

Status: Point in time view as at 01/04/1999.

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

SCHEDULES

SCHEDULE 4 **E+W**

DEVELOPMENT PLANS

PART I **E+W**

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.”

Status: Point in time view as at 01/04/1999.

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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.

Status: Point in time view as at 01/04/1999.

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

- (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

Status: Point in time view as at 01/04/1999.

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

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

Commencement Information

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”.

Status: Point in time view as at 01/04/1999.

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

Commencement Information

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

Status: Point in time view as at 01/04/1999.

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

- (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.

Status: Point in time view as at 01/04/1999.

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

- (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.

Status: Point in time view as at 01/04/1999.

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

- (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.

Status: Point in time view as at 01/04/1999.

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

- (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.

Status: Point in time view as at 01/04/1999.

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

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.

Status: Point in time view as at 01/04/1999.

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

- (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.

Status: Point in time view as at 01/04/1999.

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

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.

Status: Point in time view as at 01/04/1999.

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

(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—

Status: Point in time view as at 01/04/1999.

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

- (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

Status: Point in time view as at 01/04/1999.

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

- (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.

Status: Point in time view as at 01/04/1999.

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

- (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

Status: Point in time view as at 01/04/1999.

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

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,

Status: Point in time view as at 01/04/1999.

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

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

Status: Point in time view as at 01/04/1999.

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

- 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

Status: Point in time view as at 01/04/1999.

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

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;”

Status: Point in time view as at 01/04/1999.

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

- (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.

Status:

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Changes to legislation:

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