

EXPLANATORY MEMORANDUM TO THE
Town and Country Planning (Initial Regional Spatial Strategy)(England)
Regulations 2004 No.2206

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by command of Her Majesty.

2. **Description**

2.1 Part 1 of the Planning and Compulsory Purchase Act 2004 requires the to be a regional spatial strategy (RSS) for each region, which will set out the Secretary of State's policy in relation to the development and use of land within the region. (Section 1)

2.2 The Secretary of State's policy for development and use of land within a region is at present contained in regional planning guidance.

2.3 These regulations prescribe that the regional planning guidance set out in the Schedule is the RSS for the corresponding region set out in the Schedule.

3. **Matters of special interest to the [Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments]**

None

4. **Legislative Background**

4.1 The Secretary of State is exercising the powers conferred upon him by section 1(5) of the Planning and Compulsory Purchase Act 2004.

4.2 This enables the Secretary of State to prescribe by regulations that with effect from the appointed day the RSS for a region is so much of the regional planning guidance relating to the region.

4.3 The appointed day is the day appointed for the commencement of section 1 of the Planning and Compulsory Purchase Act 2004 (Section 1(6)).

5. **Extent**

This instrument applies to England.

6. **European Convention on Human Rights**

This Order is subject to the negative procedure and does not amend primary legislation. Therefore no statement as to compatibility has been given.

7. Policy background

7.1 Regional planning guidance (“RPG”), setting out the Secretary of State’s policies in relation to development and land use has been published in respect of each region. (A region is a region specified in section 1 of the Regional Development Act 1998.) The RPG is not a statutory development plan under the Town and Country Planning Act 1990. RPGs are therefore not afforded the additional weight under section 54A of the Town and Country Planning Act 1990, which provides that planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise.

7.2 Part 1 of the Planning and Compulsory Purchase Act 2004 places RPGs upon a statutory basis by providing that RPG prescribed by the Secretary of State will become the regional spatial strategy (“RSS”) for a region. RSS is a development plan, pursuant to section 38(3), and will have the benefit of section 38(6), the equivalent provision to section 54A of the Town and Country Planning Act 1990.

7.3 In most cases, the RPG for a region will become the RSS for the region. The policy objective of section 1(5) of the Planning and Compulsory Purchase Act 2004 and this Order is that it should be clear which regional planning guidance will be the RSS for that region, from the date appointed for the commencement of that section. It is essential for the preparation of Local Development Documents under Part 2 of the Act that there is a clear statutory regional planning context in each region. This instrument ensures there is no regional planning vacuum in any region.

7.4 In every region the existing RPG will be prescribed, in the Order, as the RSS for that region with the following exceptions:

- (i) RPG 3 (London), RPG3a (Strategic Views in London) and RPG3b/9b (River Thames) have all been superseded by the Mayor’s Sustainable Development Strategy (SDS) with the exception of those parts of RPG3b/9b which are covered by the 2001 version of RPG9; and
- (ii) RPG 9a (Thames Gateway) straddles London, the South East and the East of England. This has been up-dated in part by the SDS and will be in future by RSS revisions in the South East and the East of England and by the Mayor’s commitment to a coherent sub-regional planning framework for East London to be co-ordinated with planning for the rest of Thames Gateway. In view of this it would be inappropriate and confusing to give RPG9a the status of an RSS.

7.5 The RPG prescribed as RSS have been subject to consultation, sustainability appraisal and public examination pursuant to procedures and good practice set out in Planning Policy Guidance Note 11. The RPG that will not be prescribed as RSS have not been subject either to a public examination or to a sustainability appraisal.

7.6 This instrument is purely administrative in nature and given the limited nature of and the reasons for the exceptions to regional planning guidance becoming RSSs, there is unlikely to be much public interest in this instrument.

7.7 The instrument is not politically important and its only legal importance is that it clarifies which regional planning guidance in each region will be the RSS in that region.

7.8 This Order is linked to the following subordinate legislation:

- Town and Country Planning (Regional Planning) (England) Regulations 2004
- Town and Country Planning (Regional Planning Guidance as Revision of a Regional Spatial Strategy) Order 2004
- Town and Country Planning (Regional Functions)(National Parks) Order 2004
- The Town and Country Planning (Regional Spatial Strategies) (Examinations in Public)(Remuneration and Allowances)(England) Regulations 2004

which all implement the provisions of Part 1 of the Planning and Compulsory Purchase Act 2004, regional functions.

8. Impact

8.1 A Regulatory Impact Assessment (RIA) was completed for the Planning and Compulsory Purchase Bill. It addressed the regulatory impact of all of the measures contained in the Bill, including the regional planning arrangements in Part 1 of the Bill. The findings of the RIA noted that policies resultant from the Bill will be 'broadly deregulatory in effect' and that 'significant benefits will accrue from a radical reform of the planning system'.

9. Contact

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