

Status: Point in time view as at 06/08/2004. 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 8 is up to date with all changes known to be in force on or before 21 July 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 8

Section 119

TRANSITIONAL PROVISIONS: PARTS 1 AND 2

VALID FROM 28/09/2004

Development plan

- 1 (1) During the transitional period a reference in an enactment mentioned in section 38(7) above to the development plan for an area in England is a reference to—
- (a) the RSS for the region in which the area is situated or the spatial development strategy for an area in Greater London, and
 - (b) the development plan for the area for the purposes of section 27 or 54 of the principal Act.
- (2) The transitional period is the period starting with the commencement of section 38 and ending on whichever is the earlier of—
- (a) the end of the period of three years;
 - (b) the day when in relation to an old policy, a new policy which expressly replaces it is published, adopted or approved.
- (3) But the Secretary of State may direct that for the purposes of such policies as are specified in the direction sub-paragraph (2)(a) does not apply.
- (4) An old policy is a policy which (immediately before the commencement of section 38) forms part of a development plan for the purposes of section 27 or 54 of the principal Act.
- (5) A new policy is a policy which is contained in—
- (a) a revision of an RSS;
 - (b) an alteration or replacement of the spatial development strategy;
 - (c) a development plan document.
- (6) But—
- (a) an old policy contained in a structure plan is replaced only by a new policy contained in a revision to an RSS;
 - (b) an old policy contained in a waste local plan or a minerals local plan is replaced in relation to any area of a county council for which there is a district council only by a new policy contained in a development plan document which is prepared in accordance with a minerals and waste development scheme.
- (7) A new policy is published if it is contained in—
- (a) a revision of an RSS published by the Secretary of State under section 9(6);

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- (b) an alteration or replacement of the Mayor of London’s spatial development strategy published in pursuance of section 337 of the Greater London Authority Act 1999 (c. 29).
- (8) A new policy is adopted or approved if it is contained in a development plan document which is adopted or approved for the purposes of Part 2.
- (9) A minerals and waste development scheme is a scheme prepared in accordance with section 16.
- (10) The development plan mentioned in sub-paragraph (1)(b) does not include a street authorisation map which continued to be treated as having been adopted as a local plan by virtue of paragraph 4 of Part 3 of Schedule 2 to the principal Act.

VALID FROM 28/09/2004

Structure plans

- 2 (1) This paragraph applies to proposals for the alteration or replacement of a structure plan for the area of a local planning authority.
- (2) If before the commencement of Part 1 of this Act the authority have complied with section 33(2) of the principal Act (making copies of proposals and the explanatory memorandum available for inspection) the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals.
- (3) In any other case—
 - (a) the authority must take no further step in relation to the proposals;
 - (b) the proposals have no effect.
- (4) If the proposals are adopted or approved by virtue of sub-paragraph (2) above, paragraph 1 of this Schedule applies to the policies contained in the proposals as if—
 - (a) they were policies contained in a development plan within the meaning of section 54 of the principal Act;
 - (b) the date of commencement of section 38 is the date when the proposals are adopted or approved (as the case may be).

Unitary development plan

VALID FROM 28/09/2004

- 3 (1) This paragraph applies to proposals for the alteration or replacement of a unitary development plan for the area of a local planning authority.
- (2) If before the relevant date the authority have not complied with section 13(2) of the principal Act (making copies of the proposals available for inspection)—
 - (a) they must take no further step in relation to the proposals;
 - (b) the proposals have no effect.

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(3) In any other case paragraph 4 or 5 below applies.

- 4
- (1) This paragraph applies if—
 - (a) before the relevant date the local planning authority is not required to cause an inquiry or other hearing to be held by virtue of section 16(1) of the principal Act (inquiry must be held if objections made), or
 - (b) before the commencement of Part 2 of this Act a person is appointed under that section to hold an inquiry or other hearing.
 - (2) If this paragraph applies the provisions of Chapter 1 of Part 2 of the principal Act continue to have effect in relation to the proposals.
 - (3) The relevant date is whichever is the later of—
 - (a) the end of any period prescribed by regulations under section 26 of the principal Act for the making of objections to the proposals;
 - (b) the commencement of Part 2 of this Act.

Commencement Information

II Sch. 8 para. 4 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

VALID FROM 28/09/2004

- 5
- (1) If paragraph 4 does not apply the provisions of Chapter 1 of Part 2 of the principal Act continue to have effect in relation to the proposals subject to the modifications in sub-paragraphs (2) to (5) below.
 - (2) If before the commencement of Part 2 of this Act the local planning authority have not published revised proposals in pursuance of regulations under section 26 of the principal Act—
 - (a) any provision of the regulations relating to publication of revised proposals must be ignored,
 - (b) the authority must comply again with section 13(2) of the principal Act.
 - (3) If before the commencement of Part 2 of this Act the local planning authority have published revised proposals in pursuance of regulations under section 26 of the principal Act the authority must comply again with section 13(2) of that Act.
 - (4) Any provision of regulations under section 26 of the principal Act which permits the local planning authority to modify proposals after an inquiry or other hearing has been held under section 16 of that Act must be ignored.
 - (5) If such an inquiry or other hearing is held the authority must adopt the proposals in accordance with the recommendations of the person appointed to hold the inquiry or other hearing.

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VALID FROM 28/09/2004

- 6 If proposals are adopted or approved in pursuance of paragraph 4 or 5 above paragraph 1 of this Schedule applies to the policies contained in the proposals as if—
- (a) they were policies contained in a development plan for the purposes of section 27 of the principal Act;
 - (b) the date of commencement of section 38 is the date when the proposals are adopted or approved.

VALID FROM 28/09/2004

- 7 (1) This paragraph applies if at the date of commencement of Part 1 a local planning authority have not prepared a unitary development plan in pursuance of section 12 of the principal Act.
- (2) References in paragraphs 3 to 6 to proposals for the alteration or replacement of a plan must be construed as references to the plan.

Local plan

VALID FROM 28/09/2004

- 8 (1) This paragraph applies to proposals for the alteration or replacement of a local plan for the area of a local planning authority.
- (2) If before the commencement of Part 2 of this Act the authority have not complied with section 40(2) of the principal Act (making copies of the proposals available for inspection)—
- (a) they must take no further step in relation to the proposals;
 - (b) the proposals have no effect.
- (3) In any other case paragraph 9 or 10 below applies.

- 9 (1) This paragraph applies if—
- (a) before the relevant date the local planning authority is not required to cause an inquiry or other hearing to be held by virtue of section 42(1) of the principal Act (inquiry must be held if objections made), or
 - (b) before the commencement of Part 2 of this Act a person is appointed under that section to hold an inquiry or other hearing.
- (2) If this paragraph applies the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals.
- (3) The relevant date is whichever is the later of—
- (a) the end of any period prescribed by regulations under section 53 of the principal Act for the making of objections to the proposals;
 - (b) the commencement of Part 2 of this Act.

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Commencement Information

I2 Sch. 8 para. 9 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

VALID FROM 28/09/2004

- 10
- (1) If paragraph 9 does not apply the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals subject to the modifications in sub-paragraphs (2) to (5) below.
 - (2) If before the commencement of Part 2 of this Act the local planning authority have not published revised proposals in pursuance of regulations under section 53 of the principal Act—
 - (a) any provision of the regulations relating to publication of revised proposals must be ignored,
 - (b) the authority must comply again with section 40(2) of the principal Act.
 - (3) If before the commencement of Part 2 of this Act the local planning authority have published revised proposals in pursuance of regulations under section 53 of the principal Act the authority must comply again with section 40(2) of that Act.
 - (4) Any provision of regulations under section 53 of the principal Act which permits the local planning authority to modify proposals after an inquiry or other hearing has been held under section 42 of that Act must be ignored.
 - (5) If such an inquiry or other hearing is held the authority must adopt the proposals in accordance with the recommendations of the person appointed to hold the inquiry or other hearing.

VALID FROM 28/09/2004

- 11
- (1) This paragraph applies if the Secretary of State thinks—
 - (a) that the conformity requirement is likely to give rise to inconsistency between the proposals and relevant policies or guidance, and
 - (b) that it is necessary or expedient to avoid such inconsistency.
 - (2) The Secretary of State may direct that to the extent specified in the direction the conformity requirement must be ignored.
 - (3) The Secretary of State must give reasons for the direction.
 - (4) The conformity requirement is—
 - (a) the requirement under section 36(4) of the principal Act that the local plan is to be in general conformity with the structure plan;
 - (b) the prohibition under section 43(3) of the principal Act on the adoption of proposals for a local plan or for its alteration or replacement which do not conform generally with the structure plan.
 - (5) Relevant policies and guidance are—
 - (a) national policies;
 - (b) advice contained in guidance;

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(c) policies in the RSS.

VALID FROM 28/09/2004

- 12 If proposals are adopted or approved in pursuance of paragraphs 9 to 11 above paragraph 1 of this Schedule applies to the policies contained in the proposals as if—
- (a) they were policies contained in a development plan for the purposes of section 54 of the principal Act;
 - (b) the date of commencement of section 38 is the date when the proposals are adopted or approved.

VALID FROM 28/09/2004

- 13 (1) This paragraph applies if at the date of commencement of Part 1 a local planning authority have not prepared a local plan in pursuance of section 36 of the principal Act.
- (2) References in paragraphs 8 to 12 to proposals for the alteration or replacement of a plan must be construed as references to the plan.

VALID FROM 28/09/2004

Minerals and waste local plans

- 14 Paragraphs 8 to 13 above apply to a minerals local plan and a waste local plan as they apply to a local plan and references in those paragraphs to a local planning authority must be construed as including references to a mineral planning authority and an authority who are entitled to prepare a waste local plan.

VALID FROM 28/09/2004

Schemes

- 15 (1) This paragraph applies to—
- (a) the local development scheme which a local planning authority are required to prepare and maintain under section 15 of this Act;
 - (b) the minerals and waste development scheme which a county council are required to prepare and maintain for any part of their area for which there is a district council.
- (2) During the transitional period the local planning authority or county council (as the case may be) must include in the scheme as a development plan document—
- (a) any plan or document which relates to an old policy (for the purposes of paragraph 1 above) which has not been replaced by a new policy;
 - (b) any proposals adopted or approved by virtue of paragraphs 3 to 12 above.

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Savings

- 16 (1) The repeal by this Act of paragraphs 1 to 4 of Schedule 13 to the principal Act does not affect anything which is required or permitted to be done for the purposes of Chapter 2 of Part 6 of the principal Act during any time when a plan mentioned in any of those paragraphs continues to form part of the development plan by virtue of—
- (a) paragraph 1 of this Schedule, or
 - (b) that paragraph as applied by any other provision of this Schedule.
- (2) References to a plan mentioned in any of paragraphs 1 to 4 include any proposal for the alteration or replacement of the plan.
- (3) The development plan is the development plan for the purposes of section 27 or 54 of the principal Act.

Regulations and orders

- 17 (1) The Secretary of State may by regulations make provision for giving full effect to this Schedule.
- (2) The regulations may, in particular—
- (a) make such provision as he thinks is necessary in consequence of this Schedule;
 - (b) make provision to supplement any modifications of the principal Act required by this Schedule.
- (3) The Secretary of State may by order make such provision as he thinks is necessary in consequence of anything done under or by virtue of this Schedule.
- (4) Provision under sub-paragraph (3) includes provisions corresponding to that which could be made by order under Schedule 2 of the principal Act.

Commencement Information

I3 Sch. 8 para. 17 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

- 18 The Secretary of State may by regulations make provision—
- (a) for treating anything done or purported to have been done for the purposes of Part 2 before the commencement of that Part as having been done after that commencement;
 - (b) for disregarding any requirement of section 19 in respect of anything done or purported to have been done for the purposes of any other provision of Part 2.

Commencement Information

I4 Sch. 8 para. 18 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)

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Interpretation

- 19 (1) References to section 27 of the principal Act must be construed subject to section 28(3)(a) and (c) of that Act.
- (2) RSS must be construed in accordance with Part 1 of this Act.
- (3) Development plan document must be construed in accordance with Part 2 of this Act.

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