

SCHEDULES

SCHEDULE 11

PLANNING : MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

ENGLAND AND WALES

Operation of Use Classes Order on subdivision of planning unit

- 1 In section 22(2) of the Town and Country Planning Act 1971 (operations and changes of use not amounting to development), in paragraph (f) (use of same prescribed class as existing use) for " the use thereof " substitute " the use of the buildings or other land or, subject to the provisions of the order, of any part thereof ".

Development orders

- 2 (1) In section 24 of the Town and Country Planning Act 1971 (development orders), for subsection (3) (general and special orders) substitute—
- “(3) A development order may be made either—
- (a) as a general order applicable, except so far as the order otherwise provides, to all land, but which may make different provision with respect to different descriptions of land, or
 - (b) as a special order applicable only to such land or descriptions of land as may be specified in the order.”.

(2) In paragraph 17 of Schedule 16 to the Local Government Act 1972 (inclusion of provision in development orders empowering local highway authority to impose restrictions on grant of planning permission in certain cases) for " shall include in a development order under section 24 provision " substitute " may include in a development order under section 24 such provision as he thinks fit ".

Disabled persons: construction of references to certain documents

- 3 (1) In section 29A of the Town and Country Planning Act 1971 (duty to draw attention to certain provisions for the benefit of the disabled: public buildings and places of work), in subsection (1) for paragraph (ii) substitute—
- “(ii) the Code of Practice for Access of the Disabled to Buildings (British Standards Institution code of practice BS 5810: 1979) or any prescribed document replacing that code.”.
- (2) In section 29B of the Town and Country Planning Act 1971 (duty to draw attention to certain provisions for the benefit of the disabled: educational buildings), in subsection (1) for paragraph (ii) substitute—

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“(ii) to Design Note 18 ' Access for Disabled People to Educational Buildings ' published in 1984 on behalf of the Secretary of State, or any prescribed document replacing that Note.”.

Applications to vary or revoke conditions attached to planning permission

4 After section 31 of the Town and Country Planning Act 1971 insert—

“31A Permission to develop land without compliance with conditions previously attached.

- (1) This section applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- (2) Special provision may be made with respect to such applications—
 - (a) by regulations under section 25 of this Act as regards the form and content of the application, and
 - (b) by a development order as regards the procedure to be followed in connection with the application.
- (3) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
 - (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- (4) This section does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to the time within which the development to which it related was to be begun, that time has expired without the development having been begun.”.

Purchase notices : transmission of documents to Secretary of State

5 (1) In section 181 of the Town and Country Planning Act 1971 (action by council on whom purchase notice is served)—

- (a) in subsection (1)(c) (notice of unwillingness to comply with purchase notice: contents of notice) for the words from "and that they have transmitted" to the end substitute " and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subsection " ;
- (b) in subsection (3) (duty of council to transmit documents to Secretary of State) for the words from " they shall transmit" to the end substitute " then, before they take steps to serve that notice, they shall transmit to the Secretary of State a copy of the purchase notice together with a copy of the notice which they propose to serve ".

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- (2) In paragraph 1 of Schedule 19 to the Town and Country Planning Act 1971 (action by council on whom listed building purchase notice is served)—
- (a) in sub-paragraph (1)(c) (notice of unwillingness to comply with purchase notice: contents of notice) for the words from " and that they have transmitted " to the end substitute " and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subparagraph " ;
 - (b) in sub-paragraph (3) (duty of council to transmit documents to Secretary of State) for the words from " they shall transmit " to " reasons " substitute " then, before they take steps to serve that notice, they shall transmit to the Secretary of State a copy of the purchase notice together with a copy of the notice which they propose to serve under subparagraph (1)(c) " .

*Purchase notice relating to land where use
restricted by virtue of previous planning permission*

- 6 In section 184 of the Town and Country Planning Act 1971 (power to refuse to confirm purchase notice where land has restricted use by virtue of previous planning permission)—
- (a) in subsection (1) (cases to which the section applies) for " land which has a restricted use" substitute " land which consists in whole or in part of land which has a restricted use " ; and
 - (b) in subsection (3) (power of Secretary of State to refuse to confirm purchase notice), for the words "the land ought, in accordance with the previous planning permission " , substitute " the land having a restricted use by virtue of a previous planning permission ought, in accordance with that permission, " ,

Consideration of purchase notice concurrently with related planning appeal

- 7 (1) In section 186(3) of the Town and Country Planning Act 1971 (relevant period at end of which purchase notice is deemed to have been confirmed) after " relevant period is" insert " , subject to subsection (3A) of this section, " , and after that subsection insert—
- “(3A) The relevant period does not run if the Secretary of State has before him at the same time both a copy of the purchase notice transmitted to him under section 181(3) of this Act and an appeal notice under any of the following provisions of this Act relating to any of the land to which the purchase notice relates—
- section 36 (appeal against refusal of planning permission, &c),
 - section 88 (appeal against enforcement notice), section 95 (appeal against refusal of established use certificate),
 - section 97 (appeal against listed building enforcement notice), or
 - paragraph 8 or 9 of Schedule 11 (appeal against refusal of listed building consent, &c).”
- (2) In paragraph 3(3)(b) of Schedule 19 to the Town and Country Planning Act 1971 (relevant period at end of which listed building purchase notice is deemed to have been confirmed) after " the relevant period" is" insert " , subject to sub-paragraph (3A) of this paragraph, " , and after that sub-paragraph insert—

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“(3A) The relevant period does not run if the Secretary of State has before him at the same time both a copy of the listed building purchase notice transmitted to him under paragraph 1(3) of this Schedule and an appeal notice under any of the following provisions of this Act relating to any of the land to which the purchase notice relates—
 section 97 (appeal against listed building enforcement notice), or
 paragraph 8 or 9 of Schedule 11 (appeal against refusal of listed building consent, &c.).”.

Local inquiries: application of general provisions of Local Government Act

8 (1) In section 282 of the Town and Country Planning Act 1971 (local inquiries held by Secretary of State), for subsection (2) substitute—

“(2) The provisions of subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) apply to an inquiry held by virtue of this section.”.

(2) In Schedule 9 to the Town and Country Planning Act 1971 (determination of certain appeals by person appointed by the Secretary of State), in paragraph 5 (local inquiries and hearings held by appointed person) for sub-paragraph (3) substitute—

“(3) The provisions of subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) apply to an inquiry held by virtue of this paragraph, with the following adaptations—

- (a) for the references in subsection (4) (recovery of costs of holding the inquiry) to the Minister causing the inquiry to be held, substitute the Secretary of State; and
- (b) for the reference in subsection (5) (orders as to the costs of the parties) to the Minister causing the inquiry to be held, substitute a reference to the person appointed to determine the appeal or the Secretary of State.”.

Orders as to costs of parties where no local inquiry held

9 (1) After section 282 of the Town and Country Planning Act 1971 (local inquiries: application of general provisions of Local Government Act) insert—

“**282A Orders as to costs of parties where no local inquiry held.**

(1) The Secretary of State has the same power to make orders under section 250(5) of the Local Government Act 1972 (orders with respect to the costs of the parties) in relation to proceedings to which this section applies which do not give rise to a local inquiry as he has in relation to a local inquiry.

(2) This section applies to proceedings under this Act where the Secretary of State is required, before reaching a decision, to afford any person an opportunity of appearing before and being heard by a person appointed by him.”.

(2) In Schedule 9 to the Town and Country Planning Act 1971 (determination of certain appeals by persons appointed by the Secretary of State), in paragraph 5 (local inquiries and hearings held by appointed person) at the end add—

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“(4) The person appointed to determine the appeal or the Secretary of State has the same power to make orders under section 250(5) of the Local Government Act 1972 (orders with respect to the costs of the parties) in relation to proceedings under this Schedule which do not give rise to an inquiry under this paragraph as he has in relation to such an inquiry.”.

Procedure on applications and appeals disposed of without inquiry or hearing

10 After section 282A of the Town and Country Planning Act 1971 insert—

“282B Procedure on certain appeals and applications.

- (1) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act where he is required, before reaching a decision, to afford any person an opportunity of appearing before and being heard by a person appointed by him and which are to be disposed of without an inquiry or hearing to which rules under section 11 of the Tribunals and Inquiries Act 1971 apply.
- (2) The regulations may in particular make provision as to the procedure to be followed—
 - (a) where steps have been taken with a view to the holding of such an inquiry or hearing which does not take place, or
 - (b) where steps have been taken with a view to the determination of any matter by a person appointed by the Secretary of State and the proceedings are the subject of a direction that the matter shall instead be determined by the Secretary of State, or
 - (c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,and may provide that such steps shall be treated as compliance, in whole or in part, with the requirements of the regulations.
- (3) The regulations may also—
 - (a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents;
 - (b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Secretary of State to give directions setting the time limit in a particular case or class of case ;
 - (c) empower the Secretary of State to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit; and
 - (d) empower the Secretary of State after giving the parties written notice of his intention to do so, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.”.

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Power to return appeal for determination by inspector

11 In Schedule 9 to the Town and Country Planning Act 1971 (determination of certain appeals by persons appointed by the Secretary of State), after paragraph 3 (power of Secretary of State to direct that appeal should be determined by him) insert—

“3A (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 of this Schedule at any time before the determination of the appeal.

(2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the applicant or appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 29(3)(a) of this Act

(3) Where a direction under this paragraph has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.

(4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the person appointed to determine the appeal (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.”.

Appointment of assessors

12 In Schedule 9 to the Town and Country Planning Act 1971 (determination of certain appeals by persons appointed by the Secretary of State), in paragraph 5 (local inquiries and hearings) after sub-paragraph (1) insert—

“(1A) Where a person appointed under this Schedule to determine an appeal—
 (a) holds a hearing by virtue of paragraph 2(2)(b) of this Schedule, or
 (b) holds an inquiry by virtue of this paragraph,

an assessor may be appointed by the Secretary of State to sit with the appointed person at the hearing or inquiry to advise him on any matters arising notwithstanding that the appointed person is to determine the appeal.”.

Increase of daily penalties for offences

13 (1) In the provisions of the Town and Country Planning Act 1971 listed in column 1 of the following Table, which impose daily penalties for certain offences whose general nature is indicated in column 2, for the amount shown in column 3 substitute the amount shown in column 4.

TABLE

<i>Provision of 1971 Act</i>	<i>Nature of offence</i>	<i>Present maximum daily fine</i>	<i>New maximum daily fine</i>
Section 57(3)	Damage to listed building.	£20	£40

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<i>Provision of 1971 Act</i>	<i>Nature of offence</i>	<i>Present maximum daily fine</i>	<i>New maximum daily fine</i>
Section 89(4)	Non-compliance with enforcement notice.	£100	£200
Section 89(5)	Use of land in contravention of enforcement notice.	£100	£200
Section 90(7)	Non-compliance with stop notice.	£100	£200
Section 98(4)	Failure to secure compliance with listed building enforcement notice.	£100	£200
Section 104(7)	Failure to secure compliance with notice as to condition of land.	£20	£40
Section 109(2)	Contravention of advertisement control regulations.	£20	£40

(2) The increased amounts applicable by virtue of sub-paragraph (1) apply to every day after the commencement of this paragraph, notwithstanding that the offence began before.

Consequential amendments of the Town and Country Planning Act 1971

- 14 In section 1 of the Town and Country Planning Act 1971 for subsection (2A) substitute—
- “(2A) References in this Act to a local planning authority in relation to a non-metropolitan county shall be construed, subject to any express provision to the contrary as references to both the county planning authority and the district planning authorities.”.
- 15 In section 18(1)(f) of that Act, except as respects Greater London—
- (a) for "section 12(1)(a)" substitute " section 12(2)(a) ", and
- (b) for " section 12(2)" substitute " section 12(4) or 12A(2) ".
- 16 In section 29(1)(a) of that Act for " sections 41, 42, 70 and 77 to 80 " substitute " sections 41 and 42 ".
- 17 In sections 35(4) and 36(5) of that Act for " and 30A " substitute " , 30A and 31A ".
- 18 In sections 36(7) of that Act for " sections 29(1), 30(1), 67 and 74 " substitute " sections 29(1) and 30(1) ".
- 19 In section 55(4) of that Act omit " under section 56 of this Act ".
- 20 In section 105 of that Act-
- (a) in paragraph (a) for " seriously injure " substitute " adversary affect ",
- (b) omit paragraph (c), and

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- (c) in paragraph (a) for "seriously injuring" substitute "adversely affecting".
- 21 In Schedule 21, in Parts I and V for "Sections 63 to 68" substitute "Sections 63 to 65".

Consequential amendments of other enactments

- 22 In section 182(5) of the Local Government Act 1972 (functions exercisable in National Park concurrently by county planning authority and district planning authority), for the words "(waste land)", which describe the subject-matter of section 65 of the Town and Country Planning Act 1971, substitute "(power to require proper maintenance of land)".
- 23 (1) Part I of Schedule 16 to the Local Government Act 1972 (functions under and modification of Town and Country Planning Act 1971) is amended as follows.
- (2) For paragraphs 10 to 12 (joint local plans) substitute, except as respects Greater London—
- “10 (1) This paragraph applies where two or more local planning authorities jointly prepare proposals for the making, alteration, repeal or replacement of a local plan.
- (2) The local planning authorities are jointly responsible for taking the steps required by section 12 or 12A, except that they each have the duty imposed by section 12(4)(a) or 12A(2)(a) of making copies of the relevant documents available for inspection and objections to the proposals may be made to any of those authorities and the statement required by section 12(5) or 12A(3) to accompany the relevant documents shall state that objections may be so made.
- (3) It shall be for each of the local planning authorities to adopt the proposals under section 14(1) and they may do so as respects any part of their area to which the proposals relate, but any modifications subject to which the proposals are adopted must have the agreement of all those authorities.
- 11 Where in a non-metropolitan county—
- (a) a structure plan has been jointly prepared by two or more county planning authorities, or
- (b) a local plan has been jointly prepared by two or more district planning authorities,
- a request for a certificate under section 15 that the local plan conforms generally to the structure plan shall be made by each district planning authority to the county planning authority for the area comprising the district planning authority's area and it shall be for that county planning authority to deal with the request.
- 12 Where a local plan has been made jointly, the power of making proposals for its alteration, repeal or replacement may be exercised as respects their respective areas by any of the authorities by whom it was made, in accordance with the provisions of the relevant local plan scheme, and the Secretary of State may under section 11B direct any of them to make proposals as respects their respective areas.”.
- (3) In paragraph 19(2) (planning applications subject to duty to consult county planning authority)—

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- (a) in sub-paragraph (vi), for the words from " section 12 " to the end substitute " section 12 or 12A (publicity and consultation regarding local plans) ", and
 - (b) in sub-paragraph (vii), for the words from " the said section 12 " to the end substitute " section 12 or 12A (publicity and consultation regarding local plans) ".
- 24 In section 8(3) of the Refuse Disposal (Amenity) Act 1978 (application of general provisions of Town and Country Planning Act 1971 relating to local inquiries and service of notices) for " to 284 " substitute " 283 and 284 ".
- 25 (1) The Industrial Development Act 1982 is amended as follows.
- (2) In section 14 (power of Secretary of State to provide premises and sites), in subsection (2) (restriction on acquisition of buildings) for " section 66 of the Town and Country Planning Act 1971 " substitute " section 14A of this Act ".
- (3) After that section insert—

“14A Meaning of ‘ industrial buildings’.

- (1) In section 14(2) of this Act "industrial building " means a building which is used or designed for use for carrying on, in the course of a trade or business, a process for or incidental to any of the following purposes—
- (a) the making of any article or part of any article,
 - (b) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or
 - (c) the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine,
- or which is used or designed for use for carrying on, in the course of a trade or business, scientific research.
- (2) For the purposes of subsection (1) premises which—
- (a) are used or designed for use for providing services or facilities ancillary to the use of other premises for the carrying on of any such process or research as is mentioned in that subsection, and
 - (b) are or are to be comprised in the same building or the same curtilage as those other premises,
- shall themselves be treated as used or designed for use for the carrying on of such a process or, as the case may be, of such research.
- (3) In this section—
- ' article' means an article of any description, including a ship or vessel;
 - ' building' includes part of a building ;
 - ' minerals ' includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale ;
 - ' scientific research' means any activity in the fields of natural or applied science for the extension of knowledge.”.

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- 26 In Part I of Schedule 1 to the Local Government Act 1985 (unitary development plans), in paragraph 12 (John plans), for subparagraph (7) substitute—
- “(7) In relation to any proposals made jointly under paragraph 10 above, the references—
- (a) in sub-paragraph (2) of that paragraph to paragraphs 2 to 9 above, and
- (b) in paragraph 10A(1) above to paragraph 3(1) above,
- shall include a reference to sub-paragraph (2) above.
- (7A) In relation to such joint proposals the references in paragraph 10A above to the local planning authority shall be construed as references to the authorities acting jointly, except that—
- (a) each of the authorities shall have the duty under subparagraph (2) of making copies of the relevant documents available for inspection, and
- (b) representations or objections may be made to any of the authorities, and the statement required by sub-paragraph (3) of that paragraph shall state that objections may be so made.”
- 27 (1) In Part II of Schedule 1 to the Local Government Act 1985 (transitional provisions), paragraph 20 (local plans between abolition date and commencement of unitary planning provisions) is amended as follows.
- (2) In sub-paragraph (2) (application of provisions of Part II of Town and Country Planning Act 1971) omit the words from " and in respect of those matters " to the end.
- (3) After that sub-paragraph insert—
- “(2A) In respect of the matters referred to in sub-paragraph (2) the following provisions (which relate to county planning authorities) do not apply to metropolitan district councils, namely, sections 11 A, 11B(4), 12(3) and (4)(c), 12A(2)(c), 15, 15A and 15B(2).”.
- (4) For sub-paragraph (3) substitute—
- “(3) In section 15(1) and (2) (alteration of local plans), as applying in Greater London, the reference to a local plan adopted by a local planning authority includes, in the case of a London borough council, a local plan adopted by the Greater London Council and in force in respect of the area of that authority on the abolition date.
- (3A) A metropolitan district council may at any time—
- (a) make proposals for the preparation, alteration, repeal or replacement of a local plan adopted by them or adopted by the metropolitan county council and in force in the area of that authority on the abolition date;
- (b) with the consent of the Secretary of State, make proposals for the alteration, repeal or replacement of a local plan approved by him.”.