

PLANNING AND COMPULSORY PURCHASE ACT 2004

EXPLANATORY NOTES

OVERVIEW

8. **Part 1** (which applies only to England) provides that there will be a regional spatial strategy (RSS) for each region. Such regional planning guidance (RPG) as is prescribed by the Secretary of State will become the RSS. In addition, the Secretary of State has power to recognise a body as the regional planning body (RPB) for a region. The RPB must keep the RSS under review and monitor and report on its implementation. The RPB must seek advice from county councils and other types of authorities with strategic planning expertise about keeping the RSS under review and monitoring its implementation and preparing draft revisions of the RSS, and these authorities must provide the advice. The RPB must prepare a draft revision of the RSS when it appears to be necessary or expedient to do so, or at such time as is prescribed. Where the RPB decides to prepare different policies for different areas within the region, the detailed proposals must first be made by an authority with strategic planning expertise. The RPB must prepare, publish and comply with a statement of its policies for involving persons with an interest in preparing draft revisions. The Part makes general provision covering the preparation of draft revisions of the RSS, their submission to the Secretary of State and the holding of examinations in public of draft revisions. The Secretary of State has various default powers and may exercise functions of the RPB where there is no such recognised body in a region. The Secretary of State may by regulations make provision in connection with the exercise by any person of functions under this Part.
9. **Part 2** (which also applies only to England) provides for the preparation of local development documents (LDDs). These will replace local plans, unitary development plans and structure plans. Every local planning authority (as defined in the Part) must prepare and maintain a local development scheme. A county council in respect of any part of their area for which there is a district council must prepare and maintain a minerals and waste development scheme.
10. These schemes will set out what LDDs the authority will prepare, their timetable for preparation and whether they are to be prepared jointly with one or more other authorities. County councils in respect of any part of their area for which there is a district council will be able to participate in the preparation of LDDs concerning matters other than minerals and waste by entering a joint committee with one or more local planning authorities. LDDs must be prepared in accordance with the relevant scheme and must be in general conformity with the RSS or the spatial development strategy for London, as appropriate. The Part makes general provision as to the preparation, withdrawal, adoption and approval of LDDs and the examination of development plan documents. The Secretary of State has powers of intervention and may by regulations make provision in connection with the exercise by any person of functions under this Part.
11. **Part 3** deals with development. It updates the definition of the development plan to take account of the changes to the planning system made by the Act. It also imposes on those

with plan-making functions under Parts 1, 2 and 6 a duty to exercise their functions with the objective of contributing to the achievement of sustainable development.

12. **Part 4** deals with development control. Local planning authorities will be able to introduce local permitted development rights by way of local development orders. The Secretary of State will be able to make development orders and regulations prescribing the procedure for making applications for planning permission and certain consents; to prescribe fees and charges for a wider range of planning functions; and set a timetable for “called in” and recovered appeals and connected decisions. The Part provides that local planning authorities may decline to determine applications. It also changes the duration of planning permission and consents. It deals with major infrastructure projects in England, in relation to which the Secretary of State - if he considers the development to be of national or regional importance - may direct that a planning application must be referred to him rather than dealt with by the local planning authority. The Part introduces a new scheme of planning contributions to replace existing provisions relating to planning obligations. The Part amends the provisions for simplified planning zones contained in the Town and Country Planning Act 1990 so that they can only be made where the need for such a zone has been identified in the RSS (or, in relation to Wales, where criteria prescribed by the National Assembly are met). It provides local planning authorities with a new enforcement power to serve temporary stop notices. It introduces a duty for persons or bodies which are required to be consulted to respond to consultation requests within a specified time. It also brings the creation of additional floorspace within buildings under planning control.
13. **Part 5** deals with the correction of errors. The Secretary of State or an inspector may, subject to various conditions, correct errors contained in decision letters where a decision document is issued which contains a correctable error. The Secretary of State or the inspector may correct the letter where he is requested to do so in writing or where he writes to the applicant explaining that he is considering making a correction. The applicant (and, if the applicant is not the owner of the land, the owner of the land as well) must agree to the correction.
14. **Part 6** contains Wales-specific sections. It reforms the development plan system in Wales, where a single-tier system of local government and a uniform pattern of unitary development plans were introduced by the Local Government (Wales) Act 1994. The basic pattern of development plans (to be known as local development plans) is to be retained. Each local planning authority in Wales will be required to prepare a local development plan, to review it at intervals and to revise it as necessary. Local development plans will be simpler, more concise documents than the present unitary development plans and will focus on the authority’s objectives for the use and development of land in their area and their general policies for implementing them (but with scope for more detailed policies in key localities).
15. Procedures for preparing and revising plans will be simplified. Public participation in formulating plans and expedition in taking them through to adoption are to be maximised through community involvement schemes and timetables agreed between the local planning authority and the National Assembly for Wales (or, if agreement cannot be reached, determined by the Assembly). A shift in the focus of an independent examination of the local development plan towards its overall soundness is intended to encourage examinations to become less adversarial. Provision is also made for the National Assembly for Wales to prepare and publish a national spatial plan for Wales (the “Wales Spatial Plan”) to which local planning authorities will be required to have regard when preparing their plans.
16. **Part 7** Chapter 1 (sections 79 - 89) ends Crown immunity in the planning system and makes special provision in relation to certain planning applications by or on behalf of the Crown and in respect of enforcement of planning control in relation to the Crown in England and Wales.

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

17. **Part 7** Chapter 2 (sections 90 to 98) makes similar substantive provision for the Scottish planning Acts as does Chapter 1 for England and Wales. The drafting and terminology may differ from that in Chapter 1 because of differences in the text and terminology of the Scottish legislation.
18. The only provisions not carried through are those for transitional arrangements to the Scottish hazardous substances Act and for Notices of Proposed Development. These will be made by order of the Scottish Ministers using the power in section 119(2).
19. **Part 8** amends the existing power of local authorities, joint planning boards and National Park authorities under section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily land which is suitable for and required in order to secure the carrying out of development, re-development or improvement. They will be able to acquire land by compulsory purchase if they think that it will facilitate the carrying out of development, re-development or improvement on or in relation to the land, on condition that such acquisition will be of economic, social or environmental benefit to their area.
20. This Part also amends procedural provisions in the Acquisition of Land Act 1981 for authorising the compulsory purchase of land. A wider category of persons with an interest in land will be entitled to have their objections to the authorisation heard. There is to be a written representations procedure for considering objections to compulsory purchase authorisation when all objectors entitled to be heard consent. There is to be a power to authorise compulsory purchase in stages and, in the case of unopposed compulsory purchase orders which are not made on behalf of a Minister or the National Assembly for Wales for the confirming authority to transfer its determination to the acquiring authority. Further provisions in this Part enable an acquiring authority to requisition for information as to the ownership and occupation of land in certain cases.
21. The Part also contains provisions relating to compensation in respect of land that is compulsorily purchased. These set out the date on which property is to be valued for compensation purposes. In addition, a new statutory scheme is introduced which, subject to certain exceptions, provides for “loss payments” for those owners and occupiers who are not entitled to receive payments under the home loss scheme set out in sections 29 to 33 of the Land Compensation Act 1973.
22. **Part 9** deals with miscellaneous and general issues.