

Status: Point in time view as at 28/09/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Planning and Compulsory Purchase Act 2004, SCHEDULE 6 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 118

AMENDMENTS OF THE PLANNING ACTS

Town and Country Planning Act 1990 (c. 8)

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

Commencement Information

- I1** Sch. 6 para. 1 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)
I2 Sch. 6 para. 1 in force at 28.9.2004 for E. so far as not already in force by [S.I. 2004/2202](#), [art. 2\(h\)](#)

VALID FROM 07/06/2006

2 In section 55(2)(b) (meaning of development) the word “local” is omitted.

3 For section 69 there is substituted the following section—

“69 Register of applications etc

- (1) The local planning authority must keep a register containing such information as is prescribed as to—
- applications for planning permission;
 - requests for statements of development principles (within the meaning of section 61E);
 - local development orders;
 - simplified planning zone schemes.
- (2) The register must contain—
- information as to the manner in which applications mentioned in subsection (1)(a) and requests mentioned in subsection (1)(b) have been dealt with;
 - such information as is prescribed with respect to any local development order or simplified planning zone scheme in relation to the authority’s area.
- (3) A development order may require the register to be kept in two or more parts.
- (4) Each part must contain such information as is prescribed relating to the matters mentioned in subsection (1)(a) and (b).
- (5) A development order may also make provision—

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- (a) for a specified part of the register to contain copies of applications or requests and of any other documents or material submitted with them;
 - (b) for the entry relating to an application or request (and everything relating to it) to be removed from that part of the register when the application (including any appeal arising out of it) or the request (as the case may be) has been finally disposed of.
- (6) Provision made under subsection (5)(b) does not prevent the inclusion of a different entry relating to the application or request in another part of the register.
- (7) The register must be kept in such manner as is prescribed.
- (8) The register must be kept available for inspection by the public at all reasonable hours.
- (9) Anything prescribed under this section must be prescribed by development order.”

Commencement Information

I3 Sch. 6 para. 3 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

PROSPECTIVE

4 Section 76 (Duty to draw attention to certain provisions for benefit of disabled) is omitted.

PROSPECTIVE

^{F15}

Textual Amendments

F1 Sch. 6 para. 5 repealed (26.1.2009) by [Planning Act 2008 \(c. 29\)](#), ss. 225(1)(b), 241(6), [Sch. 13](#) (with s. 226)

PROSPECTIVE

6 In section 108 (compensation for refusal of planning permission formerly granted by development order) after subsection (3) there is inserted the following subsection—

“(3A) This section does not apply if—

- (a) development authorised by planning permission granted by a development order or local development order is started before the permission is withdrawn, and

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- (b) the order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.”

VALID FROM 31/10/2004

7 (1) In section 245 (modification of incorporated enactments), subsections (2) and (3) are omitted.

(2) The amendments made by sub-paragraph (1) do not apply to compulsory purchase orders of which notice under section 11 of or, as the case may be, paragraph 2 of Schedule 1 to the Acquisition of Land Act 1981 (c. 67) is published before commencement of this paragraph.

8 In section 284(1) (restriction on challenge to validity of certain documents), paragraph (a) is omitted.

Commencement Information

I4 Sch. 6 para. 8 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#) (with [art. 4](#), [Sch. 2](#))

9 (1) Section 287 (procedure for questioning the validity of certain matters) is amended as follows.

(2) For subsections (1) to (3) there are substituted the following subsections—

“(1) This section applies to—

- (a) a simplified planning zone scheme or an alteration of such a scheme;
(b) an order under section 247, 248, 249, 251, 257, 258 or 277,

and anything falling within paragraphs (a) and (b) is referred to in this section as a relevant document.

(2) A person aggrieved by a relevant document may make an application to the High Court on the ground that—

- (a) it is not within the appropriate power, or
(b) a procedural requirement has not been complied with.

(3) The High Court may make an interim order suspending the operation of the relevant document—

- (a) wholly or in part;
(b) generally or as it affects the property of the applicant.

(3A) Subsection (3B) applies if the High Court is satisfied—

- (a) that a relevant document is to any extent outside the appropriate power;
(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

(3B) The High Court may quash the relevant document—

- (a) wholly or in part;
(b) generally or as it affects the property of the applicant.

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(3C) An interim order has effect until the proceedings are finally determined.

(3D) The appropriate power is—

- (a) in the case of a simplified planning zone scheme or an alteration of the scheme, Part III;
- (b) in the case of an order under section 247, 248, 249, 251, 257, 258 or 277, the section under which the order is made.”

(3) In subsection (5)—

- (a) paragraph (a) is omitted;
- (b) in each of paragraphs (b) to (e) the words “by virtue of subsection (3)” are omitted.

(4) Subsection (6) is omitted.

Commencement Information

I5 Sch. 6 para. 9 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#) (with [art. 4](#), [Sch. 2](#))

10 (1) Section 296 (exercise of powers in relation to Crown land) is amended as follows.

(2) In subsection (1) for paragraph (a) there is substituted the following paragraph—

“(a) a document, plan or strategy specified in subsection (1A) may include proposals relating to the use of Crown land;”.

(3) After subsection (1) there is inserted the following subsection—

“(1A) These are the documents, plans and strategies—

- (a) the regional spatial strategy (or a revision of it) within the meaning of Part 1 of the Planning and Compulsory Purchase Act 2004;
- (b) a local development document (or a revision of it) adopted or approved under Part 2 of that Act;
- (c) a local development plan (or a revision of it) adopted or approved under Part 6 of that Act;
- (d) the Mayor of London’s spatial development strategy (or any alteration or replacement of it) published in pursuance of section 337 of the Greater London Authority Act 1999.”

Commencement Information

I6 Sch. 6 para. 10 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#) (with [art. 4](#), [Sch. 2](#))

11 (1) Section 303A (recovery of costs of certain inquiries) is amended as follows.

(2) For subsection (1) there are substituted the following subsections—

“(1) This section applies if the appropriate authority appoints a person to carry out or hold a qualifying procedure.

(1A) A qualifying procedure is—

- (a) an independent examination under section 20 or 64 of the Planning and Compulsory Purchase Act 2004;

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- (b) a local inquiry or other hearing under paragraph 8(1)(a) of Schedule 7;
 - (c) the consideration of objections under paragraph 8(1)(b) of that Schedule.
- (1B) The appropriate authority is—
- (a) the Secretary of State if the local planning authority causing the procedure to be carried out or held is in England;
 - (b) the National Assembly for Wales if the local planning authority causing the procedure to be carried out or held is in Wales.”
- (3) In each of subsections (2) to (6) and (10)(a) in each place where it occurs—
- (a) for “Secretary of State” there is substituted “ appropriate authority ”;
 - (b) for “him” there is substituted “ it ”;
 - (c) for “he” there is substituted “ it ”.
- (4) In each of subsections (2), (4), (5) and (6) in each place where it occurs for “inquiry” there is substituted “ procedure ”.
- (5) In subsection (5) each of the following is omitted—
- (a) “or appointed as one of the persons who are to hold it”;
 - (b) “(in addition to what may be recovered by virtue of the appointment of any other person)”;
 - (c) in paragraph (c), “(or, in a case where that person is appointed as one of the persons who are to hold the qualifying inquiry, an appropriate proportion of any costs attributable to the appointment of an assessor to assist those persons)”.
- (6) Subsections (7) to (9) are omitted.
- (7) Before subsection (10) there is inserted the following subsection—
- “(9A) References to a local planning authority causing a qualifying inquiry to be held include references to a requirement under the Planning and Compulsory Purchase Act 2004 on the authority to submit a plan to the appropriate authority for independent examination.”

Commencement Information

I7 Sch. 6 para. 11 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(h) (with art. 4, Sch. 2)

- 12 In section 306 (2) (local authorities and statutory undertakers may contribute to certain costs of local planning authorities) for paragraph (a) there are substituted the following paragraphs—
- “(a) any expenses incurred by a local planning authority for the purposes of carrying out a review under section 13 or 61 of the Planning and Compulsory Purchase Act 2004 (duty of local planning authority to keep under review certain matters affecting development);
 - (ab) any expenses incurred by a county council for the purposes of carrying out a review under section 14 of that Act (duty of county council to keep under review certain matters affecting development);”

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Commencement Information

I8 Sch. 6 para. 12 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#)

13 In section 324(1) (rights of entry) for paragraph (a) there is substituted the following paragraph—

“(a) the preparation, revision, adoption or approval of a local development document under Part 2 of the Planning and Compulsory Purchase Act 2004 or a local development plan under Part 6 of that Act;”

Commencement Information

I9 Sch. 6 para. 13 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#)

14 (1) Section 333 (provision about regulations and orders) is amended as follows.

(2) After subsection (2) there is inserted the following subsection—

“(2A) Regulations may make different provision for different purposes.”

Commencement Information

I10 Sch. 6 para. 14 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

15 In section 336(1) (interpretation) for the definition of development plan there is substituted—

““development plan” must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004;”.

Commencement Information

I11 Sch. 6 para. 15 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#)

16 (1) Schedule 1 (distribution of functions of local planning authorities) is amended as follows.

(2) Paragraph 2 is omitted.

(3) In paragraph 3(7) the words “but paragraph 4 shall apply to such applications instead” are omitted.

(4) For paragraph 7 there is substituted the following paragraph—

“7 (1) A local planning authority must not determine an application for planning permission to which the consultation requirements apply unless it complies with sub-paragraph (7).

(2) The consultation requirements are—

(a) consultation with the RPB for the region in which the authority’s area is situated if the development is one to which sub-paragraph (3) applies;

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- (b) consultation by a district planning authority with the county planning authority for their area if the development is one to which sub-paragraph (4) applies.
- (3) This sub-paragraph applies to—
 - (a) a development which would by reason of its scale or nature or the location of the land be of major importance for the implementation of the RSS or a relevant regional policy, or
 - (b) a development of a description in relation to which the RPB has given notice in writing to the local planning authority that it wishes to be consulted.
- (4) This sub-paragraph applies to—
 - (a) a development which would materially conflict with or prejudice the implementation of a relevant county policy,
 - (b) a development in an area in relation to which the county planning authority have given notice in writing to the district planning authority that development is likely to affect or be affected by the winning and working of minerals, other than coal,
 - (c) a development of land in respect of which the county planning authority have given notice in writing to the district planning authority that they propose to carry out development,
 - (d) a development which would prejudice a proposed development mentioned in paragraph (c) in respect of which notice has been given as so mentioned,
 - (e) a development of land in relation to which the county planning authority have given notice in writing to the district planning authority that it is proposed to use the land for waste disposal, or
 - (f) a development which would prejudice a proposed use mentioned in paragraph (e) in respect of which notice has been given as so mentioned.
- (5) The consultation requirements do not apply—
 - (a) in respect of a development to which sub-paragraph (3) applies if the RPB gives a direction authorising the determination of the application without compliance with the requirements;
 - (b) in respect of a development to which sub-paragraph (4) applies if the county planning authority gives a direction authorising the determination of the application without compliance with the requirements.
- (6) A direction under sub-paragraph (5) may be given in respect of a particular application or a description of application.
- (7) If the consultation requirements apply the local planning authority—
 - (a) must give notice to the RPB or county planning authority (as the case may be) (the consulted body) that they propose to consider the application,
 - (b) must send a copy of the application to the consulted body, and
 - (c) must not determine the application until the end of such period as is prescribed by development order beginning with the date of the giving of notice under paragraph (a).

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- (8) Sub-paragraph (7)(c) does not apply if before the end of the period mentioned in that sub-paragraph—
- (a) the local planning authority have received representations concerning the application from the consulted body, or
 - (b) the consulted body gives notice that it does not intend to make representations.
- (9) A relevant regional policy is—
- (a) a policy contained in a draft revision of the RSS which has been submitted to the Secretary of State in pursuance of section 5(8) of the 2004 Act, or
 - (b) a policy contained in a structure plan which has effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.
- (10) A relevant county policy is—
- (a) a policy contained in a local development document which has been prepared in accordance with a minerals and waste scheme and submitted to the Secretary of State in pursuance of section 20(1) of the 2004 Act or adopted by the county planning authority in pursuance of section 23 of that Act, or
 - (b) a policy contained in a structure plan which has effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.
- (11) RPB and RSS must be construed in accordance with Part 1 of the 2004 Act.
- (12) The 2004 Act is the Planning and Compulsory Purchase Act 2004.”

Commencement Information

- I12** Sch. 6 para. 16 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)
- I13** Sch. 6 para. 16(1)(2) in force at 28.9.2004 for E. so far as not already in force by [S.I. 2004/2202](#), [art. 2\(h\)](#) (with [art. 4](#), [Sch. 2](#))

- 17 In Schedule 2 (transitional provisions relating to development plans) Parts 1, 2 and 3 are omitted.

Commencement Information

- I14** Sch. 6 para. 17 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#) (with [art. 4](#), [Sch. 2](#))

- 18 (1) Schedule 13 (blighted land) is amended as follows.
- (2) Paragraphs 1 to 4 are omitted.
- (3) The following paragraph is inserted as paragraph 1A—
- “1A Land which is identified for the purposes of relevant public functions by a development plan document for the area in which the land is situated. *Notes*
- (1) Relevant public functions are—
- (a) the functions of a government department, local authority, National Park authority or statutory undertakers;

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- (b) the establishment or running by a public telecommunications operator of a telecommunication system.
- (2) For the purposes of this paragraph a development plan document is—
- (a) a development plan document which is adopted or approved for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004 (in this paragraph, the 2004 Act);
 - (b) a revision of such a document in pursuance of section 26 of the 2004 Act which is adopted or approved for the purposes of Part 2 of the 2004 Act;
 - (c) a development plan document which has been submitted to the Secretary of State for independent examination under section 20(1) of the 2004 Act;
 - (d) a revision of a development plan document in pursuance of section 26 of the 2004 Act if the document has been submitted to the Secretary of State for independent examination under section 20(1) of that Act.
- (3) But Note (2)(c) and (d) does not apply if the document is withdrawn under section 22 of the 2004 Act at any time after it has been submitted for independent examination.
- (4) In Note (2)(c) and (d) the submission of a development plan document to the Secretary of State for independent examination is to be taken to include the holding of an independent examination by the Secretary of State under section 21 or section 27 of the 2004 Act.”
- (4) In paragraph 5 for “any such functions as are mentioned in paragraph 1(a)(i) or (ii)” there is substituted “relevant public functions (within the meaning of paragraph 1A)”.
- (5) In paragraph 6 for “any such functions as are mentioned in paragraph 5” there is substituted “relevant public functions (within the meaning of paragraph 1A)”.
- (6) In paragraph 13, for “paragraphs 1, 2, 3 and 4” there is substituted “ paragraph 1A ”.

Commencement Information

I15 Sch. 6 para. 18 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#) (with [art. 4](#), [Sch. 2](#))

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

- 19 The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.

Commencement Information

I16 Sch. 6 para. 19 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

I17 Sch. 6 para. 19 in force at 28.9.2004 for E. so far as not already in force by [S.I. 2004/2202](#), [art. 2\(h\)](#)

- 20 In section 10(3) (regulations relating to applications for listed building consent)—
- (a) for paragraph (b) and the word “and” following it there is substituted the following paragraph—

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- “(b) requirements as to publicity in relation to such applications;”;
- (b) after paragraph (c) there are inserted the following paragraphs—
- “(d) requirements as to consultation in relation to such applications;
- (e) prohibiting the determination of such applications during such period as is prescribed;
- (f) requirements on the local planning authority to take account of responses from persons consulted.”

Commencement Information

I18 Sch. 6 para. 20 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

I19 Sch. 6 para. 20 in force at 28.9.2004 in so far as not already in force by [S.I. 2004/2202](#), [art. 3\(e\)](#)

- 21 In section 23(2) (matters to which regard is to be had by local planning authority in exercising function of revoking or modifying consent) for “the development plan and to any other” there is substituted “ any ”.

Commencement Information

I20 Sch. 6 para. 21 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#)

- 22 In section 26(2) (matters to which regard is to be had by the Secretary of State in exercising function of revoking or modifying consent) for “the development plan and to any other” there is substituted “ any ”.

Commencement Information

I21 Sch. 6 para. 22 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#)

- 23 In section 67 (publicity for applications affecting the setting of listed buildings) for subsections (1) to (7) there is substituted the following subsection—

“(1) The Secretary of State may prescribe requirements as to publicity for applications for planning permission in cases where the local planning authority think that the development of land would affect the setting of a listed building.”

Commencement Information

I22 Sch. 6 para. 23 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

I23 Sch. 6 para. 23 in force at 28.9.2004 in so far as not already in force by [S.I. 2004/2202](#), [art. 3\(e\)](#)

- 24 In section 73 (publicity for applications affecting conservation areas) for subsection (1) there is substituted the following subsection—

“(1) The Secretary of State may prescribe requirements as to publicity for applications for planning permission in cases where the local planning authority think that the development of land would affect the character or appearance of a conservation area.”

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I24 Sch. 6 para. 24 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

I25 Sch. 6 para. 24 in force at 28.9.2004 in so far as not already in force by [S.I. 2004/2202](#), [art. 3\(e\)](#)

25 In section 91(2) (interpretation) “ “development plan”” is omitted.

Commencement Information

I26 Sch. 6 para. 25 in force at 28.9.2004 for E. by [S.I. 2004/2202](#), [art. 2\(h\)](#)

26 In section 93 (provision about regulations and orders) after subsection (6) there are inserted the following subsections—

“(6A) Regulations and orders may make different provision for different purposes.

(6B) The powers to make regulations under sections 10(3)(b), 67(1) and 73(1) must be taken to be powers mentioned in section 100(2) of the Local Government Act 2003 (powers exercisable in relation to descriptions of certain local authorities which fall into particular categories for the purposes of section 99 of that Act).”

Commencement Information

I27 Sch. 6 para. 26 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

I28 Sch. 6 para. 26 in force at 28.9.2004 in so far as not already in force by [S.I. 2004/2202](#), [art. 3\(e\)](#)

Planning (Hazardous Substances) Act 1990 (c. 10)

27 In section 40 of the Planning (Hazardous Substances) Act 1990 (provision about regulations) after subsection (3) there is inserted the following subsection—

“(4) Regulations may make different provision for different purposes.”

Commencement Information

I29 Sch. 6 para. 27 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

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