

SCHEDULE 2

Regulation 31

Secretary of State's default power

1. This Schedule applies where the Secretary of State prepares a local plan under section 27 of the Act.

2.—(1) The Secretary of State must comply with section 19(2) of the Act as if—

- (a) the duty imposed on the local planning authority were imposed on the Secretary of State;
- (b) references in section 19(2)(b) to (h) to the local planning authority (in whatever terms) were references to the local planning authority in question; and
- (c) section 19(2)(j) referred to the matters prescribed under regulation 10, treating the references to the local planning authority (in whatever terms) in regulation 10 as references to the local planning authority in question.

(2) The Secretary of State must comply, to the extent (if any) that the Secretary of State considers appropriate, with section 19(3) of the Act as if the reference to the local planning authority (in whatever terms) were a reference to the Secretary of State and the reference to their statement of community involvement were a reference to the statement of community involvement of the local planning authority in question.

(3) The Secretary of State must comply with section 19(5) of the Act as if the reference to the local planning authority (in whatever terms) were a reference to the Secretary of State and as if the reference to each document were a reference to the local plan.

(4) If the local planning authority in question is a London borough council, the Secretary of State must request the opinion of the Mayor of London as to the general conformity of the local plan with the London spatial development strategy.

(5) Before holding an independent examination of the local plan under section 27(2) of the Act, the Secretary of State must—

- (a) notify each of the bodies or persons specified in sub-paragraph (6) of the subject of the local plan which the Secretary of State proposes to prepare;
- (b) invite each of them to make representations to the Secretary of State about what the local plan with that subject ought to contain;
- (c) take into account any representation made to the Secretary of State in response to those invitations;
- (d) make a copy of each of the proposal documents and a statement of the representations procedure available during normal office hours, at such places as the Secretary of State considers appropriate, and
- (e) ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected, is sent to each of the bodies or persons which are invited to make representations under paragraph (b).

(6) The bodies or persons referred to in sub-paragraph (5)(a) are—

- (a) such of the specific consultation bodies (in relation to the area of the local planning authority in question) as the Secretary of State considers may have an interest in the subject of the proposed local plan;
- (b) such of the general consultation bodies (in relation to the area of the local planning authority in question) as the Secretary of State considers appropriate; and

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- (c) such residents or other persons carrying on business in the area of the local planning authority in question from which the Secretary of State considers it appropriate to invite representations.

(7) Where the Secretary of State makes available a local plan for the making of representations prior to the holding of an independent examination under section 27(2) of the Act, any person may make representations in relation to the local plan but any such representation must be received by the Secretary of State by the date specified in the statement of the representations procedure.

(8) Where the Secretary of State holds an independent examination under section 27(2) of the Act, at least 6 weeks before the opening of a hearing the Secretary of State must—

- (a) make the matters mentioned in sub-paragraph (9) available in accordance with regulation 35; and
- (b) notify any body or person who has made a representation in accordance with sub-paragraph (5) and not withdrawn that representation, of those matters.

(9) The matters referred to in sub-paragraph (8) are—

- (a) the date, time and place at which the hearing is to be held, and
- (b) the name of the person appointed to carry out the independent examination.

(10) For the purposes of this paragraph—

“proposal documents” means the following documents—

- (a) the local plan for which the Secretary of State proposes to hold an independent examination;
- (b) if the approval of the local plan would result in changes to the adopted policies map, a map showing how the adopted policies map of the local planning authority would be amended by the local plan, if it were approved;
- (c) the sustainability appraisal report of the local plan prepared in accordance with section 19(5) of the Act (as modified by sub-paragraph (3));
- (d) a statement setting out—
 - (i) which bodies and persons were invited to make representations under sub-paragraph (5)(b);
 - (ii) how those bodies and persons were invited to make such representations;
 - (iii) a summary of the main issues raised by those representations; and
 - (iv) how those main issues have been addressed in the local plan; and
- (e) such supporting documents as in the opinion of the Secretary of State are relevant to the preparation of the local plan;

“statement of the representations procedure” means a statement specifying—

- (a) the title of the local plan for which the Secretary of State proposes to hold an independent examination;
- (b) the subject matter of, and the area covered by, the local plan;
- (c) the date by which representations about the local plan must be received, by the Secretary of State, which must be not less than 6 weeks from the day on which the statement is published;
- (d) the address to which representations about that document must be made;
- (e) that representations may be made in writing or by way of electronic communications; and
- (f) that representations may be accompanied by a request to be notified at a specified address of any of the following—

- (i) the publication of the recommendations of the person appointed to carry out an independent examination of the local plan, and
- (ii) the adoption of the local plan.