

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 27.

DEVELOPMENT PLANS

PART I

STREAMLINING OF DEVELOPMENT PLAN SYSTEM

1 Part II of the principal Act (development plans) is amended as follows.

Commencement Information

- II** Sch. 4 para. 1 wholly in force: Sch. 4 para. 1 in force for certain purposes at 25.11.1991, see s. 84(2)(3) and S.I. 1991/2728, art. 2; Sch. 4 para. 1 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Unitary development plans

- 2 (1) In section 12 (content of unitary development plan), in subsection (3) for the words from “other” to the end there is substituted “use of land in their area.
- (3A) The policies shall, subject to subsection (3B), include policies in respect of—
- the conservation of the natural beauty and amenity of the land;
 - the improvement of the physical environment; and
 - the management of traffic.
- (3B) Regulations under this section may prescribe the aspects of such development and use with which the general policies in Part I of a unitary development plan are to be concerned, in which case the policies shall be concerned with those aspects and no others.”
- (2) In subsection (4)(a) of that section “other”, in the second place where it occurs, and “or for any description of development or other use of such land” are omitted.
- (3) For subsection (6) of that section there is substituted—
- “(6) In formulating the general policies in Part I of a unitary development plan the authority shall have regard to—
- any regional or strategic planning guidance given by the Secretary of State to assist them in the preparation of the plan;
 - current national policies;
 - the resources likely to be available; and
 - such other matters as the Secretary of State may prescribe or, in a particular case, direct.”

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(4) After subsection (7) of that section there is inserted—

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

(5) At the end of that section there is inserted—

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

Commencement Information

I2 Sch. 4 para. 2 wholly in force: Sch. 4 para. 2 in force for certain purposes at 25.11.1991, see s. 84(2)(3) and S.I. 1991/2728, art. 2; Sch. 4 para. 2 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

3 After that section there is inserted—

“12A Urban development corporations.

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

- (a) shall not be prepared; or
- (b) shall not operate,

in relation to the area of an urban development corporation.

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

Commencement Information

I3 Sch. 4 para. 3 wholly in force at 10.2.1992, see s. 84(2)(3) and S.I. 1991/2905, art. 4

4 For section 13 (publicity in connection with preparation of unitary development plan) there is substituted—

“13 Public participation.

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

- (a) comply with—
 - (i) any requirements imposed by regulations made under section 26; and
 - (ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and
- (b) consider any representations made in accordance with those regulations.

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- (2) Where the local planning authority have prepared a unitary development plan, before adopting it they shall—
 - (a) make copies of it available for inspection at such places as may be prescribed by those regulations;
 - (b) send a copy to the Secretary of State; and
 - (c) comply with any requirements imposed by those regulations.
- (3) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.
- (4) In this section “the prescribed period” means such period as may be prescribed by or determined in accordance with regulations made under section 26 and in this Chapter “objections made in accordance with the regulations” means objections made—
 - (a) in accordance with regulations made under that section; and
 - (b) within the prescribed period.
- (5) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.
- (6) A unitary development plan shall not be adopted by the authority under section 15 until—
 - (a) after they have considered any objections made in accordance with the regulations; or
 - (b) if no such objections are made, after the expiry of the prescribed period.”

Commencement Information

I4 Sch. 4 para. 4 wholly in force: Sch. 4 para. 4 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 4 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 5 In section 14 (withdrawal of unitary development plan)—
- (a) in subsections (2) and (4) for “13(3)” there is substituted “ 13(2) ”; and
 - (b) subsection (3) (concerning publicity) is omitted.

Commencement Information

I5 Sch. 4 para. 5 wholly in force: Sch. 4 para. 5 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 5 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 6 In section 15 (adoption of unitary development plan by local planning authority) for subsection (1) there is substituted—

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

- (a) any objections to the plan; or

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

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I6 Sch. 4 para. 6 wholly in force: Sch. 4 para. 6 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 6 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

7 In section 16 (local inquiries) for subsection (1) there is substituted—

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

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

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

Commencement Information

I7 Sch. 4 para. 7 wholly in force: Sch. 4 para. 7 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 7 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

8 In section 17(1) (direction to consider proposals) for “consider modifying” there is substituted “modify”.

Commencement Information

I8 Sch. 4 para. 8 wholly in force: Sch. 4 para. 8 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 8 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

9 In sections 17(1) and 18(1) for “13(3)”, in both places where it occurs, there is substituted “13(2)”.

Commencement Information

I9 Sch. 4 para. 9 wholly in force: Sch. 4 para. 9 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 9 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

10 In section 19(2) (approval of unitary development plan by Secretary of State) after “taken into account in” there is inserted “preparing”.

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I10 Sch. 4 para. 10 wholly in force: Sch. 4 para. 10 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 10 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

11 In section 20(1) (local inquiry, public examination and consultation by Secretary of State) for “regulations under this Chapter” there is substituted “ the regulations. ”

Commencement Information

I11 Sch. 4 para. 11 wholly in force: Sch. 4 para. 11 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 11 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

12 (1) In section 21 (alteration or replacement of unitary development plan) for subsection (1) there is substituted—

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

- (a) for alterations to the unitary development plan for their area; or
- (b) for its replacement.

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

- (a) such alterations to the unitary development plan as he directs; or
- (b) its replacement.

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

(2) In subsection (2) of that section “Subject to section 22” is omitted.

Commencement Information

I12 Sch. 4 para. 12 wholly in force: Sch. 4 para. 12 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 12 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

13 Section 22 (short procedure for certain alterations and replacements) is omitted.

Commencement Information

I13 Sch. 4 para. 13 wholly in force: Sch. 4 para. 13 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 13 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

14 In section 23 (joint unitary development plans)—

- (a) subsections (2) to (4) and (9) and (10) are omitted;
- (b) in subsection (5) for “(3)” there is substituted “ (2) ”;
- (c) in subsection (6) for “(4)” there is substituted “ (3) ”; and

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- (d) in subsection (8) for “making” there is substituted “ preparing ” and for “make” there is substituted “ prepare ”.

Commencement Information

I14 Sch. 4 para. 14 wholly in force: Sch. 4 para. 14 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 14 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 15 In section 26(2) (regulations with respect to publicity, etc. for unitary development plans)—
- (a) after paragraph (c) there is inserted—
- “(cc) make provision with respect to the circumstances in which representations with respect to the matters to be included in a plan or proposals are to be treated, for any of the purposes of this Chapter, as being objections made in accordance with the regulations;”
- (b) in paragraph (f) for the words from “for the purpose” to “22(2)(b)” there is substituted “ in compliance with the regulations or available for inspection under section 13(2) ”; and
- (c) after that paragraph there is inserted—
- “(ff) make provision for steps taken in compliance with the regulations in respect of a unitary development plan which has been withdrawn to be taken into account in prescribed circumstances for the purposes of complying with the regulations in respect of a subsequent unitary development plan;”.

Commencement Information

I15 Sch. 4 para. 15 wholly in force: Sch. 4 para. 15 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 15 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Structure and local plans

- 16 In section 31 (structure plans: continuity, form and content), for subsections (2) to (5) there is substituted—
- “(2) A structure plan shall contain a written statement formulating the authority’s general policies in respect of the development and use of land in their area.
- (3) The policies shall, subject to subsection (4), include policies in respect of—
- (a) the conservation of the natural beauty and amenity of the land;
- (b) the improvement of the physical environment; and
- (c) the management of traffic.
- (4) Regulations under this section may prescribe the aspects of such development and use with which the general policies in a structure plan are to be concerned, in which case the policies shall be concerned with those aspects and no others.

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- (5) A structure plan shall also contain —
- (a) such diagrams, illustrations or other descriptive or explanatory matter in respect of the general policies as may be prescribed; and
 - (b) such other matters as the Secretary of State may, in any particular case, direct.
- (6) In formulating their general policies the authority shall have regard to—
- (a) any regional or strategic planning guidance given by the Secretary of State to assist them in the preparation of the plan;
 - (b) current national policies;
 - (c) the resources likely to be available; and
 - (d) such other matters as the Secretary of State may prescribe or, in a particular case, direct.
- (7) Where there is in operation, by virtue of section 7(7) of the 1971 Act, a structure plan relating to part of the area of a local planning authority, the authority shall, within such period (if any) as the Secretary of State may direct, prepare proposals for replacing the structure plans for the time being in operation with a single structure plan relating to the whole of their area.
- (8) The following provisions of this Chapter apply to such replacement as they apply to replacement in exercise of the power in section 32(1)(b).
- (9) Regulations under this section may make different provision for different cases and shall be subject to any direction given, in a particular case, by the Secretary of State.
- (10) For the purposes of this section, except subsection (6)(b), “policies” includes proposals.”

Commencement Information

I16 Sch. 4 para. 16 wholly in force: Sch. 4 para. 16 in force for certain purposes at 25.11.1991, see s. 84(2)(3) and S.I. 1991/2728, art. 2; Sch. 4 para. 16 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 17 For sections 32 to 41 (provisions with respect to the alteration and replacement of structure plans and the making, alteration and replacement of local plans and related provisions) there is substituted—

“32 Alteration and replacement of structure plans.

- (1) A local planning authority may at any time prepare proposals—
- (a) for alterations to the structure plan for their area; or
 - (b) for its replacement.
- (2) If the Secretary of State directs them to do so, the authority shall prepare, within such time as he may direct, proposals for—
- (a) such alterations to the structure plan as he directs; or
 - (b) its replacement.

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- (3) An authority shall not, without the consent of the Secretary of State, prepare proposals in respect of a structure plan if the plan or any part of it has been approved by the Secretary of State under section 35A.
- (4) Proposals for the alteration of a structure plan may relate to the whole or part of the area to which the plan relates.
- (5) Proposals prepared under this section shall be accompanied by an explanatory memorandum.
- (6) The explanatory memorandum shall state—
 - (a) the reasons which in the opinion of the authority justify each of their proposals;
 - (b) any information on which the proposals are based;
 - (c) the relationship of the proposals to general policies for the development and use of land in neighbouring areas which may be expected to affect the area to which the proposals relate,
 and may contain such illustrative material as the authority think appropriate.
- (7) Proposals for the alteration or replacement of a structure plan shall not become operative unless they are—
 - (a) adopted by the authority (under section 35); or
 - (b) approved by the Secretary of State (under section 35A).

33 Public participation.

- (1) When preparing proposals for the alteration or replacement of a structure plan for their area and before finally determining their contents the local planning authority shall—
 - (a) comply with—
 - (i) any requirements imposed by regulations made under section 53; and
 - (ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and
 - (b) consider any representations made in accordance with those regulations.
- (2) Where the authority have prepared proposals for the alteration or replacement of a structure plan they shall—
 - (a) make copies of the proposals and the explanatory memorandum available for inspection at such places as may be prescribed by those regulations;
 - (b) send a copy of the proposals and the explanatory memorandum to the Secretary of State; and
 - (c) comply with any requirements imposed by those regulations.
- (3) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.

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- (4) In this section “the prescribed period” means such period as may be prescribed by or determined in accordance with regulations made under section 53 and in this Chapter “objections made in accordance with the regulations” means objections made—
 - (a) in accordance with regulations made under that section; and
 - (b) within the prescribed period.
- (5) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.
- (6) The proposals shall not be adopted by the authority under section 35 until—
 - (a) after they have considered any objections made in accordance with the regulations; or
 - (b) if no such objections are made, after the expiry of the prescribed period.

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

- (1) Proposals for the alteration or replacement of a structure plan may be withdrawn by the local planning authority at any time before they have adopted them or the Secretary of State has approved them.
- (2) On the withdrawal of such proposals, the authority shall—
 - (a) withdraw the copies made available for inspection in accordance with section 33(2); and
 - (b) give notice that the proposals have been withdrawn to every person who has made an objection to them.

35 Adoption of proposals.

- (1) Subject to subsection (3) and sections 35A and 35B, the local planning authority may by resolution adopt proposals for the alteration or replacement of a structure plan, either as originally prepared or as modified so as to take account of—
 - (a) any objections to the proposals; or
 - (b) any other considerations which appear to them to be material.
- (2) If it appears to the Secretary of State that the proposals are unsatisfactory he may, at any time before the local planning authority have adopted the proposals, direct the authority to modify the proposals in such respects as are indicated in the direction.
- (3) An authority to whom such a direction is given shall not adopt the proposals unless—
 - (a) they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction; or
 - (b) the direction is withdrawn.
- (4) Subject to the following provisions of this Chapter and to section 287, proposals for the alteration or replacement of a structure plan shall become operative on the date on which they are adopted.

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

- (1) The Secretary of State may, at any time before the local planning authority have adopted proposals for the alteration or replacement of a structure plan, direct that all or any part of the proposals shall be submitted to him for his approval.
- (2) If he gives such a direction—
 - (a) the local planning authority shall not take any further steps for the adoption of any of the proposals until the Secretary of State has given his decision on the proposals or the relevant part of the proposals; and
 - (b) the proposals or the relevant part of the proposals shall not have effect unless approved by him and shall not require adoption by the authority under section 35.
- (3) Subsection (2)(a) applies in particular to holding or proceeding with an examination in public under section 35B(1).
- (4) The Secretary of State may, after considering proposals submitted to him in compliance with a direction under subsection (1)—
 - (a) approve them, in whole or in part and with or without modifications or reservations; or
 - (b) reject them.
- (5) In considering proposals so submitted to him the Secretary of State—
 - (a) shall take into account any objections made in accordance with the regulations; and
 - (b) may take into account any matters which he thinks relevant, whether or not they were taken into account in preparing the proposals.
- (6) For the purpose of taking into account any objection or matter, the Secretary of State may, but need not, consult with any local planning authority or other person.
- (7) The Secretary of State shall give the authority such statement as he considers appropriate of the reasons governing his decision on any proposals submitted to him.
- (8) Subject to section 287, proposals approved by the Secretary of State under this section shall become operative on such day as he may appoint.

35B Examination in public.

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

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- (2) Where proposals are submitted to the Secretary of State in compliance with a direction under section 35A(1), he may cause an examination in public to be held of any matter specified by him.
- (3) An examination in public shall be conducted by a person or persons appointed by the Secretary of State for the purpose.
- (4) No person shall have a right to be heard at an examination in public.
- (5) The following may take part in an examination in public—
 - (a) in the case of an examination held under subsection (1), the local planning authority; and
 - (b) in any case, any person invited to do so by the person or persons holding the examination or the person causing the examination to be held.
- (6) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at any examination in public.
- (7) An examination in public shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the ^{M1}Tribunals and Inquiries Act 1971 but shall not constitute such an inquiry for any other purpose of that Act.

35C Duties to notify authorities responsible for local plans

- (1) An authority responsible for a structure plan shall, where any proposals of theirs for the alteration or replacement of a structure plan are adopted or approved—
 - (a) notify any authority responsible for a local plan in their area that the proposals have been adopted or approved; and
 - (b) supply that authority with a statement that the local plan is or, as the case may be, is not in general conformity with the altered or new structure plan.
- (2) A statement that a local plan is not in general conformity with a structure plan shall specify the respects in which it is not in such conformity.
- (3) An authority responsible for a structure plan shall, where any proposals of theirs for the alteration or replacement of a structure plan are withdrawn, notify any authority responsible for a local plan in their area that the proposals have been withdrawn.
- (4) Nothing in this section requires an authority to notify or supply a statement to themselves.
- (5) For the purposes of this section an authority shall be regarded as responsible—
 - (a) for a structure plan, if they are entitled to prepare proposals for its alteration or replacement; and
 - (b) for a local plan, if they are under a duty to prepare a local plan or are entitled to prepare proposals for its alteration or replacement.

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Local plans

36 Local plans.

- (1) The local planning authority shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a local plan.
- (2) A local plan shall contain a written statement formulating the authority's detailed policies for the development and use of land in their area.
- (3) The policies shall include policies in respect of—
 - (a) the conservation of the natural beauty and amenity of the land;
 - (b) the improvement of the physical environment; and
 - (c) the management of traffic.
- (4) A local plan shall be in general conformity with the structure plan.
- (5) A local plan shall not contain—
 - (a) any policies in respect of the winning and working of minerals or the depositing of mineral waste, unless it is a plan for a National Park;
 - (b) any policies in respect of the depositing of refuse or waste materials other than mineral waste, unless it is a plan for a National Park or for an area where such depositing is not a county matter for the purposes of Schedule 1.
- (6) A local plan shall also contain—
 - (a) a map illustrating each of the detailed policies; and
 - (b) such diagrams, illustrations or other descriptive or explanatory matter in respect of the policies as may be prescribed,
 and may contain such descriptive or explanatory matter as the authority think appropriate.
- (7) A local plan may designate any part of the authority's area as an action area, that is to say, an area which they have selected for the commencement during a prescribed period of comprehensive treatment by development, redevelopment or improvement (or partly by one and partly by another method).
- (8) If an area is so designated the plan shall contain a description of the treatment proposed by the authority.
- (9) In formulating their detailed policies, the authority shall have regard to—
 - (a) such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct; and
 - (b) the provisions of any scheme under paragraph 3 of Schedule 32 to the ^{M2}Local Government, Planning and Land Act 1980 relating to land in their area which has been designated under that Schedule as an enterprise zone.
- (10) Subject to the following provisions of this Chapter and section 287, a local plan shall become operative on the date on which it is adopted.

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

37 Minerals local plans.

- (1) A mineral planning authority for an area other than a National Park shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a minerals local plan.
- (2) A minerals local plan shall contain a written statement formulating the authority’s detailed policies for their area in respect of development consisting of the winning and working of minerals or involving the depositing of mineral waste.
- (3) The local planning authority for a National Park shall, within such period (if any) as the Secretary of State may direct—
 - (a) prepare for their area a plan to be known as a minerals local plan; or
 - (b) include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the depositing of mineral waste.
- (4) In formulating the policies in a minerals local plan, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.
- (5) Subsections (4), (6), (10) and (11) of section 36 apply with respect to minerals local plans as they apply with respect to local plans.
- (6) The following provisions of this Chapter apply with respect to minerals local plans as they apply with respect to local plans, but as if references to a local planning authority were, in relation to an area other than a National Park, references to a mineral planning authority.

38 Waste policies.

- (1) In this section —

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

“waste local plan” means a plan containing waste policies.
- (2) A local planning authority other than an excluded authority shall, within such period (if any) as the Secretary of State may direct—
 - (a) prepare a waste local plan for their area; or
 - (b) include their waste policies in their minerals local plan.
- (3) A local planning authority are an excluded authority for the purposes of subsection (2) if they are an authority—
 - (a) for a National Park;
 - (b) for an area where waste policies are not a county matter for the purposes of Schedule 1.
- (4) A local planning authority for a National Park shall within such period (if any) as the Secretary of State may direct—

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- (a) prepare a waste local plan for their area; or
 - (b) include their waste policies in—
 - (i) their minerals local plan; or
 - (ii) their local plan.
- (5) In formulating their waste policies, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.
- (6) Subsections (4), (6), (10) and (11) of section 36 apply with respect to waste local plans as they apply with respect to local plans.
- (7) The following provisions of this Chapter apply with respect to waste local plans as they apply with respect to local plans, but as if references to a local planning authority were references to the authority who are entitled to prepare a waste local plan.

39 Alteration and replacement of local plans.

- (1) A local planning authority may at any time prepare proposals—
- (a) for alterations to the local plan for their area; or
 - (b) for its replacement.
- (2) A local planning authority shall—
- (a) consider whether they need to prepare such proposals, if they have been supplied with a statement under section 35C that the local plan is not in general conformity with the structure plan; and
 - (b) prepare such proposals, if they are directed to do so by the Secretary of State, within such period (if any) as he may direct.
- (3) An authority shall not, without the consent of the Secretary of State, prepare such proposals if the plan or any part of it has been approved by the Secretary of State.
- (4) Proposals for the alteration of a local plan may relate to the whole or part of the area to which the plan relates.
- (5) Subject to the following provisions of this Chapter and section 287, proposals for the alteration or replacement of a local plan shall become operative on the date on which they are adopted.

40 Public participation.

- (1) When preparing a local plan for their area or proposals for its alteration or replacement and before finally determining the contents of the plan or the proposals the local planning authority shall—
- (a) comply with—
 - (i) any requirements imposed by regulations made under section 53; and
 - (ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and

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- (b) consider any representations made in accordance with those regulations.
- (2) Subject to section 46(1), where the authority have prepared a local plan or proposals for its alteration or replacement they shall—
 - (a) make copies of the relevant documents available for inspection at such places as may be prescribed by those regulations;
 - (b) send a copy of the relevant documents to the Secretary of State; and
 - (c) comply with any requirements imposed by those regulations.
- (3) In subsection (2) “the relevant documents” means—
 - (a) the plan or the proposals; and
 - (b) any statement supplied under section 46(2).
- (4) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.
- (5) In this section “the prescribed period” means such period as may be prescribed by or determined in accordance with regulations made under section 53 and in this Chapter “objections made in accordance with the regulations” means objections made—
 - (a) in accordance with regulations made under that section; and
 - (b) within the prescribed period.
- (6) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.
- (7) A local plan or proposals for its alteration or replacement shall not be adopted by the authority under section 43 until—
 - (a) after they have considered any objections made in accordance with the regulations; or
 - (b) if no such objections are made, after the expiry of the prescribed period.”

Commencement Information

I17 Sch. 4 para. 17 wholly in force: Sch. 4 para. 17 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 17 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Marginal Citations

M1 1971 c. 62.
M2 1980 c. 65.

18 For section 42(1) and (2) (local inquiries) there is substituted—

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

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- (2) The local planning authority may cause a local inquiry or other hearing to be held for the purpose of considering any other objections to the proposals.
- (2A) No local inquiry or other hearing need be held under this section if all persons who have made objections have indicated in writing that they do not wish to appear.”

Commencement Information

I18 Sch. 4 para. 18 wholly in force: Sch. 4 para. 18 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 18 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 19 (1) In section 43 (adoption of proposals) for subsections (1) and (2) there is substituted—
- “(1) Subject to the following provisions of this section and section 44, the local planning authority may by resolution adopt proposals for a local plan or for its alteration or replacement, either as originally prepared or as modified so as to take account of—
- (a) any objections to the plan; or
- (b) any other considerations which appear to them to be material.”
- (2) In subsection (4) of that section for “consider modifying” there is substituted “modify”.

Commencement Information

I19 Sch. 4 para. 19 wholly in force: Sch. 4 para. 19 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 19 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 20 (1) In section 44 (calling in of proposals for approval by Secretary of State) in subsection (1) after “proposals” in the second place where it occurs there is inserted “or any part of them”.
- (2) For subsection (2) of that section there is substituted—
- “(2) If he gives such a direction—
- (a) the authority shall not take any further steps for the adoption of any of the proposals until the Secretary of State has given his decision on the proposals or the relevant part of the proposals; and
- (b) the proposals or the relevant part of the proposals shall not have effect unless approved by him and shall not require adoption by the authority under section 43.”

Commencement Information

I20 Sch. 4 para. 20 wholly in force: Sch. 4 para. 20 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 20 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

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21 (1) In section 45 (approval of proposals by Secretary of State), in subsection (3)(a) after “with” there is inserted “ the ”.

(2) After subsection (4) of that section there is inserted—

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

Commencement Information

I21 Sch. 4 para. 21 wholly in force: Sch. 4 para. 21 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 21 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

22 For sections 46 to 48 (conformity between local plan and structure plan) there is substituted—

“46 Conformity between plans.

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

- (a) they have served on the authority responsible for the structure plan in their area a copy of the plan or the proposals; and
- (b) such period as may be prescribed has elapsed since they served the copy of the plan or proposals.

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

- (a) a statement that the plan or the proposals are in general conformity with the structure plan; or
- (b) a statement that the plan or the proposals are not in such conformity.

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

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

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

(6) Where—

- (a) a local planning authority propose to make, alter or replace a local plan;
- (b) copies of proposals for the alteration or replacement of the structure plan for their area have been made available for inspection under section 33(2); and
- (c) the authority mentioned in paragraph (a) include in any relevant copy of the plan or proposals a statement that they are making the permitted assumption,

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

- (7) In this section “the permitted assumption” means the assumption that—
- (a) the proposals mentioned in subsection (6)(b); or
 - (b) if any proposed modifications to those proposals are published in accordance with regulations made under section 53, the proposals as so modified,
- have been adopted.
- (8) For the purposes of subsection (6)(c) a copy is a relevant copy of a plan or proposals if it is—
- (a) served under subsection (1)(a); or
 - (b) made available or sent under section 40(2).
- (9) The permitted assumption shall not be made at any time after the authority mentioned in subsection (6)(a) know that the proposals mentioned in subsection (6)(b) have been withdrawn.
- (10) The provisions of a local plan prevail for all purposes over any conflicting provisions in the relevant structure plan unless the local plan is one—
- (a) stated under section 35C not to be in general conformity with the structure plan; and
 - (b) neither altered nor replaced after the statement was supplied.
- (11) The Secretary of State may make regulations with respect to cases where—
- (a) provisions in a structure plan or a local plan conflict with provisions in—
 - (i) a minerals local plan; or
 - (ii) a waste local plan;
 - (b) a structure plan and a local plan are made by the same authority and the provisions of the two plans conflict.
- (12) Subsection (5) of section 35C applies for the purposes of this section as it applies for the purposes of that.”

Commencement Information

I22 Sch. 4 para. 22 wholly in force: Sch. 4 para. 22 in force for certain purposes at 25.11.1991, see s. 84(2)(3) and S.I. 1991/2728, art. 2; Sch. 4 para. 22 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

23

In section 49 “repeal” is omitted.

Commencement Information

I23 Sch. 4 para. 23 wholly in force: Sch. 4 para. 23 in force for certain purposes at 25.11.1991, see s. 84(2)(3) and S.I. 1991/2728, art. 2; Sch. 4 para. 23 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

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- 24 (1) In section 50 (joint structure and local plans), in subsection (1), the words “for the repeal and” and subsections (2) and (3) are omitted.
- (2) In subsection (4) of that section “repeal and” is omitted and for “33(3)” there is substituted “ 33(2) ”.
- (3) In subsection (5) of that section “repeal and” is omitted and for “(3)” there is substituted “ (2) ”.
- (4) In subsection (6) of that section—
- (a) in the opening words, “repeal” is omitted;
 - (b) in paragraph (a)—
 - (i) the words from the beginning to “except that” and the words “or 40(2)(a)” and “or 40(3)” are omitted;
 - (ii) for “39(5)(a)” there is substituted “ 40(2) ”; and
 - (iii) for “39(6)” there is substituted “ 40(4) ”; and
 - (c) in paragraph (b) “and they may do so as respects any part of that area to which the proposals relate” is omitted.
- (5) For subsection (7) of that section there is substituted—
- “(7) Where a structure plan has been jointly prepared by two or more local planning authorities, the duty—
- (a) to notify and supply a statement under section 35C; and
 - (b) to supply a statement under section 46,
- shall apply to each of those authorities.
- (7A) Where a local plan, or proposals for its alteration or replacement have been jointly prepared by two or more local planning authorities—
- (a) the requirement to serve a copy under subsection (1) of section 46; and
 - (b) the right to be supplied with a statement under subsection (2) of that section,
- shall apply to each of those authorities.”
- (6) In subsection (8) of that section “repeal” and “in accordance with the provisions of the relevant local plan scheme” are omitted and for “38” there is substituted “ 39 ”.
- (7) For subsection (9) of that section there is substituted—
- “(9) The date of the coming into operation—
- (a) of proposals for the alteration or replacement of a structure plan prepared jointly by two or more local planning authorities; and
 - (b) of a local plan or proposals for its alteration or replacement so prepared,
- shall be a date jointly agreed by those authorities.”

Commencement Information

I24 Sch. 4 para. 24 wholly in force: Sch. 4 para. 24 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 24 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

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25 In section 51(1) “repeal”, in both places where it occurs, is omitted.

Commencement Information

I25 Sch. 4 para. 25 wholly in force: Sch. 4 para. 25 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 25 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

26 After section 51 there is inserted—

“51A Urban development corporations.

- (1) The Secretary of State may direct—
 - (a) that a structure plan shall not operate; or
 - (b) that a local plan shall not be prepared or operate,
 in relation to the area of an urban development corporation.
- (2) The Secretary of State may direct that proposals for the alteration or replacement of a structure plan or a local plan shall not be prepared in relation to the area of an urban development corporation.”

Commencement Information

I26 Sch. 4 para. 26 wholly in force at 10.2.1992, see s. 84(2)(3) and S.I.1991/2905, art. 4

- 27 (1) In section 52(1) (reviews of plans in enterprise zones) for paragraphs (a) and (b) there is substituted “ any local planning authority for an area in which the enterprise zone is wholly or partly situated shall consider whether they need, in the light of the provisions in the scheme or modified scheme, to prepare proposals for the alteration or replacement of any structure or local plan in relation to which they have power to prepare such proposals. ”
- (2) Subsections (2) and (3) are omitted.

Commencement Information

I27 Sch. 4 para. 27 wholly in force: Sch. 4 para. 27 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 27 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 28 (1) In section 53 (regulations with respect to publicity etc. for structure plans and local plans), in subsection (1) “repeal” is omitted.
- (2) In subsection (2) of that section—
- (a) in paragraph (b) “repeal” is omitted;
 - (b) after paragraph (c) there is inserted—
 - “(cc) make provision with respect to the circumstances in which representations with respect to the matters to be included in a plan or proposals are to be treated, for any of the purposes of this Chapter, as being objections made in accordance with the regulations;”

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- (c) in paragraph (f) for the words from “for the purpose” to “40(2)(a)” there is substituted “ in compliance with the regulations or available for inspection under section 33(2) or 40(2) ”;
 - (d) after that paragraph there is inserted—
 - “(ff) make provision for steps taken in compliance with the regulations in respect of a plan or proposal which has been withdrawn to be taken into account in prescribed circumstances for the purposes of complying with the regulations in respect of a subsequent plan or proposal;”
 - (e) in paragraph (g) “repealing” is omitted.
- (3) Subsection (5) of that section (date on which plans or proposals become operative) is omitted.

Commencement Information

I28 Sch. 4 para. 28 wholly in force: Sch. 4 para. 28 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 28 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 29 (1) In section 54 (meaning of “development plan” outside Greater London and the metropolitan counties) in subsection (1) for paragraphs (a) to (d) there is substituted—
- “(a) the provisions of the structure plan for the time being in operation in the area;
 - (b) any alterations to that structure plan;
 - (c) the provisions of the local plan and any minerals local plan or waste local plan for the time being in operation in the area;
 - (d) any alterations to that local plan or minerals local plan or waste local plan,
- together with the resolutions of the authority who made or altered the plan or, as the case may be the Secretary of State’s notice of approval. ”
- (2) In subsection (4) of that section at the end there is inserted “ and Part III of Schedule 4 to the ^{M3}Planning and Compensation Act 1991 ”.

Commencement Information

I29 Sch. 4 para. 29 wholly in force: Sch. 4 para. 29 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 29 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Marginal Citations

M3 1991 c. 34.

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PART II

MINOR AND CONSEQUENTIAL AMENDMENTS

- 30 In section 284(1)(a) of the principal Act (validity of development plans etc.)—
- (a) after “local plan” there is inserted “ minerals local plan, waste local plan ”; and
 - (b) “repeal”, in both places where it occurs, is omitted.

Commencement Information

I30 Sch. 4 para. 30 wholly in force: Sch. 4 para. 30 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 30 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 31 In section 287 of that Act (proceedings for questioning validity of development plans, etc.)—
- (a) in subsection (1) after “local plan” there is inserted “ minerals local plan or waste local plan ”; and
 - (b) in subsections (1) to (3) and (5) “repeal” is omitted.

Commencement Information

I31 Sch. 4 para. 31 wholly in force: Sch. 4 para. 1 3 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 31 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 32 In section 306(2) of that Act (contributions by local authorities and statutory undertakers)—
- (a) after “local plan” there is inserted “ minerals local plan or waste local plan ”; and
 - (b) “repeal” is omitted.

Commencement Information

I32 Sch. 4 para. 32 wholly in force: Sch. 4 para. 32 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 32 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 33 In section 324(1)(a) (rights of entry in connection with preparation etc. of plans), after “local plan” there is inserted “ minerals local plan or waste local plan ”.

Commencement Information

I33 Sch. 4 para. 33 wholly in force: Sch. 4 para. 33 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 33 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 34 In section 336(1) (interpretation) in the definition of “development plan” after “Schedule 2” there is inserted “ and Part III of Schedule 4 to the Planning and Compensation Act 1991 ”.

Status: Point in time view as at 30/08/1995.

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Commencement Information

I34 Sch. 4 para. 34 wholly in force: Sch. 4 para. 34 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 34 in force at 10.2.1992 so far as not already in force by S.I. 1991/2095, art. 4

35 (1) In Schedule 1 to that Act (local planning authorities: distribution of functions) for paragraph 2 there is substituted—

“2 The functions of a local planning authority—

(a) under sections 30 to 35B, 38(2) and 50(1), (4), (5) and (7) shall be exercisable by the county planning authority and not by the district planning authority;

(b) under section 36, 39, 40, 42 to 44 and 50(6), (7A) and (8) shall be exercisable by the district planning authority and not by the county planning authority;

and references to a local planning authority in those sections shall be construed accordingly.”

(2) In paragraph 7(3) of that Schedule, in paragraph (a)—

(a) for sub-paragraphs (i) to (iii) there is substituted—

“(i) of any policy contained in a structure plan which has been adopted or approved;

(ii) of any policy contained in proposals made available for inspection under section 33(2);” and

(b) for sub-paragraphs (v) to (vii) there is substituted—

“(v) of any policy contained in a minerals local plan or a waste local plan which has been adopted or approved;

(vi) of any policy contained in proposals for the making, alteration or replacement of a minerals local plan or a waste local plan which have been made available for inspection under section 40(2);

(vii) of any proposal contained in a local plan which was prepared by the county planning authority and continued in operation by virtue of paragraph 44 of Schedule 4 to the ^{M4}Planning and Compensation Act 1991;

(viii) of any proposal contained in proposals in respect of a local plan which have been prepared by the county planning authority and are adopted or approved by virtue of paragraph 43 of that Schedule or made available for inspection in pursuance of that paragraph;”.

Commencement Information

I35 Sch. 4 para. 35 wholly in force: Sch. 4 para. 35 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 35 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

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Marginal Citations

M4 1991 c. 34.

- 36 (1) In Schedule 2 to that Act (transitional provisions with respect to unitary development plans)—
- (a) in Part I, paragraphs 3, 5 and 6, and
 - (b) in Part II, paragraphs 3 to 16 and 18,
- are omitted.
- (2) For paragraph 4 of Part I of that Schedule and paragraph 17 of Part II of that Schedule there is substituted in each case—
- “0 (1) Sub-paragraph (2) applies where—
- (a) a local plan is in force in the area of a local planning authority;
 - (b) a unitary development plan is being prepared;
 - (c) the local planning authority who are preparing that plan have published in the prescribed manner a statement in the prescribed form identifying a policy included in the plan as an existing policy; and
 - (d) a local inquiry or other hearing is held for the purpose of considering any objection to the plan.
- (2) Where this sub-paragraph applies, the person holding the inquiry or other hearing need not allow an objector to appear if he is satisfied that—
- (a) the objection is to a policy identified in the statement published under sub-paragraph (1)(c);
 - (b) the policy so identified is an existing policy; and
 - (c) there has been no significant change in circumstances affecting the existing policy since it first formed part of the plan mentioned in sub-paragraph (1)(a).
- (3) In this paragraph “existing policy” means a policy or proposal the substance of which (however expressed) was contained in a local plan in force as mentioned in sub-paragraph (1)(a).”

Commencement Information

I36 Sch. 4 para. 36 wholly in force: Sch. 4 para. 36 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 36 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 37 (1) In Schedule 13 to that Act (blighted land) in paragraph 1 in Note (1) for paragraphs (a) and (b) there is substituted—
- “(a) proposals for the alteration or replacement of a structure plan which have been made available for inspection under section 33(2);
 - (b) any proposed modifications to those proposals which have been published in accordance with regulations under section 53.”
- (2) In Note (2) to that paragraph for the words from “33(9)” to the end there is substituted “34”.
- (3) In Note (5) for “in force” there is substituted “in operation”.

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- (4) After that Note there is inserted—
- “(5A) In Note (5) the reference to a local plan in operation includes a reference to a minerals local plan, a waste local plan, which in either case is in operation, and to a local plan continued in operation by virtue of paragraph 44 of Schedule 4 to the ^{M5}Planning and Compensation Act 1991.”
- (5) In Note (7) to that paragraph for the words from “and all references” to the end there is substituted “ and Notes (1) to (4) shall be omitted ”.
- (6) In paragraph 2 of that Schedule in paragraph (a) for “in force” there is substituted “ in operation ”.
- (7) For Note (1) to paragraph 2 there is substituted—
- “(1) In this paragraph the reference to a local plan in operation includes a reference to a minerals local plan, a waste local plan, which in either case is in operation, and to a local plan continued in operation by virtue of paragraph 44 of Schedule 4 to the ^{M6}Planning and Compensation Act 1991, and also includes—
- (a) proposals for the making or alteration and replacement of any such plan where copies of the proposals have been made available for inspection under section 40(2) or by virtue of paragraph 43 of Schedule 4 to the ^{M7}Planning and Compensation Act 1991; and
- (b) any proposed modifications to those proposals which have been published in accordance with regulations under section 53.”
- (8) Notes (2) and (5) to that paragraph are omitted.
- (9) In Note (3) to that paragraph “also” is omitted.
- (10) In paragraph 3 of that Schedule, in Note (1)—
- (a) in paragraph (a) for “13(3)” there is substituted “ 13(2) ”; and
- (b) in paragraph (b) “or under section 22” is omitted.
- (11) In Note (2) to that paragraph “13(7) or” is omitted.
- (12) In paragraph 4 of that Schedule, in Note (1)—
- (a) in paragraph (a) for “13(3)” there is substituted “ 13(2) ”;
- (b) in paragraph (b) “or under section 22” is omitted.
- (13) In Note (2) to that paragraph “13(7) or” is omitted.

Commencement Information

I37 Sch. 4 para. 38 wholly in force: Sch. 4 para. 38 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 38 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Marginal Citations

M5 1991 c. 34.
M6 1991 c. 34.
M7 1991 c. 34.

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

- 38 In Schedule 4 to the ^{M8}Planning (Consequential Provisions) Act 1990—
- (a) in paragraph 1, in the Table, the entry relating to section 9(4) of the 1971 Act and paragraph 2 of that Schedule is omitted;
 - (b) paragraph 2 is omitted.

Commencement Information

I38 Sch. 4 para. 38 wholly in force: Sch. 4 para. 38 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 38 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Marginal Citations

M8 1990 c. 11.

- 39 In Schedule 17 to the ^{M9}Local Government Act 1972 (discharge of planning functions in national parks) in paragraph 6(a) for “Part II” there is substituted “ sections 30 to 35C, 46(2) and 50(1), (4), (5) and (7) ”.

Commencement Information

I39 Sch. 4 para. 39 wholly in force: Sch. 4 para. 39 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 39 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Marginal Citations

M9 1972 c. 70.

PART III

TRANSITIONAL PROVISIONS

Interpretation

- 40 In this Part of this Schedule—
- “commencement” means the commencement of Part I of this Schedule;
 - “the old law” means the principal Act in the form in which it was in force immediately before commencement;
 - “the new law” means the principal Act as amended by this Act;
 - “prescribed” means prescribed by regulations made by the Secretary of State;
 - “winning and working of minerals”, “depositing of mineral waste”, “policies” in relation to such winning and working or depositing, and “waste policies” have the same meaning as they have under the new law.

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

Subordinate Legislation Made

P1 Sch. 4 para. 40: Sch. 4 paras. 40, 41(2), 45(1), 46(1) and 47(7) power exercised (10.12.1991) by S.I.1991/2794

Commencement Information

I40 Sch. 4 para. 40 wholly in force: Sch. 4 para.40 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 40 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Unitary development plans

- 41 (1) Where a local planning authority have, under section 13(3) of the old law, made available copies of proposals for the making, alteration or replacement of a unitary development plan but the proposals are not adopted or approved before commencement—
- (a) the proposals shall be treated on and after commencement as if made available under section 13(2) of the the new law; and
 - (b) any other step taken before commencement for the purpose of complying with any requirement of the old law with respect to such making, alteration or replacement may be treated on and after commencement as having been taken for the purpose of complying with any similar requirement imposed by or under the new law.
- (2) Sub-paragraph (3) below applies where, at any time within the period of two years beginning with the date of commencement—
- (a) a unitary development plan is in operation which by virtue of paragraph 4 of Part I or paragraph 17 of Part II of Schedule 2 to the old law includes a local plan (whether subject to alteration or otherwise);
 - (b) proposals are made for the alteration or replacement of the unitary development plan;
 - (c) the local planning authority who are making those proposals have published in the prescribed manner a statement in the prescribed form identifying a policy included in the plan as an existing policy; and
 - (d) a local inquiry or other hearing is held for the purpose of considering an objection to the proposals.
- (3) Where this sub-paragraph applies, the person holding the inquiry or other hearing need not allow an objector to appear if he is satisfied that—
- (a) the objection is to a policy identified in the statement published under sub-paragraph (2)(c) above;
 - (b) the policy so identified is an existing policy; and
 - (c) there has been no significant change in circumstances affecting the existing policy since it was included in the unitary development plan.
- (4) In this paragraph “existing policy” means a policy or proposal the substance of which (however expressed) was contained in a plan included as mentioned in sub-paragraph (2)(a) above.

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

Subordinate Legislation Made

P2 Sch. 4 para. 41(2): Sch. 4 paras. 40, 41(2), 45(1), 46(1) and 47(7) power exercised (10. 12. 1991) by S.I. 1991/2794.

Commencement Information

I41 Sch. 4 para. 41 wholly in force: Sch. 4 para. 41 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 41 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Structure plans

- 42 (1) Where a local planning authority have, under section 32(3) of the old law, submitted to the Secretary of State copies of proposals for the alteration or repeal and replacement of a structure plan but the proposals are not approved before commencement—
- (a) the submission of the proposals shall on and after commencement be treated for the purposes of the new law as the sending of the copy under section 33(2) (b) of that law; and
 - (b) any other step taken before commencement for the purpose of complying with any requirement of the old law with respect to such alteration or repeal and replacement may on and after commencement be treated as having been taken for the purpose of complying with any similar requirement imposed by or under Part II of the new law.
- (2) Where sub-paragraph (1) above applies the proposals may be adopted or approved under the new law as if they had been prepared after commencement.

Commencement Information

I42 Sch. 4 para. 42 wholly in force: Sch. 4 para. 42 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 42 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Local plans

- 43 Where a local planning authority have made available under section 39(5) or 40(2) of the old law copies of proposals for the making, alteration, repeal or replacement of a local plan but the proposals are not adopted or approved before commencement, the proposals may after commencement be adopted or as the case may be, approved as if the old law were still in force.

Commencement Information

I43 Sch. 4 para.43 wholly in force: Sch. 4 para. 43 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 43 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

- 44 (1) A local plan which—

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

- (a) immediately before commencement is in operation in the area of a local planning authority, or
- (b) is brought into operation after commencement by virtue of paragraph 43 above,

(in this Schedule referred to as “a saved local plan”) shall, subject to the following provisions of this paragraph, continue in operation.

- (2) Where a saved local plan—
 - (a) complies with section 36 of the new law and was prepared by the authority who are entitled to prepare the plan required by that section, or
 - (b) contains only those policies required or permitted to be included in a minerals local plan or a waste local plan in accordance with sections 36 to 38 of the new law and was made by the authority who are entitled to prepare a minerals local plan or, as the case may be, a waste local plan,it shall be treated as if it were a local plan, a minerals local plan or, as the case may be, a waste local plan which had been adopted or, as the case may be, approved under the new law (and accordingly may be altered or replaced under the new law).
- (3) In sub-paragraphs (4) to (8) below the references to saved local plans do not include a reference to saved local plans treated, by virtue of sub-paragraph (2) above, as if adopted or approved under the new law.
- (4) Any saved local plan shall have effect subject to a local plan, minerals local plan or waste local plan which is adopted or approved under the new law and shall not be treated as mentioned in sub-paragraph (2) above (and accordingly may not be altered or replaced under the new law).
- (5) Where the last of the plans, or the plan, required to be prepared for an area under sections 36 to 38 of the new law is prepared for that area—
 - (a) any saved local plan, and
 - (b) any old development plan,shall cease to have effect in relation to that area.
- (6) If the Secretary of State so directs, any specified provisions of a saved local plan shall continue in operation—
 - (a) for such period as may be specified or determined in accordance with the direction;
 - (b) in relation to the area or any specified part of the area to which the saved local plan relates.
- (7) The Secretary of State may revoke any direction given under sub-paragraph (6) above.
- (8) Before giving or revoking any such direction the Secretary of State shall consult any local planning authority for the area in which the plan is in operation.
- (9) A saved local plan shall, while it continues in operation, be treated for the purposes of the new law, any other enactment relating to town and country planning, the ^{M10}Land Compensation Act 1961 and the ^{M11}Highways Act 1980 as being comprised in the development plan in respect of the area in question.
- (10) In this paragraph—

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

“old development plan” has the same meaning as in Part III of Schedule 2 to the principal Act; and

“specified” means specified in the direction.

Commencement Information

I44 Sch. 4 para. 44 wholly in force: Sch. 4 para. 44 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 44 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Marginal Citations

M10 1961 c. 33.

M11 1980 c. 66.

- 45 (1) Sub-paragraph (2) below applies where after commencement—
- (a) there is in operation in the area of a local planning authority a saved local plan which does not fall within paragraph 44(2)(a) above;
 - (b) proposals are made in pursuance of the new law for the making, alteration or replacement of a local plan for that area;
 - (c) the local planning authority who are making those proposals have published in the prescribed manner a statement in the prescribed form identifying a policy included in the plan as an existing policy; and
 - (d) a local inquiry or other hearing is held for the purpose of considering any objection to the proposals.
- (2) Where this sub-paragraph applies, the person holding the inquiry or other hearing need not allow an objector to appear if he is satisfied that—
- (a) the objection is to a policy identified in the statement published under sub-paragraph (1)(c) above;
 - (b) the policy so identified is an existing policy; and
 - (c) there has been no significant change in circumstances affecting the existing policy since it first formed part of the saved local plan.
- (3) In this paragraph “existing policy” means a policy or proposal the substance of which (however expressed) was contained in the saved local plan falling within sub-paragraph (1)(a) above.

Subordinate Legislation Made

P3 Sch. 4 para. 45(1): Sch. 4 paras. 40, 41(2), 45(1), 46(1) and 47(7) power exercised (10. 12. 1991) by S.I. 1991/2794

Commencement Information

I45 Sch. 4 para. 45 wholly in force: Sch. 4 para.45 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 45 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Minerals and waste local plans

- 46 (1) Sub-paragraph (2) below applies where after commencement—

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

- (a) there is in operation in the area of a local planning authority a saved local plan which does not fall within paragraph 44(2)(b) above and which contains—
 - (i) any detailed policies for development consisting of the winning and working of minerals or involving the depositing of mineral waste; or
 - (ii) any waste policies;
 - (b) proposals are made in pursuance of the new law for the making, alteration or replacement of a minerals local plan or a waste local plan for that area;
 - (c) the local planning authority who are making those proposals have published in the prescribed manner a statement in the prescribed form identifying a policy included in the plan as an existing policy; and
 - (d) a local inquiry or other hearing is held for the purpose of considering any objection to the proposals.
- (2) Where this sub-paragraph applies, the person holding the inquiry or other hearing need not allow an objector to appear if he is satisfied that—
- (a) the objection is to a policy identified in the statement published under sub-paragraph (1)(c) above;
 - (b) the policy so identified is an existing policy; and
 - (c) there has been no significant change in circumstances affecting the existing policy since it first formed part of the saved local plan.
- (3) In this paragraph “existing policy” means any policy falling within sub-paragraph (1) (a) above the substance of which (however expressed) was contained in the saved local plan falling within that sub-paragraph.

Subordinate Legislation Made

P4 Sch. 4 para. 46(1): Sch. 4 paras. 40, 41(2), 45(1), 46(1) and 47(7) power exercised (10. 12. 1991) by S.I.1991/2794.

Commencement Information

I46 Sch. 4 para. 46 wholly in force: Sch. 4 para. 46 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 46 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4

Duty of structure plan authority to notify authorities responsible for saved local plans etc.

- 47 (1) In this paragraph the references to saved local plans do not include a reference to saved local plans treated, by virtue of paragraph 44(2) above, as if adopted or approved under the new law.
- (2) Where at any time after commencement any proposals for the alteration or replacement of a structure plan are adopted or approved, the authority concerned shall—
- (a) notify any local planning authority in their area that the proposals have been adopted or approved;
 - (b) supply that authority with a statement that any saved local plan in operation in that authority’s area is or, as the case may be, is not in general conformity with the altered or new structure plan.

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

- (3) A statement that a saved local plan is not in general conformity with a structure plan shall specify the respects in which it is not in such conformity.
- (4) Where at any time after commencement any proposals for the alteration or replacement of a structure plan are withdrawn, the authority concerned shall notify any authority who prepared any saved local plan which is in operation in their area that the proposals have been withdrawn.
- (5) Nothing in this paragraph requires an authority to notify or supply a statement to themselves.
- (6) The provisions of a saved local plan shall prevail for all purposes over any conflicting provisions in the relevant structure plan unless the saved local plan is one stated under sub-paragraph (2) above not to be in general conformity with the structure plan.
- (7) Sub-paragraph (6) above is subject to any regulations made by the Secretary of State with respect to conflict between plans.

Subordinate Legislation Made

P5 [Sch. 4 para. 47\(7\)](#): Sch. 4 paras. 40, 41(2), 45(1), 46(1) and 47(7) power exercised (10. 12. 1991) by 1991/2794

Commencement Information

I47 [Sch. 4 para. 47](#) wholly in force: Sch. 4 para. 47 in force for certain purposes at 25.11.1991, see [s. 84\(2\)\(3\)](#) and [S.I. 1991/2728, art. 2](#); [Sch. 4 para. 47](#) in force at 10.2.1992 so far as not already in force by [S.I. 1991/2905, art. 4](#)

Consultation

- 48 Any consultation undertaken before commencement for the purposes of any provision contained in or made under Part II of the old law shall be as effective for the purposes of any similar provision contained in or made under Part II of the new law as if undertaken after commencement.

Commencement Information

I48 [Sch. 4 para. 48](#) wholly in force: Sch. 4 para. 48 in force for certain purposes at 25.11.1991, see [s. 84\(2\)\(3\)](#) and [S.I. 1991/2728, art. 2](#); [Sch. 4 para. 48](#) in force at 10.2.1992 so far as not already in force by [S.I. 1991/2905, art. 4](#)

Joint plans

- 49 (1) The Secretary of State may give directions applying with modifications the provisions of this part of this Schedule to cases where—
- (a) any plan has been or is being jointly prepared; or
 - (b) any proposals for the alteration, repeal or replacement of such a plan have been or are being jointly prepared.
- (2) Any such directions may be of a general or particular character.

Status: Point in time view as at 30/08/1995.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4. (See end of Document for details)

Commencement Information

I49 Sch. 4 para. 49 wholly in force: Sch. 4 para. 49 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, **art. 2**; Sch. 4 para. 49 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, **art. 4**

Proceedings for questioning validity of development plans

50 An application may be made after commencement under and in accordance with section 287 of the old law with respect to any plan adopted, altered, repealed or replaced under the old law.

Commencement Information

I50 Sch. 4 para. 50 wholly in force: Sch. 4 para. 50 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, **art. 2**; Sch. 4 para.50 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, **art. 4**

The Isles of Scilly

51 An order under section 319 of the new law may make transitional provision in connection with any development plan in force in the Isles of Scilly.

Commencement Information

I51 Sch. 4 para. 51 wholly in force: Sch. 4 para. 51 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, **art. 2**; Sch. 4 para. 51 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, **art. 4**

Status:

Point in time view as at 30/08/1995.

Changes to legislation:

There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 4.