Localism Act 2011

2011 CHAPTER 20

PART 6

PLANNING

CHAPTER 1

PLANS AND STRATEGIES

109 Abolition of regional strategies

(1) The following provisions are repealed—

(a) sections 70(5), 82(1) and (2) and 83 of the Local Democracy, Economic Development and Construction Act 2009 (interpretation and effect of regional strategies), and

(b) the remaining provisions of Part 5 of that Act (regional strategy).

(2) Subsection (1)(b) does not apply to—

(a) section 85(1) (consequential provision) of that Act,

(b) Schedule 5 to that Act (regional strategy: amendments) (but see Part 16 of Schedule 25 to this Act), or

(c) Part 4 of Schedule 7 to that Act (regional strategy: repeals).

(3) The Secretary of State may by order revoke the whole or any part of a regional strategy under Part 5 of that Act.

(4) An order under subsection (3) may, in particular, revoke all of the regional strategies (or all of the remaining regional strategies) under Part 5 of that Act.

(5) The Secretary of State may by order revoke the whole or any part of a direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 (directions preserving development plan policies) if and so far as it relates to a policy contained in a structure plan.

(6) An order under subsection (5) may, in particular, revoke all directions (or all remaining directions) under paragraph 1(3) of that Schedule so far as they relate to policies contained in structure plans.

(7) Schedule 8 (which contains amendments that are consequential on this section) has effect.

110 Duty to co-operate in relation to planning of sustainable development

(1) In Part 2 of the Planning and Compulsory Purchase Act 2004 (local development) after section 33 insert—

"**33A Duty to co-operate in relation to planning of sustainable development**

(1) Each person who is—

(a) a local planning authority,

(b) a county council in England that is not a local planning authority, or

(c) a body, or other person, that is prescribed or of a prescribed description,

must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (9) in maximising the effectiveness with which activities within subsection (3) are undertaken.

(2) In particular, the duty imposed on a person by subsection (1) requires the person—

(a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and

(b) to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3).

(3) The activities within this subsection are—

(a) the preparation of development plan documents,

(b) the preparation of other local development documents,

(c) the preparation of marine plans under the Marine and Coastal Access Act 2009 for the English inshore region, the English offshore region or any part of either of those regions,

(d) activities that can reasonably be considered to prepare the way for activities within any of paragraphs (a) to (c) that are, or could be, contemplated, and

(e) activities that support activities within any of paragraphs (a) to (c),

so far as relating to a strategic matter.

(4) For the purposes of subsection (3), each of the following is a "strategic matter"—

(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and

(b) sustainable development or use of land in a two-tier area if the development or use—

(i) is a county matter, or

(ii) has or would have a significant impact on a county matter.

(5) In subsection (4)—

"county matter" has the meaning given by paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph 1(1)(i)),

"planning area" means—

(a) the area of—

(i) a district council (including a metropolitan district council),

(ii) a London borough council, or

(iii) a county council in England for an area for which there is no district council,

but only so far as that area is neither in a National Park nor in the Broads,

(b) a National Park,

(c) the Broads,

(d) the English inshore region, or

(e) the English offshore region, and

"two-tier area" means an area—

(a) for which there is a county council and a district council, but

(b) which is not in a National Park.

(6) The engagement required of a person by subsection (2)(a) includes, in particular—

(a) considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3), and

(b) if the person is a local planning authority, considering whether to agree under section 28 to prepare joint local development documents.

(7) A person subject to the duty under subsection (1) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

(8) A person, or description of persons, may be prescribed for the purposes of subsection (1)(c) only if the person, or persons of that description, exercise functions for the purposes of an enactment.

(9) A person is within this subsection if the person is a body, or other person, that is prescribed or of a prescribed description.

(10) In this section—

"the English inshore region" and "the English offshore region" have the same meaning as in the Marine and Coastal Access Act 2009, and

"land" includes the waters within those regions and the bed and subsoil of those waters."

(2) In section 16 of the Planning and Compulsory Purchase Act 2004 (applying Part 2 for purposes of a county council's minerals and waste development scheme) after subsection (4) insert—

"(5) Also, subsection (3)(b) does not apply to section 33A(1)(a) and (b)."

(3) In section 20(5) of the Planning and Compulsory Purchase Act 2004 (development plan documents: purpose of independent examination) after paragraph (b) insert "; and

(c) whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation."

111 Local development schemes

(1) Section 15 of the Planning and Compulsory Purchase Act 2004 (preparation, revision and promulgation of local development schemes) is amended as follows.

(2) Omit subsection (3) (requirements as to preparation of schemes).

(3) In subsection (4) (Secretary of State or Mayor of London may direct that scheme be amended) after "thinks appropriate" insert "for the purpose of ensuring effective coverage of the authority's area by the development plan documents (taken as a whole) for that area".

(4) In subsection (6A)(b) (provision about directions given by Mayor of London under subsection (4)) for "the scheme is not to be brought into effect" substitute "effect is not to be given to the direction".

(5) For subsection (7) (regulations about publicity, inspection and bringing schemes into effect) substitute—

"(7) To bring the scheme into effect, the local planning authority must resolve that the scheme is to have effect and in the resolution specify the date from which the scheme is to have effect."

(6) After subsection (8A) insert—

"(8AA) A direction may be given under subsection (8)(b) only if the person giving the direction thinks that revision of the scheme is necessary for the purpose of ensuring effective coverage of the authority's area by the development plan documents (taken as a whole) for that area."

(7) After subsection (9) insert—

"(9A) The local planning authority must make the following available to the public—

(a) the up-to-date text of the scheme,

(b) a copy of any amendments made to the scheme, and

(c) up-to-date information showing the state of the authority's compliance (or non-compliance) with the timetable mentioned in subsection (2)(f)."

112 Adoption and withdrawal of development plan documents

(1) The Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) For section 20(7) (independent examiner must make recommendations with reasons) substitute—

"(7) Where the person appointed to carry out the examination—

(a) has carried it out, and

(b) considers that, in all the circumstances, it would be reasonable to conclude—

(i) that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, and

(ii) that the local planning authority complied with any duty imposed on the authority by section 33A in relation to the document's preparation,

the person must recommend that the document is adopted and give reasons for the recommendation.

(7A) Where the person appointed to carry out the examination—

(a) has carried it out, and

(b) is not required by subsection (7) to recommend that the document is adopted,

the person must recommend non-adoption of the document and give reasons for the recommendation.

(7B) Subsection (7C) applies where the person appointed to carry out the examination—

(a) does not consider that, in all the circumstances, it would be reasonable to conclude that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, but

(b) does consider that, in all the circumstances, it would be reasonable to conclude that the local planning authority complied with any duty imposed on the authority by section 33A in relation to the document's preparation.

(7C) If asked to do so by the local planning authority, the person appointed to carry out the examination must recommend modifications of the document that would make it one that—

(a) satisfies the requirements mentioned in subsection (5)(a), and

(b) is sound."

(3) For section 23(2) and (3) (adoption of development plan documents, whether as prepared or with modifications, must be in accordance with independent examiner's recommendations) substitute—

"(2) If the person appointed to carry out the independent examination of a development plan document recommends that it is adopted, the authority may adopt the document—

(a) as it is, or

(b) with modifications that (taken together) do not materially affect the policies set out in it.

(2A) Subsection (3) applies if the person appointed to carry out the independent examination of a development plan document—

(a) recommends non-adoption, and

(b) under section 20(7C) recommends modifications ("the main modifications").

(3) The authority may adopt the document—

(a) with the main modifications, or

(b) with the main modifications and additional modifications if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications."

(4) Omit section 22(2) (development plan document not to be withdrawn once submitted for independent examination unless examiner or Secretary of State directs that it be withdrawn).

(5) In section 21 (intervention by Secretary of State) after subsection (9) insert—

"(9A) The Secretary of State may at any time—

(a) after a development plan document has been submitted for independent examination under section 20, but

(b) before it is adopted under section 23,

direct the local planning authority to withdraw the document."

(6) The amendments made by subsections (2) and (3) apply in relation to all adoptions of development plan documents that take place after the coming into force of those subsections, including an adoption where steps in relation to the document have taken place before then.

113 Local development: monitoring reports

(1) Section 35 of the Planning and Compulsory Purchase Act 2004 (local planning authority must make annual report to Secretary of State) is amended as follows.

(2) Omit subsection (1) (duty to make annual report).

(3) In subsection (2) (contents of annual report) for "The annual report must contain" substitute "Every local planning authority must prepare reports containing".

(4) In subsection (3) (rules about annual reports) for the words from the beginning to the end of paragraph (b) substitute—

"A report under subsection (2) must—

(a) be in respect of a period—

(i) which the authority considers appropriate in the interests of transparency,

(ii) which begins with the end of the period covered by the authority's most recent report under subsection (2), and

(iii) which is not longer than 12 months or such shorter period as is prescribed;".

(5) After subsection (3) insert—

"(4) The authority must make the authority's reports under this section available to the public."

(6) In the heading for "Annual" substitute "Authorities'" and for "report" substitute "reports".

CHAPTER 2

COMMUNITY INFRASTRUCTURE LEVY

114 Community Infrastructure Levy: approval of charging schedules

(1) The Planning Act 2008 is amended as follows.

(2) In section 211 (amount of levy) after subsection (7) insert—

"(7A) A charging authority must use appropriate available evidence to inform the charging authority's preparation of a charging schedule.

(7B) CIL regulations may make provision about the application of subsection (7A) including, in particular—

(a) provision as to evidence that is to be taken to be appropriate,
(b) provision as to evidence that is to be taken to be not appropriate,
(c) provision as to evidence that is to be taken to be available,
(d) provision as to evidence that is to be taken to be not available,
(e) provision as to how evidence is, and as to how evidence is not, to be used,
(f) provision as to evidence that is, and as to evidence that is not, to be used,
(g) provision as to evidence that may, and as to evidence that need not, be used, and
(h) provision as to how the use of evidence is to inform the preparation of a charging schedule."

(3) For section 212(4) to (7) (draft must be accompanied by declaration of compliance with requirements, and examiner must consider the requirements and make recommendations with reasons) substitute—

"(4) In this section and sections 212A and 213 "the drafting requirements" means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule.

(7) The examiner must consider whether the drafting requirements have been complied with and—

(a) make recommendations in accordance with section 212A, and
(b) give reasons for the recommendations."

(4) After section 212 insert—

"**212A Charging schedule: examiner's recommendations**

(1) This section applies in relation to the examination, under section 212, of a draft charging schedule.

(2) If the examiner considers—

(a) that there is any respect in which the drafting requirements have not been complied with, and

(b) that the non-compliance with the drafting requirements cannot be remedied by the making of modifications to the draft,

the examiner must recommend that the draft be rejected.

(3) Subsection (4) applies if the examiner considers—

(a) that there is any respect in which the drafting requirements have not been complied with, and

(b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.

(4) The examiner must—

(a) specify the respects in which the drafting requirements have not been complied with,

(b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and

(c) recommend that the draft be approved with—

(i) those modifications, or

(ii) other modifications sufficient and necessary to remedy that non-compliance.

(5) Subject to subsections (2) to (4), the examiner must recommend that the draft be approved.

(6) If the examiner makes recommendations under subsection (4), the examiner may recommend other modifications with which the draft should be approved in the event that it is approved.

(7) If the examiner makes recommendations under subsection (5), the examiner may recommend modifications with which the draft should be approved in the event that it is approved."

(5) For section 213(1) (charging authority has to follow examiner's recommendations when approving charging schedule) substitute—

"(1) A charging authority may approve a charging schedule only if—

(a) the examiner makes recommendations under section 212A(4) or (5), and

(b) the charging authority has had regard to those recommendations and the examiner's reasons for them.

(1A) Accordingly, a charging authority may not approve a charging schedule if, under section 212A(2), the examiner recommends rejection.

(1B) If the examiner makes recommendations under section 212A(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified under section 212A(4)(a) (although those modifications need not be the ones recommended under section 212A(4)(b)).

(1C) If a charging authority approves a charging schedule, it may do so with all or none, or some one or more, of the modifications (if any) recommended under section 212A(6) or (7).

(1D) The modifications with which a charging schedule may be approved include only—

(a) modifications required by subsection (1B), and

(b) modifications allowed by subsection (1C).”

(6) In section 213 (approval of charging schedules) after subsection (3) insert—

“(3A) Subsection (3B) applies if—

(a) the examiner makes recommendations under section 212A(4), and

(b) the charging schedule is approved by the charging authority.

(3B) The charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under section 212A(4)(a).

(3C) CIL regulations may make provision about the form or contents of a report under subsection (3B).”

(7) In section 213 after subsection (4) insert—

“(5) In this section “examiner” means examiner under section 212.”

(8) The amendments made by this section do not apply in relation to cases where an examiner submits recommendations to a charging authority before the coming into force of this section, but subject to that the cases in relation to which the amendments apply include a case in which steps in relation to the charging schedule have been taken before then.

115 Use of Community Infrastructure Levy

(1) The Planning Act 2008 is amended as follows.

(2) In section 205(2) (requirement to aim to ensure that overall purpose of the levy is to ensure that costs of providing infrastructure to support development of an area can be funded by owners or developers of land)—

(a) for “providing infrastructure to support” substitute “supporting”, and

(b) after “land” insert “in a way that does not make development of the area economically unviable”.

(3) In the Table in section 205(3) (which describes the provisions of the Part) for “Section 216” substitute “Sections 216 to 216B”.

(4) In section 211(4) (particular provision that may be included in regulations about setting rates, or other criteria, by reference to which the amount of levy chargeable is to be determined) after paragraph (a) insert—

“(aa) to have regard, to the extent and in the manner specified by the regulations, to actual and expected costs of anything other than infrastructure that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);

(ab) to have regard, to the extent and in the manner specified by the regulations, to other actual and expected sources of funding for anything other than infrastructure that is concerned with addressing demands that development places on an area;".

(5) In section 216 (application of levy)—

(a) in subsection (1) (levy to be used to fund infrastructure, or pay compensation under section 219)—

(i) for "section" substitute "sections 216A(1), 216B(2) and", and

(ii) for "funding infrastructure" substitute "supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure",

(b) in subsection (2) (meaning of "infrastructure" in subsection (1)) for "subsection (1)" substitute "this section (except subsection (3)) and sections 216A(2) and 216B(2)",

(c) in subsection (4)(a) (power to specify facilities that are to be, or not to be, funded) for "that are to be, or not to" substitute "whose provision, improvement or replacement may or is to be, or may not",

(d) in subsection (4) (matters that may be specified by regulations) after paragraph (a) insert—

"(aa) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may or are to be, or may not be, funded by CIL,

(ab) things within section 216A(2)(b) that may or are to be, or may not be, funded by CIL passed to a person in discharge of a duty under section 216A(1),

(ac) things within section 216B(2)(b) that may or are to be, or may not be, funded by CIL to which provision under section 216B(2) relates,",

(e) in subsection (4)(b) (power to specify criteria for determining areas in relation to which infrastructure may be funded) for "in relation to which infrastructure may be funded" substitute "that may benefit from funding",

(f) in subsection (5)(a) (power to require authorities to list projects that are to be, or may be, funded) for "projects that are" substitute "what is",

(g) in subsection (5)(c) (power to make provision about funding projects not on list) for "projects" substitute "anything",

(h) in subsection (6)(b) (regulations about funding may permit levy to be reserved for expenditure on future projects) for "on future projects" substitute "in the future",

(i) in subsection (6)(c) (regulations may permit funding of administrative expenses in connection with infrastructure) after "infrastructure" insert "or anything within section 216A(2)(b) or 216B(2)(b)", and

(j) in subsection (6)(e) (regulations may make provision for the use of funding where the projects to be funded no longer require funding)—

(i) for "the projects" substitute "anything", and

(ii) for "require" substitute "requires".

(6) After section 216 insert—

"**216A Duty to pass receipts to other persons**

(1) CIL regulations may require that CIL received in respect of development of land in an area is to be passed by the charging authority that charged the CIL to a person other than that authority.

(2) CIL regulations must contain provision to secure that money passed to a person in discharge of a duty under subsection (1) is used to support the development of the area to which the duty relates, or of any part of that area, by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure, or

(b) anything else that is concerned with addressing demands that development places on an area.

(3) A duty under subsection (1) may relate to—

(a) the whole of a charging authority's area or the whole of the combined area of two or more charging authorities, or

(b) part only of such an area or combined area.

(4) CIL regulations may make provision about the persons to whom CIL may or must, or may not, be passed in discharge of a duty under subsection (1).

(5) A duty under subsection (1) may relate—

(a) to all CIL (if any) received in respect of the area to which the duty relates, or

(b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.

(6) CIL regulations may make provision in connection with the timing of payments in discharge of a duty under subsection (1).

(7) CIL regulations may, in relation to CIL passed to a person in discharge of a duty under subsection (1), make provision about—

(a) accounting for the CIL,

(b) monitoring its use,

(c) reporting on its use,

(d) responsibilities of charging authorities for things done by the person in connection with the CIL,

(e) recovery of the CIL, and any income or profits accruing in respect of it or from its application, in cases where—

(i) anything to be funded by it has not been provided, or

(ii) it has been misapplied,

including recovery of sums or other assets representing it or any such income or profits, and

(f) use of anything recovered in cases where—

(i) anything to be funded by the CIL has not been provided, or

(ii) the CIL has been misapplied.

(8) This section does not limit section 216(7)(f).

216B Use of CIL in an area to which section 216A(1) duty does not relate

(1) Subsection (2) applies where—

(a) there is an area to which a particular duty under section 216A(1) relates, and

(b) there is also an area to which that duty does not relate ("the uncovered area").

(2) CIL regulations may provide that the charging authority that charges CIL received in respect of development of land in the uncovered area may apply the CIL, or cause it to be applied, to—

(a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or

(b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area.

(3) Provision under subsection (2) may relate to the whole, or part only, of the uncovered area.

(4) Provision under subsection (2) may relate—

(a) to all CIL (if any) received in respect of the area to which the provision relates, or

(b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations."

CHAPTER 3

NEIGHBOURHOOD PLANNING

116 Neighbourhood planning

(1) Schedule 9 (which makes provision about neighbourhood development orders and neighbourhood development plans) has effect.

(2) After Schedule 4A to the Town and Country Planning Act 1990 insert the Schedule 4B set out in Schedule 10 to this Act.

(3) After the inserted Schedule 4B to that Act insert the Schedule 4C set out in Schedule 11 to this Act.

117 Charges for meeting costs relating to neighbourhood planning

(1) The Secretary of State may with the consent of the Treasury make regulations providing for the imposition of charges for the purpose of meeting expenses incurred (or expected to be incurred) by local planning authorities in, or in connection with, the exercise of their neighbourhood planning functions.

(2) A local planning authority's "neighbourhood planning functions" are any of their functions exercisable under any provision made by or under—

(a) any of sections 61E to 61Q of, or Schedule 4B or 4C to, the Town and Country Planning Act 1990 (neighbourhood development orders),

(b) any of sections 38A to 38C of the Planning and Compulsory Purchase Act 2004 (neighbourhood development plans), or

(c) this section.

(3) The regulations must secure—

(a) that the charges are payable in relation to development for which planning permission is granted by a neighbourhood development order made under section 61E of the Town and Country Planning Act 1990,

(b) that the charges become payable when the development is commenced (determined in accordance with the regulations), and

(c) that the charges are payable to local planning authorities.

(4) The regulations may authorise local planning authorities to set the amount of charges imposed by the regulations; and, if so, the regulations may—

(a) provide for the charges not to be payable at any time unless at that time a document (a "charging document") has been published by the authority setting out the amounts chargeable under the regulations in relation to development in their area,

(b) make provision about the approval and publication of a charging document,

(c) prescribe matters to which the authorities must have regard in setting the charges,

(d) require the authorities, in setting the charges, to disregard such expenditure expected to be incurred as mentioned in subsection (1) as falls within a description prescribed by the regulations,

(e) authorise the authorities to set different charges for different cases, circumstances or areas (either generally or only to the extent specified in the regulations), and

(f) authorise the authorities to make exceptions (either generally or only to the extent specified in the regulations).

(5) The regulations must make provision about liability to pay a charge imposed by the regulations.

(6) The regulations may make provision—

(a) enabling any person to assume (in accordance with any procedural provision made by the regulations) the liability to pay a charge imposed by the regulations before it becomes payable,

(b) about assumption of partial liability,

(c) about the withdrawal of assumption of liability,

(d) about the cancellation by a local planning authority of assumption of liability,

(e) for the owner or developer of land to be liable to pay the charge in cases prescribed by the regulations,

(f) about joint liability (with or without several liability),

(g) about liability of partnerships,

(h) about apportionment of liability, including provision for referral to a specified body or other person for determination and provision for appeals, and

(i) about transfer of liability (whether before or after the charge becomes due and whether or not liability has been assumed).

(7) In subsection (6)(e)—

(a) "owner" of land means a person who owns an interest in land, and

(b) "developer" means a person who is wholly or partly responsible for carrying out a development.

(8) The provision for appeals that may be made as a result of subsection (6)(h) includes provision about—

(a) the period within which the right of appeal may be exercised,

(b) the procedure on appeals, and

(c) the payment of fees, and award of costs, in relation to appeals (including provision requiring local planning authorities to bear expenses incurred in connection with appeals).

118 Regulations under section 117: collection and enforcement

(1) Regulations under section 117 must include provision about the collection of charges imposed by the regulations.

(2) The regulations may make provision—

(a) for payment on account or by instalments,

(b) about repayment (with or without interest) in cases of overpayment, and

(c) about the source of payments in respect of a Crown interest or Duchy interest (within the meaning of section 227(3) or (4) of the Planning Act 2008).

(3) Regulations under section 117 must include provision about enforcement of charges imposed by the regulations; and that provision must include provision—

(a) for a charge (or other amount payable under the regulations) to be treated as a civil debt due to a local planning authority, and

(b) for the debt to be recoverable summarily.

(4) The regulations may make provision—

(a) about the consequences of failure to assume liability, to give a notice or to comply with another procedure under the regulations,

(b) for the payment of interest (at a rate specified in, or determined in accordance with, the regulations),

(c) for the imposition of a penalty or surcharge (of an amount specified in, or determined in accordance with, the regulations),

(d) replicating or applying (with or without modifications) any provision made by any of sections 324 to 325A of the Town and Country Planning Act 1990 (rights of entry), and

(e) for enforcement in the case of death or insolvency of a person liable for the charge.

119 Regulations under section 117: supplementary

(1) Regulations under section 117 may make provision about procedures to be followed in connection with charges imposed by the regulations.

(2) The regulations may make provision about—

(a) procedures to be followed by a local planning authority proposing to start or stop imposing a charge,

(b) procedures to be followed by a local planning authority in relation to the imposition of a charge,
(c) the arrangements of a local planning authority for the making of any decision prescribed by the regulations,
(d) consultation,
(e) the publication or other treatment of reports,
(f) timing and methods of publication,
(g) making documents available for inspection,
(h) providing copies of documents (with or without charge),
(i) the form and content of documents,
(j) giving notice,
(k) serving notices or other documents, and
(l) procedures to be followed in connection with actual or potential liability for a charge.

(3) Provision made by the regulations as a result of subsection (2)(c) is to have effect despite provision made by any enactment as to the arrangements of a local planning authority for the exercise of their functions (such as section 101 of the Local Government Act 1972 or section 13 of the Local Government Act 2000).

(4) Regulations under section 117 may make provision binding the Crown.

(5) Regulations under section 117 may make—
(a) provision applying any enactment (with or without modifications), and
(b) provision for exceptions.

(6) A local planning authority must have regard to any guidance issued by the Secretary of State in the exercise of any of their functions under regulations under section 117.

(7) For the purposes of sections 117 and 118 and this section "local planning authority" means an authority that have made or have power to make—
(a) a neighbourhood development order under section 61E of the Town and Country Planning Act 1990, or
(b) a neighbourhood development plan under section 38A of the Planning and Compulsory Purchase Act 2004.

(8) Nothing in section 117, 118 or this section that authorises the inclusion of any particular kind of provision in regulations under section 117 is to be read as restricting the generality of the provision that may be included in the regulations.

120 Financial assistance in relation to neighbourhood planning

(1) The Secretary of State may do anything that the Secretary of State considers appropriate—
(a) for the purpose of publicising or promoting the making of neighbourhood development orders or neighbourhood development plans and the benefits expected to arise from their making, or
(b) for the purpose of giving advice or assistance to anyone in relation to the making of proposals for such orders or plans or the doing of anything else for the purposes of, or in connection with, such proposals or such orders or plans.

(2) The things that the Secretary of State may do under this section include, in particular—

(a) the provision of financial assistance (or the making of arrangements for its provision) to any body or other person, and

(b) the making of agreements or other arrangements with any body or other person (under which payments may be made to the person).

(3) In this section—

(a) the reference to giving advice or assistance includes providing training or education,

(b) any reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity),

(c) any reference to a neighbourhood development order is to a neighbourhood development order under section 61E of the Town and Country Planning Act 1990, and

(d) any reference to a neighbourhood development plan is to a neighbourhood development plan under section 38A of the Planning and Compulsory Purchase Act 2004.

121 Consequential amendments

Schedule 12 (neighbourhood planning: consequential amendments) has effect.

CHAPTER 4

CONSULTATION

122 Consultation before applying for planning permission

(1) In the Town and Country Planning Act 1990, before section 62 (and before the italic heading which precedes that section) insert—

"Consultation before applying for planning permission

61W Requirement to carry out pre-application consultation

(1) Where—

(a) a person proposes to make an application for planning permission for the development of any land in England, and

(b) the proposed development is of a description specified in a development order,

the person must carry out consultation on the proposed application in accordance with subsections (2) and (3).

(2) The person must publicise the proposed application in such manner as the person reasonably considers is likely to bring the proposed application to the attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land.

(3) The person must consult each specified person about the proposed application.

(4) Publicity under subsection (2) must—

(a) set out how the person ("P") may be contacted by persons wishing to comment on, or collaborate with P on the design of, the proposed development, and

(b) give such information about the proposed timetable for the consultation as is sufficient to ensure that persons wishing to comment on the proposed development may do so in good time.

(5) In subsection (3) "specified person" means a person specified in, or of a description specified in, a development order.

(6) Subsection (1) does not apply—

(a) if the proposed application is an application under section 293A, or

(b) in cases specified in a development order.

(7) A person subject to the duty imposed by subsection (1) must, in complying with that subsection, have regard to the advice (if any) given by the local planning authority about local good practice.

61X Duty to take account of responses to consultation

(1) Subsection (2) applies where a person—

(a) has been required by section 61W(1) to carry out consultation on a proposed application for planning permission, and

(b) proposes to go ahead with making an application for planning permission (whether or not in the same terms as the proposed application).

(2) The person must, when deciding whether the application that the person is actually to make should be in the same terms as the proposed application, have regard to any responses to the consultation that the person has received.

61Y Power to make supplementary provision

(1) A development order may make provision about, or in connection with, consultation which section 61W(1) requires a person to carry out on a proposed application for planning permission.

(2) The provision that may be made under subsection (1) includes (in particular) —

(a) provision about, or in connection with, publicising the proposed application;

(b) provision about, or in connection with, the ways of responding to the publicity;

(c) provision about, or in connection with, consultation under section 61W(3);

(d) provision about, or in connection with, collaboration between the person and others on the design of the proposed development;

(e) provision as to the timetable (including deadlines) for—

(i) compliance with section 61W(1),

(ii) responding to publicity under section 61W(2), or

(iii) responding to consultation under section 61W(3);

(f) provision for the person to prepare a statement setting out how the person proposes to comply with section 61W(1);

(g) provision for the person to comply with section 61W(1) in accordance with a statement required by provision under paragraph (f).

(3) Provision under subsection (1) may be different for different cases."

(2) In section 62 of the Town and Country Planning Act 1990 (applications for planning permission) after subsection (6) insert—

"(7) In subsection (8) "a relevant application" means the application for planning permission in a case where a person—

(a) has been required by section 61W(1) to carry out consultation on a proposed application for planning permission, and

(b) is going ahead with making an application for planning permission (whether or not in the same terms as the proposed application).

(8) A development order must require that a relevant application be accompanied by particulars of—

(a) how the person complied with section 61W(1),

(b) any responses to the consultation that were received by the person, and

(c) the account taken of those responses."

(3) The amendments made by subsections (1) and (2) cease to have effect at the end of 7 years beginning with the day on which the inserted section 61W(1) comes fully into force, but this is subject to subsection (4).

(4) The Secretary of State may by order provide that the amendments are, instead of ceasing to have effect at the time they would otherwise cease to have effect, to cease to have effect at the end of a period of not more than 7 years from that time.

CHAPTER 5

ENFORCEMENT

123 Retrospective planning permission

(1) The Town and Country Planning Act 1990 is amended as follows.

(2) After section 70B insert—

"**70C Power to decline to determine retrospective application**

(1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.

(2) For the purposes of the operation of this section in relation to any particular application for planning permission, a "pre-existing enforcement notice" is an enforcement notice issued before the application was received by the local planning authority."

(3) In section 78(2)(aa) (which refers to an authority not having given notice that it has exercised its power under section 70A or 70B to decline to determine an application) after "or 70B" insert "or 70C".

(4) In section 174 (appeal against enforcement notice) after subsection (2) insert—

"(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

(a) the land to which the enforcement notice relates is in England, and

(b) the enforcement notice was issued at a time—

(i) after the making of a related application for planning permission, but

(ii) before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control."

(5) In section 177 (grant or modification of planning permission on appeals against enforcement notice) after subsection (1B) insert—

"(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a)."

(6) In section 177(5) (deemed application for planning permission where appeal brought against enforcement notice) for the words from the beginning to "the appellant" substitute—

"Where an appeal against an enforcement notice is brought under section 174 and—

(a) the land to which the enforcement notice relates is in Wales, or

(b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant".

124 Time limits for enforcing concealed breaches of planning control

(1) In the Town and Country Planning Act 1990 after section 171B insert—

"**171BA Time limits in cases involving concealment**

(1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a "planning enforcement order") in relation to that apparent breach of planning control.

(2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—

(a) the apparent breach, or

(b) any of the matters constituting the apparent breach,

at any time in the enforcement year.

(3) "The enforcement year" for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).

(4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.

(5) Subsection (2)—

(a) applies whether or not the time limits under section 171B have expired, and

(b) does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.

171BB Planning enforcement orders: procedure

(1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority's knowledge.

(2) For the purposes of subsection (1), a certificate—

(a) signed on behalf of the local planning authority, and

(b) stating the date on which evidence sufficient in the authority's opinion to justify the application came to the authority's knowledge,

is conclusive evidence of that fact.

(3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(4) Where the local planning authority apply to a magistrates' court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—

(a) on the owner and on the occupier of the land, and

(b) on any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.

(5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—

(a) the applicant,

(b) any person on whom a copy of the application was served under subsection (4), and

(c) any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.

(6) In this section "planning enforcement order" means an order under section 171BA(1).

171BC Making a planning enforcement order

(1) A magistrates' court may make a planning enforcement order in relation to an apparent breach of planning control only if—

(a) the court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and

(b) the court considers it just to make the order having regard to all the circumstances.

(2) A planning enforcement order must—

(a) identify the apparent breach of planning control to which it relates, and

(b) state the date on which the court's decision to make the order was given.

(3) In this section "planning enforcement order" means an order under section 171BA(1)."

(2) In section 188 of the Town and Country Planning Act 1990 (register of enforcement and stop notices)—

(a) in subsection (1) (matters to which registers apply) before paragraph (a) insert—

"(za) to planning enforcement orders,",

(b) in subsection (2)(a) (development order may make provision about removal of entries from register)—

(i) before "enforcement notice" insert "planning enforcement order,",

(ii) before "any such notice" insert "any planning enforcement order or", and

(iii) after "specified in the" insert "development",

(c) in subsection (2)(b) (development order may make provision about supply of information by county planning authority) after "served by" insert ", and planning enforcement orders made on applications made by,",

(d) after subsection (3) insert—

"(4) In this section "planning enforcement order" means an order under section 171BA(1).", and

(e) in the heading after "and stop notices" insert "and other enforcement action".

(3) In section 191 of the Town and Country Planning Act 1990 (certificate of lawfulness of existing use or development) after subsection (3) insert—

"(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

(a) the time for applying for an order under section 171BA(1) (a "planning enforcement order") in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired."

125 Assurance as regards prosecution for person served with enforcement notice

In the Town and Country Planning Act 1990 after section 172 (issue and service of enforcement notice) insert—

"**172A Assurance as regards prosecution for person served with notice**

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

(i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

(ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179."

126 Planning offences: time limits and penalties

(1) The Town and Country Planning Act 1990 is amended as follows.

(2) In section 187A(12) (maximum penalty of level 3 on standard scale for offence of being in breach of a breach of condition notice) for "fine not exceeding level 3 on the standard scale" substitute "fine—

(a) not exceeding level 4 on the standard scale if the land is in England;

(b) not exceeding level 3 on the standard scale if the land is in Wales".

(3) In section 210 (penalties for non-compliance with tree preservation regulations) after subsection (4) insert—

"(4A) Proceedings for an offence under subsection (4) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge.

(4B) Subsection (4A) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.

(4C) For the purposes of subsection (4A), a certificate—

(a) signed by or on behalf of the prosecutor, and

(b) stating the date on which evidence sufficient in the prosecutor's opinion to justify the proceedings came to the prosecutor's knowledge,

is conclusive evidence of that fact.

(4D) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(4E) Subsection (4A) does not apply in relation to an offence in respect of a tree in Wales."

(4) In section 224 (enforcement of control as to advertisements) after subsection (6) insert—

"(7) Proceedings for an offence under subsection (3) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge.

(8) Subsection (7) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.

(9) For the purposes of subsection (7), a certificate—

(a) signed by or on behalf of the prosecutor, and

(b) stating the date on which evidence sufficient in the prosecutor's opinion to justify the proceedings came to the prosecutor's knowledge,

is conclusive evidence of that fact.

(10) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(11) Subsection (7) does not apply in relation to an offence in respect of an advertisement in Wales."

(5) An amendment made by this section applies only in relation to offences committed after the amendment has come into force.

127 Powers in relation to: unauthorised advertisements; defacement of premises

(1) In Part 8 of the Town and Country Planning Act 1990 (special controls) in Chapter 3 (advertisements) after section 225 insert—

"**225A Power to remove structures used for unauthorised display**

(1) Subject to subsections (2), (3) and (5) and the right of appeal under section 225B, the local planning authority for an area in England may remove, and then dispose of, any display structure—

(a) which is in their area; and

(b) which, in the local planning authority's opinion, is used for the display of advertisements in contravention of regulations under section 220.

(2) Subsection (1) does not authorise the removal of a display structure in a building to which there is no public right of access.

(3) The local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first served a removal notice on a person who appears to the local planning authority to be responsible for the erection or maintenance of the display structure.

(4) Subsection (3) applies only if there is a person—

(a) who appears to the local planning authority to be responsible for the erection or maintenance of the display structure; and

(b) whose name and address are either known by the local planning authority or could be ascertained by the local planning authority after reasonable enquiry.

(5) If subsection (3) does not apply, the local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first—

(a) fixed a removal notice to the display structure or exhibited a removal notice in the vicinity of the display structure; and

(b) served a copy of that notice on the occupier of the land on which the display structure is situated.

(6) Subsection (5)(b) applies only if the local planning authority know who the occupier is or could identify the occupier after reasonable enquiry.

(7) Where—

(a) the local planning authority has served a removal notice in accordance with subsection (3) or (5)(b), and

(b) the display structure is not removed by the time specified in the removal notice,

the local planning authority may recover, from any person on whom the removal notice has been served under subsection (3) or (5)(b), expenses reasonably incurred by the local planning authority in exercising the local planning authority's power under subsection (1).

(8) Expenses are not recoverable under subsection (7) from a person if the person satisfies the local planning authority that the person was not responsible for the erection of the display structure and is not responsible for its maintenance.

(9) Where in the exercise of power under subsection (1) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection or section 325(6)—

(a) for damage caused to the display structure; or

(b) for damage reasonably caused in removing the display structure.

(10) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4.

(11) In this section "removal notice", in relation to a display structure, means notice—

(a) stating that in the local planning authority's opinion the display structure is used for the display of advertisements in contravention of regulations under section 220;

(b) stating that the local planning authority intend after a time specified in the notice to remove the display structure; and

(c) stating the effect of subsections (7) and (8).

(12) A time specified under subsection (11)(b) may not be earlier than the end of 22 days beginning with the date of the notice.

(13) In this section "display structure" means (subject to subsection (14))—

(a) a hoarding or similar structure used, or designed or adapted for use, for the display of advertisements;

(b) anything (other than a hoarding or similar structure) principally used, or designed or adapted principally for use, for the display of advertisements;

(c) a structure that is itself an advertisement; or

(d) fitments used to support anything within any of paragraphs (a) to (c).

(14) Something is a "display structure" for the purpose of this section only if—

(a) its use for the display of advertisement requires consent under this Chapter, and

(b) that consent has not been granted and is not deemed to have been granted.

(15) In subsection (13) "structure" includes movable structure.

225B Appeal against notice under section 225A

(1) A person on whom a removal notice has been served in accordance with section 225A(3) or (5)(b) may appeal to a magistrates' court on any of the following grounds—

(a) that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure;

(d) that the notice should have been served on another person.

(2) For the purposes of subsection (3), a person is a "permitted appellant" in relation to a removal notice if—

(a) the removal notice has been fixed or exhibited in accordance with section 225A(5)(a);

(b) the person is an owner or occupier of the land on which the display structure concerned is situated; and

(c) no copy of the removal notice has been served on the person in accordance with section 225A(5)(b).

(3) A person who is a permitted appellant in relation to a removal notice may appeal to a magistrates' court on any of the following grounds—

(a) that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure.

(4) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (3)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(5) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the removal notice should have been served in accordance with section 225A(3) or (5)(b).

(6) If—

(a) a removal notice is served on a person in accordance with section 225A(3) or (5)(b), and

(b) the local planning authority bring proceedings against the person for the recovery under section 225A(7) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

(7) In this section "removal notice" and "display structure" have the same meaning as in section 225A.

225C Remedying persistent problems with unauthorised advertisements

(1) Subsections (2) and (3) apply if the local planning authority for an area in England have reason to believe that there is a persistent problem with the display of unauthorised advertisements on a surface of—

(a) any building, wall, fence or other structure or erection; or

(b) any apparatus or plant.

(2) The local planning authority may serve an action notice on the owner or occupier of the land in or on which the surface is situated.

(3) If after reasonable enquiry the local planning authority—

(a) are unable to ascertain the name and address of the owner, and

(b) are unable to ascertain the name and address of the occupier,

the local planning authority may fix an action notice to the surface.

(4) For the purposes of this section "an action notice", in relation to a surface, is a notice requiring the owner or occupier of the land in or on which the surface is situated to carry out the measures specified in the notice by a time specified in the notice.

(5) A time may be specified in an action notice if it is a reasonable time not earlier than the end of 28 days beginning with the date of the notice.

(6) Measures may be specified in an action notice if they are reasonable measures to prevent or reduce the frequency of the display of unauthorised advertisements on the surface concerned.

(7) The time by which an owner or occupier must comply with an action notice may be postponed by the local planning authority.

(8) This section has effect subject to—

(a) the other provisions of the enactments relating to town and country planning;

(b) the provisions of the enactments relating to historic buildings and ancient monuments; and

(c) Part 2 of the Food and Environmental Protection Act 1985 (which relates to deposits in the sea).

(9) Subsection (10) applies if—

(a) an action notice is served under subsection (2) or fixed under subsection (3); and

(b) the measures specified in the notice are not carried out by the time specified in the notice.

(10) The local planning authority may—

(a) carry out the measures; and

(b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the action notice to do it.

(11) Power under subsection (10)(a) is subject to the right of appeal under section 225D.

(12) Where in the exercise of power under subsection (10)(a) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection for damage reasonably caused in carrying out the measures.

(13) The provisions of section 118 apply in relation to compensation under subsection (12) as they apply in relation to compensation under Part 4.

(14) The local planning authority may not recover expenses under subsection (10)(b) in respect of a surface that—

(a) forms part of a flat or a dwellinghouse;

(b) is within the curtilage of a dwellinghouse; or

(c) forms part of the boundary of the curtilage of a dwellinghouse.

(15) Each of sections 275 and 291 of the Public Health Act 1936 (provision for authority to agree to take the required measures at expense of owner or occupier, and provision for expenses to be recoverable also from owner's successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.

(16) In this section—

"dwellinghouse" does not include a building containing one or more flats, or a flat contained within such a building;

"flat" means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;

"unauthorised advertisement" means an advertisement in respect of which an offence—

(a) under section 224(3), or

(b) under section 132 of the Highways Act 1980 (unauthorised marks on highway),

is committed after the coming into force of this section.

225D Right to appeal against notice under section 225C

(1) A person on whom notice has been served under section 225C(2) may appeal to a magistrates' court on any of the following grounds—

(a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose;

(d) that the notice should have been served on another person.

(2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225C(3) may appeal to a magistrates' court on any of the following grounds—

(a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose.

(3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225C(2) should have been served.

(5) If—

(a) notice under section 225C(2) is served on a person, and

(b) the local planning authority bring proceedings against the person for the recovery under section 225C(10)(b) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

225E Applying section 225C to statutory undertakers' operational land

(1) Subsection (2) and (3) apply where the local planning authority serves a notice under section 225C(2) requiring a statutory undertaker to carry out measures in respect of the display of unauthorised advertisements on a surface on its operational land.

(2) The statutory undertaker may, within 28 days beginning with the date of service of the notice, serve a counter-notice on the local planning authority specifying alternative measures which will in the statutory undertaker's reasonable opinion have the effect of preventing or reducing the frequency of the display of unauthorised advertisements on the surface to at least the same extent as the measures specified in the notice.

(3) Where a counter-notice is served under subsection (2), the notice under section 225C(2) is to be treated—

(a) as requiring the alternative measures specified in the counter-notice to be carried out (instead of the measures actually required by the notice under section 225C(2)); and

(b) as having been served on the date on which the counter-notice is served.

(4) The time by which a statutory undertaker must carry out the measures specified in a counter-notice served under subsection (2) may be postponed by the local planning authority."

(2) In Part 8 of the Town and Country Planning Act 1990 (special controls) after Chapter 3 insert—

"CHAPTER 4

REMEDYING DEFACEMENT OF PREMISES

225F Power to remedy defacement of premises

(1) Subsections (2) and (3) apply if—

(a) premises in England include a surface that is readily visible from a place to which the public have access;

(b) either—

(i) the surface does not form part of the operational land of a statutory undertaker, or

(ii) the surface forms part of the operational land of a statutory undertaker and subsection (11) applies to the surface;

(c) there is a sign on the surface; and

(d) the local planning authority consider the sign to be detrimental to the amenity of the area or offensive.

(2) The local planning authority may serve on the occupier of the premises a notice requiring the occupier to remove or obliterate the sign by a time specified in the notice.

(3) If it appears to the local planning authority that there is no occupier of the premises, the local planning authority may fix to the surface a notice requiring the owner or occupier of the premises to remove or obliterate the sign by a time specified in the notice.

(4) A time specified under subsection (2) or (3) may not be earlier than the end of 15 days beginning the date of service or fixing of the notice.

(5) Subsection (6) applies if—

(a) a notice is served under subsection (2) or fixed under subsection (3); and

(b) the sign is neither removed nor obliterated by the time specified in the notice.

(6) The local planning authority may—

(a) remove or obliterate the sign; and

(b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the notice to do it.

(7) Power under subsection (6)(a) is subject to the right of appeal under section 225I.

(8) Expenses may not be recovered under subsection (6)(b) if the surface—

(a) forms part of a flat or a dwellinghouse;

(b) is within the curtilage of a dwellinghouse; or

(c) forms part of the boundary of the curtilage of a dwellinghouse.

(9) Section 291 of the Public Health Act 1936 (provision for expenses to be recoverable also from owner's successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.

(10) For the purposes of this section, a universal postal service provider is treated as being the occupier of any plant or apparatus that consists of a universal postal service letter box or a universal postal service pouch-box belonging to it.

(11) This subsection applies to a surface if the surface abuts on, or is one to which access is given directly from, either—

(a) a street; or

(b) any place, other than a street, to which the public have access as of right.

(12) In this section—

"dwellinghouse" does not include a building containing one or more flats, or a flat contained within such a building;

"flat" means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;

"premises" means building, wall, fence or other structure or erection, or apparatus or plant;

"sign"—

(a) includes any writing, letter, picture, device or representation, but

(b) does not include an advertisement;

"statutory undertaker" does not include a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986);

"street" includes any highway, any bridge carrying a highway and any road, lane, mews, footway, square, court, alley or passage, whether a thoroughfare or not;

"universal postal service letter box" has the meaning given in section 86(4) of the Postal Services Act 2000;

"universal postal service pouch-box" has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

225G Notices under section 225F in respect of post boxes

(1) The local planning authority may serve a notice under section 225F(2) on a universal postal service provider in respect of a universal postal service letter box, or universal postal service pouch-box, belonging to the provider only if—

(a) the authority has served on the provider written notice of the authority's intention to do so; and

(b) the period of 28 days beginning with the date of service of that notice has ended.

(2) In this section—

"universal postal service letter box" has the meaning given in section 86(4) of the Postal Services Act 2000;

"universal postal service pouch-box" has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

225H Section 225F powers as respects bus shelters and other street furniture

(1) The local planning authority may exercise the power conferred by section 225F(6)(a) to remove or obliterate a sign from any surface on a bus shelter, or other street furniture, of a statutory undertaker that is not situated on operational land of the statutory undertaker only if—

(a) the authority has served on the statutory undertaker notice of the authority's intention to do so;

(b) the notice specified the bus shelter, or other street furniture, concerned; and

(c) the period of 28 days beginning with the date of service of the notice has ended.

(2) In this section "statutory undertaker" does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986).

225I Right to appeal against notice under section 225F

(1) A person on whom notice has been served under section 225F(2) may appeal to a magistrates' court on any of the following grounds—

(a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose;

(d) that the notice should have been served on another person.

(2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225F(3) may appeal to a magistrates' court on any of the following grounds—

(a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose.

(3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225F(2) should have been served.

(5) If—

(a) notice under section 225F(2) is served on a person, and

(b) the local planning authority bring proceedings against the person for the recovery under section 225F(6)(b) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

225J Remedying defacement at owner or occupier's request

(1) Subsection (2) applies if—

(a) premises in England include a surface that is readily visible from a place to which the public have access;

(b) there is a sign on the surface; and

(c) the owner or occupier of the premises asks the local planning authority to remove or obliterate the sign.

(2) The local planning authority may—

(a) remove or obliterate the sign; and

(b) recover expenses reasonably incurred by the local planning authority in doing that from the person who asked the local planning authority to do it.

(3) In this section "premises" means building, wall, fence or other structure or erection, or apparatus or plant.

(4) In this section "sign"—

(a) includes—

(i) any writing, letter, picture, device or representation, and

(ii) any advertisement, but

(b) does not include an advertisement for the display of which deemed or express consent has been granted under Chapter 3.

CHAPTER 5

APPLICATION OF PROVISIONS OF CHAPTERS 3 AND 4 TO STATUTORY UNDERTAKERS

225K Action under sections 225A, 225C and 225F: operational land

(1) This section applies in relation to the exercise by the local planning authority of—

(a) power conferred by section 225A(1), or section 324(3) so far as applying for the purposes of section 225A(1), to—

(i) enter on any operational land of a statutory undertaker, or

(ii) remove a display structure situated on operational land of a statutory undertaker;

(b) power conferred by section 225C(10)(a), or section 324(3) so far as applying for the purposes of section 225C(10)(a), to—

(i) enter on any operational land of a statutory undertaker, or

(ii) carry out any measures to prevent or reduce the frequency of the display of unauthorised advertisements on a surface on operational land of a statutory undertaker; or

(c) power conferred by section 225F(6)(a), or section 324(3) so far as applying for the purposes of section 225F(6)(a), to—

(i) enter on any operational land of a statutory undertaker, or

(ii) remove or obliterate a sign on a surface of premises that are, or are on, operational land of a statutory undertaker.

(2) The authority may exercise the power only if—

(a) the authority has served on the statutory undertaker notice of the authority's intention to do so;

(b) the notice specified the display structure, surface or sign concerned and its location; and

(c) the period of 28 days beginning with the date of service of the notice has ended.

(3) If—

(a) a notice under subsection (2) is served on a statutory undertaker, and

(b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority specifying conditions subject to which the power is to be exercised,

the power may only be exercised subject to, and in accordance with, the conditions specified in the counter-notice.

(4) The conditions which may be specified in a counter-notice under subsection (3) are conditions which are—

(a) necessary or expedient in the interests of safety or the efficient and economic operation of the undertaking concerned; or

(b) for the protection of any works, apparatus or other property not vested in the statutory undertaker which are lawfully present on, in, under or over the land upon which entry is proposed to be made.

(5) If—

(a) a notice under subsection (2) is served on a statutory undertaker, and

(b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority requiring the local planning authority to refrain from exercising the power,

the power may not be exercised.

(6) A counter-notice under subsection (5) may be served only if the statutory undertaker has reasonable grounds to believe, for reasons connected with the operation of its undertaking, that the power cannot be exercised under the circumstances in question—

(a) without risk to the safety of any person; or

(b) without unreasonable risk to the efficient and economic operation of the statutory undertaker's undertaking.

(7) In this section "statutory undertaker" does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986)."

(3) In section 324(3) of the Town and Country Planning Act 1990 (power of entry where necessary for purposes of section 225) after "225" insert ", 225A(1), 225C(10)(a) or 225F(6)(a)".

(4) In the London Local Authorities Act 1995 (c. x) omit sections 11 to 13 (provision as respects London which is generally superseded as a result of the provision as respects England made by the preceding provisions of this section).

(5) In section 11 of the London Local Authorities Act 2007 (c. ii) after subsection (10) insert—

"(11) The definition of "an advertising offence" given by section 4 of this Act applies for the purposes of subsection (10) above with—

(a) the omission of paragraphs (a) and (b), and

(b) in paragraph (d), the substitution of "paragraph" for "paragraphs (a) to"."

CHAPTER 6

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

128 Abolition of Infrastructure Planning Commission

(1) The Infrastructure Planning Commission ceases to exist on the day on which this subsection comes into force.

(2) Schedule 13 (amendments in consequence of Commission's abolition, including amendments transferring its functions to Secretary of State) has effect.

(3) On the coming into force of this subsection, the property, rights and liabilities of the Infrastructure Planning Commission vest by virtue of this subsection in the Secretary of State.

(4) Subsection (3) operates in relation to property, rights and liabilities—

(a) whether or not they would otherwise be capable of being transferred,

(b) without any instrument or other formality being required, and

(c) irrespective of any requirement for consent that would otherwise apply.

(5) The transfer by virtue of subsections (2) to (4) is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) if it would not otherwise be a relevant transfer for those purposes.

(6) Subsections (3) and (4) do not affect the operation of those Regulations in relation to that transfer.

129 Transitional provision in connection with abolition

(1) The Secretary of State may, in connection with the operation of the abolition provisions, give a direction about the handling on and after the abolition date of—

(a) an application received by the Infrastructure Planning Commission before the abolition date that purports to be an application for an order granting development consent under the Planning Act 2008,

(b) a proposed application notified to the Commission under section 46 of that Act before the abolition date, or

(c) an application received by the Secretary of State on or after the abolition date where—

(i) the application purports to be an application for an order granting development consent under that Act, and

(ii) a proposed application that has become that application was notified to the Commission under section 46 of that Act before the abolition date.

(2) A direction under subsection (1) may (in particular)—

(a) make provision about the effect on and after the abolition date of things done before that date;

(b) provide for provisions of or made under the Planning Act 2008 to apply on and after that date as they applied before that date, with or without modifications specified in the direction;

(c) provide for provisions of or made under that Act to apply on and after the abolition date with modifications specified in the direction;

(d) make provision for a person who immediately before the abolition date—

(i) is a member of the Commission, and

(ii) is a member of the Panel, or is the single Commissioner, handling an application for an order granting development consent under that Act,

to be, or to be treated as being, a member of the Panel that under Chapter 2 of Part 6 of that Act, or the appointed person who under Chapter 3 of that Part, is to handle the application on and after the abolition date;

(e) make other transitional provision and savings;

(f) make provision binding the Crown.

(3) In this section—

"the abolition date" means the date on which section 128(1) comes into force;

"the abolition provisions" means section 128, Schedule 13 and Part 20 of Schedule 25.

130 National policy statements

(1) The Planning Act 2008 is amended as follows.

(2) In section 5(4) (statement may be designated as national policy statement only if consultation, publicity and parliamentary requirements have been complied with) after "have been complied with in relation to it" insert "and—

(a) the consideration period for the statement has expired without the House of Commons resolving during that period that the statement should not be proceeded with, or

(b) the statement has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period."

(3) In section 5 (national policy statements) after subsection (4) insert—

"(4A) In subsection (4) "the consideration period", in relation to a statement, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament under section 9(8), and here "sitting day" means a day on which the House of Commons sits."

(4) In section 5(9) omit paragraph (b) (designated statement must be laid before Parliament).

(5) In section 6(7) (national policy statement may be amended only if consultation, publicity and parliamentary requirements have been complied with) after "have been complied with in relation to the proposed amendment" insert "and—

(a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should not be proceeded with, or

(b) the amendment has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period."

(6) In section 6 (review and amendment of national policy statements) after subsection (7) insert—

"(7A) In subsection (7) "the consideration period", in relation to an amendment, means the period of 21 sitting days beginning with the first sitting day after the day on which the amendment is laid before Parliament under section 9(8), and here "sitting day" means a day on which the House of Commons sits."

(7) In section 6(8) (subsections (6) and (7) do not apply if amendment does not materially affect national policy) for "and (7)" substitute "to (7A)".

(8) After section 6 insert—

"**6A Interpretation of sections 5(4) and 6(7)**

(1) This section applies for the purposes of section 5(4) and 6(7).

(2) The consultation and publicity requirements set out in section 7 are to be treated as having been complied with in relation to a statement or proposed amendment ("the final proposal") if—

(a) they have been complied with in relation to a different statement or proposed amendment ("the earlier proposal"),

(b) the final proposal is a modified version of the earlier proposal, and

(c) the Secretary of State thinks that the modifications do not materially affect the policy as set out in the earlier proposal.

(3) The consultation and publicity requirements set out in section 7 are also to be treated as having been complied with in relation to a statement or proposed amendment ("the final proposal") if—

(a) they have been complied with—

(i) in relation to a different statement or proposed amendment ("the earlier proposal"), and

(ii) in relation to modifications of the earlier proposal ("the main modifications"),

(b) the final proposal is a modified version of the earlier proposal, and

(c) there are no modifications other than the main modifications or, where the modifications include modifications other than the main modifications, the Secretary of State thinks that those other modifications do not materially affect the policy as set out in the earlier proposal modified by the main modifications.

(4) If section 9(8) has been complied with in relation to a statement or proposed amendment ("the final proposal"), the parliamentary requirements set out in section 9(2) to (7) are to be treated as having been complied with in relation to the final proposal where—

(a) the final proposal is not the same as what was laid under section 9(2), but

(b) those requirements have been complied with in relation to what was laid under section 9(2).

(5) Ignore any corrections of clerical or typographical errors in what was laid under section 9(8).

6B Extension of consideration period under section 5(4A) or 6(7A)

(1) The Secretary of State may—

(a) in relation to a proposed national policy statement, extend the period mentioned in section 5(4A), or

(b) in relation to a proposed amendment of a national policy statement, extend the period mentioned in section 6(7A),

by 21 sitting days or less.

(2) The Secretary of State does that by laying before the House of Commons a statement—

(a) indicating that the period is to be extended, and

(b) setting out the length of the extension.

(3) The statement under subsection (2) must be laid before the period would have expired without the extension.

(4) The Secretary of State must publish the statement under subsection (2) in a way the Secretary of State thinks appropriate.

(5) The period may be extended more than once."

(9) In section 8(1)(a) (local authorities within subsection (2) or (3) to be consulted about publicity required for proposed statement identifying a location) for "or (3)" substitute ", (3) or (3A)".

(10) In section 8(3) (consultation with local authorities that share a boundary with the local authority ("B") whose area contains a location) before the "and" at the end of paragraph (a) insert—

"(aa) B is a unitary council or a lower-tier district council,".

(11) In section 8 (consultation on publicity requirements) after subsection (3) insert—

"(3A) If any of the locations concerned is in the area of an upper-tier county council ("C"), a local authority ("D") is within this subsection if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area."

(12) In section 8, after subsection (4) (meaning of "local authority") insert—

"(5) In this section—

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

(13) In section 9 (parliamentary requirements for national policy statements and their amendments) after subsection (7) insert—

"(8) After the end of the relevant period, but not before the Secretary of State complies with subsection (5) if it applies, the Secretary of State must lay the proposal before Parliament.

(9) If after subsection (8) has been complied with—

(a) something other than what was laid under subsection (8) becomes the proposal, or

(b) what was laid under subsection (8) remains the proposal, or again becomes the proposal, despite the condition in section 5(4)(a) not having been met in relation to it,

subsection (8) must be complied with anew.

(10) For the purposes of subsection (9)(a) and (b) ignore any proposal to correct clerical or typographical errors in what was laid under subsection (8)."

(14) Section 12 (power to designate pre-commencement statements of policy and to take account of pre-commencement consultation etc) is repealed.

131 Power to alter effect of requirement for development consent on other consent regimes

(1) The Planning Act 2008 is amended as follows.

(2) In section 33 (effect of requirement for development consent on other consent regimes) after subsection (4) insert—

"(5) The Secretary of State may by order—

(a) amend subsection (1) or (2)—

(i) to add or remove a type of consent, or

(ii) to vary the cases in relation to which a type of consent is within that subsection;

(b) make further provision, or amend or repeal provision, about—

(i) the types of consent that are, and are not, within subsection (1) or (2), or

(ii) the cases in relation to which a type of consent is, or is not, within either of those subsections.

(6) In this section "consent" means—

(a) a consent or authorisation that is required, under legislation, to be obtained for development,

(b) a consent, or authorisation, that—

(i) may authorise development, and

(ii) is given under legislation, or

(c) a notice that is required by legislation to be given in relation to development.

(7) In subsection (6) "legislation" means an Act or an instrument made under an Act.

(8) An order under subsection (5) may not affect—

(a) a requirement for a devolved consent to be obtained for, or given in relation to, development, or

(b) whether development may be authorised by a devolved consent.

(9) A consent is "devolved" for the purposes of subsection (8) if—

(a) provision for the consent would be within the legislative competence of the National Assembly for Wales if the provision were contained in an Act of the Assembly,

(b) provision for the consent is, or could be, made by the Welsh Ministers in an instrument made under an Act,

(c) the consent is not within subsection (6)(c) and the Welsh Ministers have a power or duty—

(i) to decide, or give directions as to how to decide, whether the consent is given,

(ii) to decide, or give directions as to how to decide, some or all of the terms on which the consent is given, or

(iii) to revoke or vary the consent, or

(d) the consent is within subsection (6)(c) and the notice has to be given to the Welsh Ministers or otherwise brought to their attention.

(10) An order under subsection (5)(b) may amend this Act."

(3) In section 232 (orders and regulations)—

(a) in subsection (5)(d) (orders not subject to annulment by either House of Parliament) after "14(3)," insert "33(5),", and

(b) in subsection (6) (orders that must be approved in draft by both Houses of Parliament before being made) after "14(3)," insert "33(5),".

(4) In paragraph 4 of Schedule 12 (application of section 33 to Scotland: modifications)—

(a) in sub-paragraph (a) for paragraph (i) substitute—

"(i) for "none of the following is" there were substituted "the following are not", and",

(b) omit the "and" at the end of sub-paragraph (a),

(c) in sub-paragraph (b) for "subsections (2) to (4)" substitute "paragraphs (a) to (c) of subsection (2), and subsections (3) and (4),", and

(d) after sub-paragraph (b) insert ", and

(c) in subsection (7) "Act" includes an Act of the Scottish Parliament."

132 Secretary of State's directions in relation to projects of national significance

(1) Section 35 of the Planning Act 2008 (directions in relation to projects of national significance) is amended in accordance with subsections (2) to (9).

(2) In subsection (1) (circumstances in which the Secretary of State may give directions) —

(a) omit paragraph (a) (requirement that an application for a consent or authorisation mentioned in section 33(1) or (2) has been made), and

(b) in paragraph (b)—

(i) omit "the", and

(ii) after "project" insert ", or proposed project,".

(3) For subsection (4) (directions the Secretary of State may give) substitute—

"(4) The Secretary of State may direct the development to be treated as development for which development consent is required.

(4A) If no relevant application has been made, the power under subsection (4) is exercisable only in response to a qualifying request.

(4B) If the Secretary of State gives a direction under subsection (4), the Secretary of State may—

(a) if a relevant application has been made, direct the application to be treated as an application for an order granting development consent;

(b) if a person proposes to make a relevant application, direct the proposed application to be treated as a proposed application for development consent.

(4C) A direction under subsection (4) or (4B) may be given so as to apply for specified purposes or generally."

(4) In subsection (5) (power to modify application of statutory provisions in relation to an application etc)—

(a) for "subsection (4)" substitute "subsection (4B)",

(b) in paragraph (a) after "application" insert ", or proposed application,", and

(c) in paragraph (b) after "application" insert "or proposed application".

(5) In subsection (6) (authority to which an application for a consent or authorisation mentioned in section 33(1) or (2) has been made to refer the application to the Commission)—

(a) for "subsection (4)" substitute "subsection (4B)", and

(b) after "application" insert ", or proposed application,".

(6) In subsection (7) (power to direct authority considering application for consent or authorisation mentioned in section 33(1) or (2) to take no further action)—

(a) for "subsection (4)" substitute "subsection (4B)", and

(b) after "application" insert ", or proposed application,".

(7) In subsection (8) (power to require authority considering application for consent or authorisation mentioned in section 33(1) or (2) to provide information) for "the relevant authority" substitute "an authority within subsection (8A)".

(8) After subsection (8) insert—

"(8A) An authority is within this subsection if a relevant application has been, or may be, made to it."

(9) After subsection (9) insert—

"(10) In this section—

"qualifying request" means a written request, for a direction under subsection (4) or (4B), that—

(a) specifies the development to which it relates, and

(b) explains why the conditions in subsection (1)(b) and (c) are met in relation to the development;

"relevant application" means an application, relating to the development, for a consent or authorisation mentioned in section 33(1) or (2);

"relevant authority"—

(a) in relation to a relevant application that has been made, means the authority to which the application was made, and

(b) in relation to a relevant application that a person proposes to make, means the authority to which the person proposes to make the application."

(10) In the Planning Act 2008 after section 35 insert—

"**35A Timetable for deciding request for direction under section 35**

(1) This section applies if the Secretary of State receives a qualifying request from a person ("R").

(2) The Secretary of State must make a decision on the qualifying request before the primary deadline, subject to subsection (3).

(3) Subsection (2) does not apply if, before the primary deadline, the Secretary of State asks R to provide the Secretary of State with information for the purpose of enabling the Secretary of State to decide—

(a) whether to give the direction requested, and

(b) the terms in which it should be given.

(4) If R—

(a) is asked under subsection (3) to provide information, and

(b) provides the information sought within the period of 14 days beginning with the day on which R is asked to do so,

the Secretary of State must make a decision on the qualifying request before the end of the period of 28 days beginning with the day the Secretary of State receives the information.

(5) In this section—

"the primary deadline" means the end of the period of 28 days beginning with the day on which the Secretary of State receives the qualifying request;

"qualifying request" has the meaning given by section 35(10)."

133 Pre-application consultation with local authorities

(1) Section 43 of the Planning Act 2008 (local authorities for the purposes of the consultation requirements in section 42) is amended as follows.

(2) In subsection (2) (provision requiring consultation with local authorities that share a boundary with the local authority ("B") in whose area the development is to take place) before the "and" at the end of paragraph (a) insert—

"(aa) B is a unitary council or a lower-tier district council,".

(3) After subsection (2) insert—

"(2A) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area."

(4) For subsection (3) (definition of local authority) substitute—

"(3) In this section—

"local authority" means—

(a) a county council, or district council, in England;

(b) a London borough council;

(c) the Common Council of the City of London;

(d) the Council of the Isles of Scilly;

(e) a county council, or county borough council, in Wales;

(f) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

(g) a National Park authority;

(h) the Broads Authority;

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

134 Reform of duties to publicise community consultation statement

In section 47(6) of the Planning Act 2008 (duties of applicant for development consent to publicise the statement setting out how the applicant proposes to consult the local community)—

(a) for "must publish it—" substitute "must—

(za) make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,",

(b) in paragraph (a) (duty to publish statement in local newspaper)—

(i) at the beginning insert "publish,", and

(ii) after "land" insert ", a notice stating where and when the statement can be inspected", and

(c) in paragraph (b) (duty to publish statement in any other prescribed manner) for "in such other manner" substitute "publish the statement in such manner".

135 Claimants of compensation for effects of development

(1) The Planning Act 2008 is amended as follows.

(2) In section 52(1) (obtaining information about interests in land) for "subsection (2) applies" substitute "subsections (2) and (2A) apply".

(3) In section 52 after subsection (2) insert—

"(2A) The Secretary of State may authorise the applicant to serve a notice on a person mentioned in subsection (3) requiring the person ("the recipient") to give to the applicant in writing the name and address of any person the recipient believes is a person who, if the order sought by the application or proposed application were to be made and fully implemented, would or might be entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of the use of the land once the order has been implemented,

to make a relevant claim."

(4) In section 52(4), (6) and (7) after "subsection (2)" insert "or (2A)".

(5) In section 52 after subsection (5) insert—

"(5A) A notice under subsection (2A) must explain the circumstances in which a person would or might be entitled as mentioned in that subsection."

(6) In section 52(10) for "(2) and (3)" substitute "(2) to (3)".

(7) In section 52 after subsection (11) insert—

"(12) In subsection (3) as it applies for the purposes of subsection (2A) "the land" also includes any relevant affected land (see subsection (13)).

(13) Where the applicant believes that, if the order sought by the application or proposed application were to be made and fully implemented, there would or might be persons entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of the use of the land once the order has been implemented,

to make a relevant claim in respect of any land or in respect of an interest in any land, that land is "relevant affected land" for the purposes of subsection (12).

(14) In this section "relevant claim" means—

(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for compulsory purchase of land or not made for injurious affection resulting from compulsory purchase);

(b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);

(c) a claim under section 152(3).”

(8) In section 44(6) (meaning of “relevant claim” in section 44(4)) after paragraph (b) insert “;

(c) a claim under section 152(3).”

(9) In section 57(6) (meaning of “relevant claim” in section 57(4)) after paragraph (b) insert “;

(c) a claim under section 152(3).”

(10) In Schedule 12 (application of Act to Scotland: modifications) in paragraph 6 (application of section 52) after sub-paragraph (c) insert—

“(d) in subsection (14) for paragraph (a) there were substituted—

“(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42);”, and

(e) in subsection (14)(b) the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973.”

136 Rights of entry for surveying etc in connection with applications

(1) The Planning Act 2008 is amended as follows.

(2) In section 53(1) (person may be authorised to enter land for the purpose of surveying and taking levels of it) after “taking levels of it” insert “, or in order to facilitate compliance with the provisions mentioned in subsection (1A),”.

(3) In section 53 after subsection (1) insert—

“(1A) Those provisions are any provision of or made under an Act for the purpose of implementing—

(a) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time,

(b) Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time, or

(c) any EU instrument from time to time replacing all or any part of either of those Directives.”

(4) Omit section 53(2)(b) and (c) (until proposed application is made, entry for surveying may be authorised only if compulsory acquisition may be involved and section 42 has been complied with).

(5) In section 53 after subsection (3) insert—

"(3A) Power conferred by subsection (1) for the purpose of complying with the provisions mentioned in subsection (1A) includes power to take, and process, samples of or from any of the following found on, in or over the land—

(a) water,

(b) air,

(c) soil or rock,

(d) its flora,

(e) bodily excretions, or dead bodies, of non-human creatures, or

(f) any non-living thing present as a result of human action."

(6) In section 54(1) (application of section 53(1) to (3) to Crown land) for "to (3)" substitute "to (3A)".

(7) In paragraph 7 of Schedule 12 (modifications of section 53 for the purposes of its application to Scotland) before sub-paragraph (a) insert—

"(za) in subsection (1A), the reference to an Act included an Act of the Scottish Parliament,".

137 Acceptance of applications for development consent

(1) The Planning Act 2008 is amended as follows.

(2) In section 55(3) (conditions for acceptance of application) omit paragraphs (b) and (d) (application may be accepted only if it complies with requirements as to form and contents and with any standards set, and gives reasons for any failure to follow applicable guidance).

(3) In section 55(3) after paragraph (e) insert ", and

(f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory."

(4) In section 55 after subsection (5) insert—

"(5A) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f), must have regard to the extent to which—

(a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5), and

(b) any applicable guidance given under section 37(4) has been followed in relation to the application."

(5) In section 37(3) (requirements as to form and contents of application) after "must" insert ", so far as necessary to secure that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory".

138 Procedural changes relating to applications for development consent

(1) The Planning Act 2008 is amended as follows.

(2) In section 56(2) (persons to be notified of the acceptance of an application for an order granting development consent) for paragraph (b) (relevant local authorities under section 102(5)) substitute—

"(b) each local authority that is within section 56A,".

(3) After section 56 insert—

"**56A Local authorities for the purposes of sections 56(2)(b) and 60(2)(a)**

(1) A local authority is within this section if the land is in the authority's area.

(2) A local authority ("A") is within this section if—

(a) the land is in the area of another local authority ("B"),

(b) B is a unitary council or a lower-tier district council, and

(c) any part of the boundary of A's area is also a part of the boundary of B's area.

(3) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.

(4) In this section—

"the land" means the land to which the application concerned relates or any part of that land;

"local authority" has the meaning given in section 102(8);

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

(4) In section 60(2) (persons who the Commission must invite to submit local impact reports) for paragraph (a) (relevant local authorities under section 102(5)) substitute—

"(a) each local authority that is within section 56A, and".

(5) In section 88 (initial assessment of issues, and preliminary meeting)—

(a) in subsection (3) (persons who must be invited to preliminary meeting) omit the "and" at the end of paragraph (a),

(b) in that subsection after paragraph (b) insert—

"(c) each statutory party, and

(d) each local authority that is within section 88A,", and

(c) after that subsection insert—

"(3A) In subsection (3)(c) "statutory party" means a person specified in, or of a description specified in, regulations made by the Secretary of State."

(6) After section 88 insert—

"**88A Local authorities for the purposes of section 88(3)(d)**

(1) A local authority ("A") is within this section if—

(a) the land is in the area of another local authority ("B"),

(b) B is a unitary council or a lower-tier district council, and

(c) any part of the boundary of A's area is also a part of the boundary of B's area.

(2) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.

(3) In this section—

"the land" means the land to which the application relates or any part of that land;

"local authority" has the meaning given in section 102(8);

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

(7) In section 89 (Examining authority's decisions about how application is to be examined and the notification of those decisions to parties) after subsection (2) insert—

"(2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d)—

(a) of those decisions, and

(b) that the person may notify the Examining authority in writing that the person is to become an interested party."

(8) In section 102 (interpretation of Chapter 4: "interested party" and other expressions)—

(a) in subsection (1) for paragraph (b) (statutory party is interested party) substitute—

"(aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),

(ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,",

(b) in subsection (1) for paragraph (c) (relevant local authority is interested party) insert—

"(c) the person is a local authority in whose area the land is located,

(ca) the person—

(i) is mentioned in section 88(3)(c) or (d), and

(ii) has notified the Examining authority as mentioned in section 89(2A)(b),",

(c) after subsection (1) (definition of interested party) insert—

"(1ZA) But a person ceases to be an "interested party" for the purposes of this Chapter upon notifying the Examining authority in writing that the person no longer wishes to be an interested party.",

(d) omit subsection (3) (definition of statutory party),

(e) omit subsections (5) to (7) (which further define the local authorities that are relevant local authorities), and

(f) in subsection (8) (definition of local authority) for "subsections (5) to (7)" substitute "subsection (1)(c)".

(9) After section 102 insert—

"**102A Persons in certain categories may ask to become interested parties etc**

(1) Subsection (2) applies if—

(a) a person makes a request to the Examining authority to become an interested party,

(b) the request states that the person claims to be within one or more of the categories set out in section 102B,

(c) the person has not been notified of the acceptance of the application in accordance with section 56(2)(d), and

(d) the applicant has issued a certificate under section 58 in relation to the application.

(2) The Examining authority must decide whether it considers that the person is within one or more of the categories set out in section 102B.

(3) If the Examining authority decides that it considers that the person is within one or more of the categories set out in section 102B, the Examining authority must notify the person, and the applicant, that the person has become an interested party under section 102(1)(ab).

(4) If the Examining authority thinks that a person might successfully make a request mentioned in subsection (1)(a), the Examining authority may inform the person about becoming an interested party under section 102(1)(ab).

But the Examining authority is under no obligation to make enquiries in order to discover persons who might make such a request.

102B Categories for the purposes of section 102A

(1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

(2) A person is within Category 2 if the person—

(a) is interested in the land, or

(b) has power—

(i) to sell and convey the land, or

(ii) to release the land.

(3) An expression, other than "the land", that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.

(4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of use of the land once the order has been implemented,

to make a relevant claim.

(5) In subsection (4) "relevant claim" means—

(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);

(b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);

(c) a claim under section 152(3).

(6) In this section "the land" means the land to which the application relates or any part of that land."

(10) In Schedule 12 (application of Act to Scotland: modifications) after paragraph 9 insert—

"9A Section 102B applies as if—

(a) in subsection (2)(b), the words from "or" to the end were omitted,

(b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, and

(c) in subsection (5)—

(i) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947"; and

(ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973."

139 Timetables for reports and decisions on applications for development consent

(1) The Planning Act 2008 is amended as follows.

(2) In section 98(3) (Examining authority must report on application within 3 months beginning with deadline for completing its examination) for the words from "beginning" onwards substitute "beginning with—

(a) the deadline for completion of its examination of the application, or

(b) (if earlier) the end of the day on which it completes the examination."

(3) In section 107(1) (which provides for the application to be decided within 3 months of the start day but is amended by this Act to provide for decision within 3 months of the deadline under section 98(3))—

(a) for "with the" substitute "with—

(a) the", and

(b) at the end insert ", or

(b) (if earlier) the end of the day on which the Secretary of State receives a report on the application under section 74(2)(b) or 83(1)(b)."

140 Development consent subject to requirement for further approval

In section 120(2) of the Planning Act 2008 (provision relating to requirements that may be included in order granting development consent)—

(a) after "in particular include" insert "—

(a)",

and

(b) after "development" insert ";

(b) requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a)".

141 Local authority, statutory undertakers' and National Trust land

(1) The Planning Act 2008 is amended as follows.

(2) In section 128(3) (order authorising compulsory acquisition of local authority or statutory undertakers' land subject to special parliamentary procedure if representation made by the authority or statutory undertakers and not withdrawn)—

(a) after paragraph (a) (but before the "and" at the end of that paragraph) insert—

"(aa) the representation contains an objection to the compulsory acquisition of the land,", and

(b) in paragraph (b) (condition that representation has not been withdrawn) for "representation" substitute "objection".

(3) In section 130(3) (order authorising compulsory acquisition of certain National Trust land subject to special parliamentary procedure if representation made by National Trust and not withdrawn)—

(a) after paragraph (a) (but before the "and" at the end of that paragraph) insert—

"(aa) the representation contains an objection to the compulsory acquisition of the land,", and

(b) in paragraph (b) (condition that representation has not been withdrawn) for "representation" substitute "objection".

142 Changes to notice requirements for compulsory acquisition

(1) Section 134 of the Planning Act 2008 (notice of authorisation of compulsory acquisition) is amended as follows.

(2) In subsection (3) (steps the prospective purchaser must take after order granting development consent is made that includes provision authorising compulsory acquisition)—

(a) before paragraph (a) insert—

"(za) make a copy of the order available, at a place in the vicinity of the land, for inspection by the public at all reasonable hours,", and

(b) in paragraph (a) omit "and a copy of the order".

(3) In subsection (7) (contents of a compulsory acquisition notice) before the "and" at the end of paragraph (c) insert—

"(ca) stating where and when a copy of the order is available for inspection in accordance with subsection (3)(za),".

(4) Omit subsection (8) (compulsory acquisition notice affixed to object on or near the order land to say where order granting development consent can be inspected).

CHAPTER 7

OTHER PLANNING MATTERS

143 Applications for planning permission: local finance considerations

(1) Section 70 of the Town and Country Planning Act 1990 (determination of applications for planning permission: general considerations) is amended as follows.

(2) In subsection (2) (local planning authority to have regard to material considerations in dealing with applications) for the words from "to the provisions" to the end substitute "to—

(a) the provisions of the development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations."

(3) After subsection (2) insert—

"(2A) Subsection (2)(b) does not apply in relation to Wales."

(4) After subsection (3) insert—

"(4) In this section—

"local finance consideration" means—

(a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or

(b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"relevant authority" means—

(a) a district council;
(b) a county council in England;
(c) the Mayor of London;
(d) the council of a London borough;
(e) a Mayoral development corporation;
(f) an urban development corporation;
(g) a housing action trust;
(h) the Council of the Isles of Scilly;
(i) the Broads Authority;
(j) a National Park authority in England;
(k) the Homes and Communities Agency; or
(l) a joint committee established under section 29 of the Planning and Compulsory Purchase Act 2004."

(5) The amendments made by this section do not alter—
(a) whether under subsection (2) of section 70 of the Town and Country Planning Act 1990 regard is to be had to any particular consideration, or
(b) the weight to be given to any consideration to which regard is had under that subsection.

144 Application of this Part to the Crown

An amendment made by this Part in—
(a) the Town and Country Planning Act 1990,
(b) the Planning (Listed Buildings and Conservation Areas) Act 1990,
(c) the Planning and Compulsory Purchase Act 2004, or
(d) the Planning Act 2008,

binds the Crown.