



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 9

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **113 Validity of strategies, plans and documents**

- (1) This section applies to—
- (a) a revision of [<sup>F1</sup> the regional strategy ];
  - (b) [<sup>F2</sup> the National Development Framework for Wales;
  - (ba) a strategic development plan;]
  - (c) a development plan document;
  - (d) a local development plan;
  - (e) a revision of a document mentioned in paragraph (b), [<sup>F3</sup> (ba),] (c) or (d);
  - (f) the Mayor of London's spatial development strategy;
  - (g) an alteration or replacement of the spatial development strategy,
- and anything falling within paragraphs (a) to (g) is referred to in this section as a relevant document.
- (2) A relevant document must not be questioned in any legal proceedings except in so far as is provided by the following provisions of this section.
- (3) A person aggrieved by a relevant document may make an application to the High Court on the ground that—
- (a) the document is not within the appropriate power;
  - (b) a procedural requirement has not been complied with.

*Status: Point in time view as at 26/10/2015. This version of this provision has been superseded.*

*Changes to legislation: Planning and Compulsory Purchase Act 2004, Section 113 is up to date with all changes known to be in force on or before 06 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)*

[<sup>F4</sup>(3A) An application may not be made under subsection (3) without the leave of the High Court.

(3B) An application for leave for the purposes of subsection (3A) must be made before the end of the period of six weeks beginning with the day after the relevant date.]

<sup>F5</sup>(4) .....

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

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

[<sup>F6</sup>(5A) An interim order has effect—

- (a) if made on an application for leave, until the final determination of—
  - (i) the question of whether leave should be granted, or
  - (ii) where leave is granted, the proceedings on any application under this section made with such leave;
- (b) in any other case, until the proceedings are finally determined.]

(6) Subsection (7) applies if the High Court is satisfied—

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

[<sup>F7</sup>(7) The High Court may—

- (a) quash the relevant document;
- (b) remit the relevant document to a person or body with a function relating to its preparation, publication, adoption or approval.

(7A) If the High Court remits the relevant document under subsection (7)(b) it may give directions as to the action to be taken in relation to the document.

(7B) Directions under subsection (7A) may in particular—

- (a) require the relevant document to be treated (generally or for specified purposes) as not having been approved or adopted;
- (b) require specified steps in the process that has resulted in the approval or adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;
- (c) require action to be taken by a person or body with a function relating to the preparation, publication, adoption or approval of the document (whether or not the person or body to which the document is remitted);
- (d) require action to be taken by one person or body to depend on what action has been taken by another person or body.

(7C) The High Court's powers under subsections (7) and (7A) are exercisable in relation to the relevant document—

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

<sup>F8</sup>(8) .....

(9) The appropriate power is—

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- [<sup>F9</sup>(a) Part 5 of the Local Democracy, Economic Development and Construction Act 2009 in the case of a revision of the regional strategy;]
- (b) [<sup>F10</sup>sections 60 to 60C above in the case of the National Development Framework for Wales or a revised Framework;
- (ba) in the case of a strategic development plan or any revision of it—
- (i) section 60I above, and
- (ii) sections 63 to 68, 68A(1), 69 to 71 and 73 to 78 above, as they apply in relation to strategic development plans (see section 60J);]
- (c) Part 2 of this Act in the case of a development plan document or any revision of it;
- (d) sections 62 to 78 above in the case of a local development plan or any revision of it;
- (e) sections 334 to 343 of the Greater London Authority Act 1999 (c. 29) in the case of the spatial development strategy or any alteration or replacement of it.
- (10) A procedural requirement is a requirement under the appropriate power or contained in regulations or an order made under that power which relates to the adoption, publication or approval of a relevant document.
- (11) References to the relevant date must be construed as follows—
- [<sup>F11</sup>(a) for the purposes of a revision of the regional strategy, the date when the revision is published by the Secretary of State under Part 5 of Local Democracy, Economic Development and Construction Act 2009;]
- (b) [<sup>F12</sup>for the purposes of the National Development Framework for Wales (or a revised Framework), the date when it is published by the Welsh Ministers;
- (ba) for the purposes of a strategic development plan (or a revision of it), the date when it is adopted by the strategic planning panel or approved by the Welsh Ministers (as the case may be);]
- (c) for the purposes of a development plan document (or a revision of it), the date when it is adopted by the local planning authority or approved by the Secretary of State (as the case may be);
- (d) for the purposes of a local development plan (or a revision of it), the date when it is adopted by a local planning authority in Wales or approved by the National Assembly for Wales (as the case may be);
- (e) for the purposes of the spatial development strategy (or an alteration or replacement of it), the date when the Mayor of London publishes it.
- [<sup>F13</sup>(12) In this section references to a revision of the regional strategy include a revised strategy under section 79 of the Local Democracy, Economic Development and Construction Act 2009.]

#### Textual Amendments

- F1** Words in s. 113(1)(a) substituted (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(5), [Sch. 5 para. 19\(2\)](#); S.I. 2009/3318, art. 4(gg)
- F2** S. 113(1)(b)(ba) substituted for s. 113(1)(b) (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 2 para. 27\(2\)\(a\)](#)
- F3** Word in s. 113(1)(e) inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 2 para. 27\(2\)\(b\)](#)
- F4** S. 113(3A)(3B) inserted (26.10.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 16 para. 8\(2\)](#); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(c))

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- F5** S. 113(4) omitted (26.10.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 16 para. 8(3)**; S.I. 2015/1778, art. 3(b)(ii) (with art. 4(c))
- F6** S. 113(5A) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 16 para. 8(4)**; S.I. 2015/1778, art. 3(b)(ii) (with art. 4(c))
- F7** S. 113(7)-(7C) substituted for s. 113(7) (6.4.2009 for E.) by Planning Act 2008 (c. 29), **ss. 185, 241(3), (4)** (with s. 226); S.I. 2009/400, art. 5(a)
- F8** S. 113(8) omitted (26.10.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 16 para. 8(5)**; S.I. 2015/1778, art. 3(b)(ii) (with art. 4(c))
- F9** S. 113(9)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(5), **Sch. 5 para. 19(3)**; S.I. 2009/3318, art. 4(gg)
- F10** S. 113(9)(b)(ba) substituted for s. 113(9)(b) (6.9.2015 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 2 para. 27(3)**
- F11** S. 113(11)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(5), **Sch. 5 para. 19(4)**; S.I. 2009/3318, art. 4(gg)
- F12** S. 113(11)(b)(ba) substituted for s. 113(11)(b) (6.9.2015 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 2 para. 27(4)**
- F13** S. 113(12) inserted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(5), **Sch. 5 para. 19(5)**; S.I. 2009/3318, art. 4(gg)

#### Commencement Information

- I1** S. 113 in force at 28.9.2004 for E. by S.I. 2004/2202, **art. 2(e)**
- I2** S. 113 in force at 15.10.2005 for W. by S.I. 2005/2847, **art. 2(c)**

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