

Status: Point in time view as at 01/10/2016.

Changes to legislation: Town and Country Planning Act 1990, Cross Heading: Intervention powers of Secretary of State is up to date with all changes known to be in force on or before 29 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

[^{F1}SCHEDULE 4B

PROCESS FOR MAKING OF NEIGHBOURHOOD DEVELOPMENT ORDERS

Textual Amendments

- F1** Sch. 4B inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. 116(2), 240(5)(j), **Sch. 10**; [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2

Modifications etc. (not altering text)

- C1** Sch. 4B applied (with modifications) by 2004 c. 5, s. 38A(3) 38C(5) (as inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), **Sch. 9 para. 7**; [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2)

[^{F2}Intervention powers of Secretary of State

Textual Amendments

- F2** Sch. 4B paras. 13B, 13C and cross-heading inserted (1.10.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. 141(1), 216(3); [S.I. 2016/733](#), reg. 4(1)(b)

- 13B (1) This paragraph applies where the qualifying body requests the Secretary of State to intervene under this paragraph and—
- (a) the local planning authority have failed, by the applicable date prescribed under paragraph 13A, to take a decision as to whether a referendum is (or referendums are) to be held on the making of a neighbourhood development order,
 - (b) a recommendation made under paragraph 10(2) is not followed by the authority, or
 - (c) the authority make any modification under paragraph 12(5) that is not—
 - (i) a modification recommended under paragraph 10(2)(b),
 - (ii) a modification that the authority consider needs to be made to secure that the draft order does not breach, and is otherwise compatible with, EU obligations,
 - (iii) a modification that the authority consider needs to be made to secure that the draft order is compatible with the Convention rights, or
 - (iv) a modification for the purpose of correcting an error.

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- (2) The Secretary of State may exercise functions of the local planning authority under paragraph 12(2) and (3) and—
- (a) if satisfied that paragraph (a) or (b) of paragraph 12(4) applies, may direct the authority to make arrangements for a referendum (or referendums) to be held on the making of a neighbourhood development order;
 - (b) if not so satisfied, may direct the authority to refuse the proposal.
- (3) The Secretary of State may direct the authority to take the actions referred to in paragraph 12(8) and (9).
- (4) If by reason (wholly or partly) of new evidence or a new fact, or a different view taken by the Secretary of State as to a particular fact, the Secretary of State proposes to direct the local planning authority to act in a way that is not in accordance with what was recommended by the examiner—
- (a) the Secretary of State may require the authority to notify prescribed persons of the proposed direction (and the reason for it) and invite representations;
 - (b) the Secretary of State may also require them to refer the issue to independent examination.
- (5) The order on which a referendum is (or referendums are) to be held by virtue of sub-paragraph (2)(a) is the draft order subject to such modification (if any) as the Secretary of State or the local planning authority consider appropriate.
- (6) The only modifications the local planning authority may make under sub-paragraph (5) are—
- (a) modifications that the authority consider need to be made to secure that the draft order does not breach, and is otherwise compatible with, EU obligations,
 - (b) modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights, and
 - (c) modifications for the purpose of correcting errors.
- 13C Regulations may make provision supplementing that made by paragraph 13B; and the regulations may in particular—
- (a) prescribe the form and content of a request by the qualifying body under paragraph 13B(1) and the date by which it must be made;
 - (b) confer power on the Secretary of State to direct a local planning authority to refrain from taking any action specified in the direction that they would otherwise be required or entitled to take under paragraph 12 or 13;
 - (c) make provision under which decisions falling to be made by the Secretary of State under paragraph 13B may be made instead by a person appointed by the Secretary of State for the purpose (an “inspector”);
 - (d) prescribe matters that the Secretary of State or an inspector must take into account in making a decision;
 - (e) require a local planning authority to provide prescribed information to the Secretary of State or to an inspector;
 - (f) make provision about examinations carried out by virtue of paragraph 13B(4)(b) (including any provision of a kind mentioned in paragraph 11(2));
 - (g) make provision (in addition to that made by paragraph 13B(4)(b)) for the holding of an examination, and for the payment by a local planning authority of remuneration and expenses of the examiner;

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- (h) provide for the Secretary of State, or a local planning authority on the direction of the Secretary of State, to notify to prescribed persons and to publish—
 - (i) prescribed decisions made by the Secretary of State under paragraph 13B,
 - (ii) the reasons for making those decisions, and
 - (iii) other prescribed matters relating to those decisions.]]

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