 10.8.2006 for E. and 30.6.2007 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 42(5)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 3** (with art. 4) (as amended by S.I. 2010/321, **art. 3**); S.I. 2007/1369, **art. 2** (with art. 3) (as amended by S.I. 2010/321, **art. 4**)

328 Settled land and land of universities and colleges.

(1) The purposes authorised for the application of capital money—
(a) by section 73 of the [M182]Settled Land Act 1925 [F458]. . .; and
(b) by section 26 of the [M183]Universities and College Estates Act 1925,
shall include the payment of any sum recoverable under section 111, **[**[F459]or 112**]**.

(2) The purposes authorised as purposes for which money may be raised by mortgage—
(a) by section 71 of the Settled Land Act 1925 [F460]. . .; and
(b) by section 30 of the Universities and College Estates Act 1925,
shall include the payment of any sum so recoverable.

Textual Amendments

F458 Words in s. 328(1)(a) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

F459 Words in s. 328(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 37**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F460 Words in s. 328(2)(a) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

Modifications etc. (not altering text)

C302 S. 328: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M182 1925 c. 18.

M183 1925 c. 24.

329 Service of notices.

(1) Any notice or other document required or authorised to be served or given under this Act may be served or given either—
(a) by delivering it to the person on whom it is to be served or to whom it is to be given; or

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(b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address; or

(c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address; or

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—

(a) it is addressed to him either by name or by the description of "the owner" or, as the case may be, "the occupier" of the premises (describing them) and is delivered or sent in the manner specified in subsection (1)(a), (b) or (c); or

(b) it is so addressed and is marked in such a manner as may be prescribed for securing that it is plainly identifiable as a communication of importance and—

(i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or

(ii) it is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

(3) Where—

(a) the notice or other document is required to be served on or given to all persons who have interests in or are occupiers of premises comprised in any land, and

(b) it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied,

the notice or document shall be taken to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to "the owners and any occupiers" of that part of the land (describing it) and is affixed conspicuously to some object on the land.

[[F461](4) This section is without prejudice to section 233 of the [M184]Local Government Act 1972 (general provisions as to service of notices by local authorities).**]**

Textual Amendments

F461 S. 329(4) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.51** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C303 S. 329 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3

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S. 329 applied (E.) (1.10.2006) by The Environmental Impact Assessment (Agriculture) (England) Regulations 2006 (S.I. 2006/2362), **reg. 7(6)**
S. 329 applied (E.) (10.10.2006) by The Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006 (S.I. 2006/2362), regs. 1(2), **6(6)**

C304 S. 329: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C305 S. 329(1)(2)(4) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 16(2)**

Marginal Citations

M184 1972 c. 70.

VALID FROM 07/06/2006

[F462 329A Service of notices on the Crown

(1) Any notice or other document required under this Act to be served on the Crown must be served on the appropriate authority.

(2) Section 329 does not apply for the purposes of the service of such a notice or document.

(3) "Appropriate authority" must be construed in accordance with section 293(2).]

Textual Amendments

F462 S. 329A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 16** (with s. 111); S.I. 2006/1281, **art. 2**

330 Power to require information as to interests in land.

(1) For the purpose of enabling the Secretary of State or a local authority to make an order or issue or serve any notice or other document which, by any of the provisions of this Act, he or they are authorised or required to make, issue or serve, the Secretary of State or the local authority may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give in writing such information as to the matters mentioned in subsection (2) as may be so specified.

(2) Those matters are—

(a) the nature of the interest in the premises of the person on whom the notice is served;

(b) the name and address of any other person known to him as having an interest in the premises;

(c) the purpose for which the premises are being used;

(d) the time when that use began;

(e) the name and address of any person known to the person on whom the notice is served as having used the premises for that purpose;

(f) the time when any activities being carried out on the premises began.

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(3) A notice under subsection (1) may require information to be given within 21 days after the date on which it is served, or such longer time as may be specified in it, or as the Secretary of State or, as the case may be, the local authority may allow.

(4) Any person who, without reasonable excuse, fails to comply with a notice served on him under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any person who, having been required by a notice under subsection (1) to give any information, knowingly makes any misstatement in respect of it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

[F463(6) This section shall have effect as if the references to a local authority included references to a National Park authority.**]**

Textual Amendments

F463 S. 330(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(11)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

C306 S. 330 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3; power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 9** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C307 S. 330: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C308 S. 330: functions of local authority may be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 3(1), **Sch. 2 para. 16**

VALID FROM 07/06/2006

[F464330A Information as to interests in Crown land

(1) This section applies to an interest in Crown land which is not a private interest.

(2) Section 330 does not apply to an interest to which this section applies.

(3) For a purpose mentioned in section 330(1) the Secretary of State may request the appropriate authority to give him such information as to the matters mentioned in section 330(2) as he specifies in the request.

(4) The appropriate authority must comply with a request under subsection (3) except to the extent—

(a) that the matter is not within the knowledge of the authority, or

(b) that to do so will disclose information as to any of the matters mentioned in section 321(4).

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(5) Expressions used in this section and in Part 13 must be construed in accordance with that Part.**]**

Textual Amendments

F464 S. 330A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 17** (with s. 111); S.I. 2006/1281, **art. 2**

331 Offences by corporations.

(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against accordingly.

(2) In subsection (1) "director", in relation to any body corporate—

(a) which was established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, and

(b) whose affairs are managed by its members,

means a member of that body corporate.

Modifications etc. (not altering text)

C309 S. 331 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; excluded by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(2)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3

C310 S. 331: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 331 restricted (E.) (13.4.2001) by S.I. 2001/1478, **art. 3(a)**

332 Combined applications.

(1) Regulations made under this Act may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed, of—

(a) an application for planning permission in respect of any development; and

(b) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.

(2) Before making any regulations under this section, the Secretary of State shall consult with such local authorities or associations of local authorities as appear to him to be concerned.

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(3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.

(4) If an application required to be made to a local authority under an enactment specified in any such regulations is made in accordance with the provisions of the regulations, it shall be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.

(5) Subsection (4) shall have effect without prejudice to—

(a) the validity of any application made in accordance with the enactment in question; or

(b) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.

(6) In this section "application" includes a submission.

Modifications etc. (not altering text)

C311 S. 332: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

333 Regulations and orders.

(1) The Secretary of State may make regulations under this Act—

(a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by any local authority **[**[F465]or National Park authority**]**;

(b) for any purpose for which regulations are authorised or required to be made under this Act (other than a purpose for which regulations are authorised or required to be made by another Minister).

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

(3) Any statutory instrument containing regulations made under this Act (except regulations under section 88 and regulations which by virtue of this Act are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) The power to make development orders and orders under sections 2, 28, 55(2)(f), 87, 149(3)(a) and 319 shall be exercisable by statutory instrument.

(5) Any statutory instrument—

(a) which contains an order under section 2 which has been made after a local inquiry has been held in accordance with subsection (2) of that section; or

(b) which contains a development order or an order under section 28, 87 or 149(3)(a),

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Without prejudice to subsection (5), where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than

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any of the enactments specified in Schedule 17) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.

(7) Without prejudice to section 14 of the [M185]Interpretation Act 1978, any power conferred by any of the provisions of this Act to make an order, shall include power to vary or revoke any such order by a subsequent order.

Subordinate Legislation Made

P7 S. 333: power previously exercised by S.I. 1990/1562, 2032
P8 S. 333(7): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536,
P9 S. 333(7): s. 55(2)(f) (with s. 333(7)) power exercised by S.I. 1991/1567

Textual Amendments

F465 Words in s. 333(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(12)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

C312 S. 333: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M185 1978 c. 30.

334 Licensing planning areas.

(l) Where the united district for which, by an order under section 2, a joint planning board is constituted comprises a licensing planning area, or the whole or part of such a united district is included in a licensing planning area, the Secretary of State may by order revoke or vary any order in force under Part VII of the [M186]Licensing Act 1964 so far as may be necessary or expedient in consequence of the order under section 2.

(2) Subject to subsection (1), nothing in any order made under section 2 shall affect the validity of any order in force under Part VII of the Licensing Act 1964 if made before the date of the order under section 2.

Modifications etc. (not altering text)

C313 S. 334: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M186 1964 c. 26.

335 Act not excluded by special enactments.

For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers imposed or conferred by it in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of the 1947 Act, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6, for authorising or regulating any development of the land.

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Modifications etc. (not altering text)
C314 S. 335: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

336 Interpretation.

(l) In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) Act 1990—

"the 1944 Act" means the Town and Country Planning Act 1944;

"the 1947 Act" means the [M187]Town and Country Planning Act 1947;

"the 1954 Act" means the [M188]Town and Country Planning Act 1954;

"the 1959 Act" means the [M189]Town and Country Planning Act 1959;

"the 1962 Act" means the [M190]Town and Country Planning Act 1962;

"the 1968 Act" means the [M191]Town and Country Planning Act 1968;

"the 1971 Act" means the [M192]Town and Country Planning Act 1971;

"acquiring authority", in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

"advertisement" means any word, letter, model, sign, placard, board, notice **[**[F466]awning, blind**]**, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used **[**[F466]or designed**]**, or adapted for use **[**[F466]and anything else principally used, or designed or adapted principally for use,**]**, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

"aftercare condition" has the meaning given in paragraph 2(2) of Schedule 5;

"aftercare scheme" has the meaning given in paragraph 2(3) of Schedule 5;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

"the appropriate Minister" has the meaning given in section 265;

"authority possessing compulsory purchase powers", in relation to the compulsory acquisition of an interest in land, means the person or body of persons effecting the acquisition and, in relation to any other transaction relating to an interest in land, means any person or body of persons who could be or have been authorised to acquire that interest compulsorily for the purposes for which the transaction is or was effected or a body (being a parish council, community council or parish meeting) on whose behalf a district council or county council **[**[F467]or county borough council**]** could be or have been so authorised;

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"authority to whom Part II of the 1959 Act applies" means a body of any of the descriptions specified in Part I of Schedule 4 to the 1959 Act;

[F468"breach of condition notice" has the meaning given in section 187A;

[F469"breach of planning control" has the meaning given in section 171A**]]**

"bridleway" has the same meaning as in the M193Highways Act 1980;

"the Broads" has the same meaning as in the M194Norfolk and Suffolk Broads Act 1988;

"building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

"buildings or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly **[**F470and references to the removal of buildings or works include demolition of buildings and filling in of trenches**]**;

[F471"building operations" has the meaning given by section 55**]**

"caravan site" has the meaning given in section 1(4) of the M195Caravan Sites and Control of Development Act 1960;

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation to it as may be prescribed;

"common" includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green;

"compulsory acquisition" does not include the vesting in a person by an Act of Parliament of property previously vested in some other person;

"conservation area" means an area designated under section 69 of the Planning M196(Listed Buildings and Conservation Areas) Act 1990;

[F472"depositing of mineral waste" means any process whereby a mineral-working deposit is created or enlarged and "depositing of refuse or waste materials" includes the depositing of mineral waste;**]**

"development" has the meaning given in section 55, and "develop" shall be construed accordingly;

F473 . . .

"development order" has the meaning given in section 59;

"development plan" shall be construed in accordance with sections **[**F47427, 27A**]** and 54 (but subject to the transitional provisions in Schedule 2 **[**F475and Part III of Schedule 4 to the Planning and Compensation Act 1991**]**);

"disposal" means disposal by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other manner, except by way of appropriation, gift or mortgage, and "dispose of" shall be construed accordingly;

"enactment" includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament;

"enforcement notice" means a notice under section 172;

"engineering operations" includes the formation or laying out of means of access to highways;

"enterprise zone scheme" means a scheme or modified scheme having effect to grant planning permission in accordance with section 88;

"erection", in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;

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F476 . . .

"footpath" has the same meaning as in the M197Highways Act 1980;

"fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

"functions" includes powers and duties;

"government department" includes any Minister of the Crown;

"the Greater London Development Plan" means the development plan submitted to the Minister of Housing and Local Government under section 25 of the M198London Government Act 1963 and approved by the Secretary of State under section 5 of the 1962 Act or the corresponding provision of the 1971 Act;

"highway" has the same meaning as in the M199Highways Act 1980 ;

"improvement", in relation to a highway, has the same meaning as in the Highways Act 1980;

"joint planning board" has the meaning given in section 2;

"land" means any corporeal hereditament, including a building, and, in relation to the acquisition of land under Part IX, includes any interest in or right over land;

"lease" includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and "leasehold interest" means the interest of the tenant under a lease as so defined;

"local authority" (except in section 252 and subject to subsection (10) **[**F477below and section 71(7) of the Environment Act 1995**]**) means—

[F478(a) a billing authority or a precepting authority (except the Receiver for the Metropolitan Police District), as defined in section 69 of the Local Government Finance Act 1992;

(aa) a combined police authority or a combined fire authority, as defined in section 144 of the M200Local Government Finance Act 1988;**]**

(b) a levying body within the meaning of section 74 of that Act; and

(c) a body as regards which section 75 of that Act applies;

and includes any joint board or joint committee if all the constituent authorities are local authorities within paragraph (a), (b) or (c);

"local highway authority" means a highway authority other than the Secretary of State;

"local planning authority" shall be construed in accordance with Part I;

"London borough" includes the City of London, references to the council of a London borough or the clerk to such a council being construed, in relation to the City, as references to the Common Council of the City and the town clerk of the City respectively;

"means of access" includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;

F473 . . .

"mineral planning authority" has the meaning given in section **[**F4791**]**;

"mineral-working deposit" means any deposit of material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land;

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"minerals" includes all **[**F480substances**]** of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale;

"Minister" means any Minister of the Crown or other government department;

"mortgage" includes any charge or lien on any property for securing money or money's worth;

F481 . . .

"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;

"operational land" has the meaning given in section 263;

"owner", in relation to any land, means F482. . .a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

"the planning Acts" means this Act, the M201Planning (Listed Buildings and Conservation Areas) Act 1990, the M202Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990;

[F483"planning contravention notice" has the meaning given in section 171C**]**

"planning decision" means a decision made on an application under Part III;

"planning permission" means permission under Part III, F484. . .

"planning permission granted for a limited period" has the meaning given in section 72(2)

"prescribed" (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

F481 . . .

"**[**F485public gas transporter**]**" has the same meaning as in Part I of the M203Gas Act 1986;

"purchase notice" has the meaning given in section 137;

F486 . . .

"replacement of open space", in relation to any area, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used;

"restoration condition" has the meaning given in paragraph 2(2) of Schedule 5;

F486 . . .

"simplified planning zone" and "simplified planning zone scheme" shall be construed in accordance with sections 82 and 83;

F486 . . .

"statutory undertakers" and "statutory undertaking" have the meanings given in section 262;

"steps for the protection of the environment" has the meaning given in paragraph 5(4) of Schedule 9;

"stop notice" has the meaning given in section 183;

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"suspension order" has the meaning given in paragraph 5 of Schedule 9; and

"supplementary suspension order" has the meaning given in paragraph 6 of Schedule 9;

"tenancy" has the same meaning as in the [M204]Landlord and Tenant Act 1954 ;

"tree preservation order" has the meaning given in section 198;

"urban development area" and "urban development corporation" have the same meanings as in Part XVI of the [M205]Local Government, Planning and Land Act 1980;

"use", in relation to land, does not include the use of land for the carrying out of any building or other operations on it;

"Valuation Office" means the Valuation Office of the Inland Revenue Department;

"war damage" has the meaning given in the [M206]War Damage Act 1943.

[[F472]"the winning and working of minerals" includes the extraction of minerals from a mineral working deposit.**]**

[[F487](1A) In this Act—

(a) any reference to a county (other than one to a county planning authority) shall be construed, in relation to Wales, as including a reference to a county borough;

(b) any reference to a county council shall be construed, in relation to Wales, as including a reference to a county borough council; and

(c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in relation to Wales as references to counties and county boroughs) shall not apply.**]**

(2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury.

(3) If any question so arises whether land of statutory undertakers is operational land, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

(4) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.

(5) With respect to references in this Act to planning decisions—

(a) in relation to a decision altered on appeal by the reversal or variation of the whole or part of it, such references shall be construed as references to the decision as so altered;

(b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Secretary of State on the appeal;

(c) in relation to a decision given on an appeal in the circumstances mentioned in section 78(2), such references shall be construed as references to the decision so given;

(d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the

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local planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 78(2), the end of the period there mentioned.

(6) Section 56 shall apply for determining for the purposes of this Act when development of land shall be taken to be initiated.

(7) In relation to the sale or acquisition of an interest in land—

(a) in a case where the interest is or was conveyed or assigned without a preliminary contract, references in this Act to a contract are references to the conveyance or assignment; and

(b) references to the making of a contract are references to the execution of it.

(8) In this Act—

(a) references to a person from whom title is derived by another person include references to any predecessor in title of that other person;

(b) references to a person deriving title from another person include references to any successor in title of that other person;

(c) references to deriving title are references to deriving title either directly or indirectly.

(9) References in the planning Acts to any of the provisions **[**F488of Parts III, VII and VIII**]** include, except where the context otherwise requires, references to those provisions as modified under section 316 F489. . ..

(10) In section 90, Chapter I of Part VI, and **[**F490section**]** 330 "local authority", in relation to land in the Broads, includes the Broads Authority.

Textual Amendments

F466 Words in s. 336(1) inserted (6.4.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 24**(with s. 84(5)); S.I. 1992/665, **art. 2**

F467 Words in definition of "authority possessing compulsory purchase powers" in s. 336(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(13)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F468 Definition in s. 336(1) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1**

F469 Definition in s. 336(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(a)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F470 Words in s. 336(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(b)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F471 Definition in s. 336(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(c)**(with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F472 Definitions in s. 336(1) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 12(a)(e)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F473 Definitions in s. 336(1) repealed (25.9.1991) by Planning and compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 12(b), Sch. 19 Pt. I (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1**

F474 Words in defintion of "development plan" in s. 336(1) substituted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(13)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

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F475 Words in s. 336(1) inserted (25.11.1991 for certain purposes and otherwise 10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 para. 34** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 4**

F476 Definition in s. 336(1) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(2)(d), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2**

F477 Words in definition of
"local authority"
in s. 336(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(13)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F478 Paras.(a)(aa) in definition of "local authority" in s. 336(1) substituted (2.11.1992) for para. (a) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 91**; S.I. 1992/2454, **art. 2**

F479 Words in definition of
"mineral planning authority"
in s. 336(1) substituted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(13)(c)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F480 Word in s. 336(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 12(c)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F481 Definitions repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 38, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F482 Words in s. 336(1) repealed (17.7.1992) by Planning and compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(2)(e), Sch. 19 Pt. I (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F483 Definition in s. 336(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(f)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F484 Words in s. 336(1) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(2)(g), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 2** (subject to art. 5)

F485 Words in s. 336(1) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(4)**; S.I. 1996/218, **art. 2**

F486 Definitions in s. 336(1) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 12(d), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1**

F487 S. 336(1A) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(14)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F488 Words in s. 336(9) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(3)**(with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

F489 Words in s. 336(9) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(3), **Sch. 19 Pt. I**(with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F490 Words in s. 336(10) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(4)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

Modifications etc. (not altering text)

C315 S. 336: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C316 S. 336(1) applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 209(3)(a)**, 223(2)
S. 336(1) applied (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 208(3)(a)**, 225(2)

Marginal Citations

M187 1947 c. 51.
M188 1954 c. 72.
M189 1959 c. 53.
M190 1962 c. 38.
M191 1968 c. 72.
M192 1971 c. 78.
M193 1980 c. 66.

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M194 1988 c. 4.
M195 1960 c. 62.
M196 1990 c. 9.
M197 1980 c. 66.
M198 1963 c. 33.
M199 1980 c. 66.
M200 1988 c. 41.
M201 1990 c. 9.
M202 1990 c. 10.
M203 1986 c. 44.
M204 1954 c. 56.
M205 1980 c. 65.
M206 1943 c. 21.

337 Short title, commencement and extent.

(1) This Act may be cited as the Town and Country Planning Act 1990.

(2) Except as provided in Part II and in Schedule 4 to the [M207]Planning (Consequential Provisions) Act 1990, this Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

(3) This Act extends to England and Wales only.

Marginal Citations
M207 1990 c. 11.

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