EXPLANATORY MEMORANDUM TO

THE PLANNING AND COMPULSORY PURCHASE ACT 2004 (LOCAL PLANNING) (MODIFICATION AND CONSEQUENTIAL AMENDMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2026

2026 No. 350

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Matthew Pennycook MP, Minister for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Michael Bingham, Deputy Director for Planning Policy, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Christina Davey at the Ministry of Housing, Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: christina.davey@communities.gov.uk. Alternatively, the department can be contacted by telephone: 0303 444 0000

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These regulations amend the Planning and Compulsory Purchase Act 2004 (Local Planning) (Modification and Consequential Amendments) Regulations 2026 and introduce further modifications to Part 2 of the Planning and Compulsory Purchase Act 2004 ("the Act") (as amended by section 97 of, and Schedule 7 to, the Levelling-up and Regeneration Act 2023). The new modifications introduced by these regulations relate to provisions in the Act relating to the revocation of minerals and waste plans (including joint minerals and waste plan documents) and the application of Part 2 of the Act (as amended) in relation to joint minerals and waste plan documents. Details of the practical impacts of this legislation are set out in section 5 of this Explanatory Memorandum.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 Minerals and Waste Plans will continue to form an important part of the development plan under Part 2 of the Act (as amended by section 97 of, and Schedule 7 to, the Levelling-up and Regeneration Act 2023) ("the new plan-making system"). Section 15CB(1) of the Act requires each minerals and waste planning authority to prepare "*one or more documents which are to be known collectively as the minerals and waste plan*". This will continue to enable minerals and waste plans to be produced as:

a. A single document - a minerals and waste plan
b. Multiple documents – for example, a minerals plan and a waste plan
c. where possible through local government structure, incorporated as part of a local plan, as set out in section 15C(10) of the Act.

5.2 This will ensure authorities are able to take whichever approach works best for their local circumstances. This is a different approach to local plans, which must be prepared as a single document in the new plan-making system.

5.3 Part 3 of the Planning and Compulsory Purchase Act 2004 (Local Planning) (Modification and Consequential Amendments) Regulations 2026 ("the first instrument") modified Part 2 of the Act (as amended) as it applies in relation to a minerals and waste plan by section 15CB(8) of the Act, so as to account for the abovementioned different possibilities through which a minerals and waste plan can be produced in the new plan-making system. This includes the possibility for minerals and waste planning authorities to prepare documents which are to be or form part of the minerals and waste plan for their relevant area jointly with one or more other minerals and waste planning authorities ("joint minerals and waste plan documents").

5.4 In the new plan-making system, a local plan will be automatically revoked under section 15G(1) of the Act following the adoption or approval of a new local plan under Part 2 of the Act (as amended). Without further modification, documents which are, or which form part of, a minerals and waste plan would be automatically revoked under section 15G(1) by the adoption or approval under Part 2 of the Act (as amended) of a new document which is or forms part of a minerals and waste plan.

5.5 However, given the potential for more than one document to make up the collective minerals and waste plan, these regulations are necessary to ensure that the new plan-making system is clear and operable in this regard to minerals and waste plans, and documents are only revoked once they have been superseded by one or more new minerals and waste plan documents coming into effect.

5.6 The regulations therefore amend the first instrument to introduce modifications to section 15G of the Act, so that minerals and waste planning authorities are required to themselves revoke such documents (either in whole or by a series of partial revocations) as and when new documents come into effect which replace them (in whole or in part). This also applies in the context of joint minerals and waste plan documents produced by two or more minerals and waste planning authorities.

5.7 The regulations also amend the first instrument to introduce modifications to section 15IA(3) of the Act, which sets out how functions are to be exercised under Part 2 of

the Act (as amended) in relation to a joint minerals and waste plan document. These modifications mirror those made by the first instrument in relation to joint local plans.

5.8 The regulations aim to consolidate the modifications to the Act required for minerals and waste plans in order to provide minerals and waste planning authorities with a clear understanding of how the new plan-making system applies in relation to them and their obligations under it. The provision at section 15CB(8) of the Act provides a starting point for the preparation of these plans, but modifications are necessary to account for the fact that unlike local plans, minerals and waste plans can be formed of more than one document.

What was the previous policy, how is this different?

5.9 Under the previous policy (i.e. before a decision was taken to modify the primary legislation in this manner), a document which is or forms part of a minerals and waste plan would be automatically revoked upon a new document which is or forms part of a minerals and waste plan for the minerals and waste planning authority being adopted or approved under Part 2 of the Act (as amended). However, this approach does not provide sufficient clarity where a multi-document approach is being taken and may result in uncertainty regarding which policies remain relevant for decision-making.

5.10 Further, in relation to joint minerals and waste plan documents, under the previous policy any steps which are required to be taken by or in relation to a minerals and waste planning authority under Part 2 of the Act (as amended) when preparing a minerals and waste plan document would have to have been taken by or in relation to each authority involved in preparing a joint minerals and waste plan document. Such an approach would not be appropriate in all cases as there are instances where authorities will need to act jointly (for example, in submitting a joint minerals and waste plan document for independent examination so as to avoid the same document being submitted multiple times from different sources) and in other situations government wishes to provide authorities with discretion as to whether to act jointly or individually. This has the benefit of providing flexibility to authorities who are best placed to determine how they should work together in preparing joint documents and provides more clarity on the procedure for preparation of plans under these circumstances. Where section 15HA(1) of the Act is engaged in relation to a joint minerals and waste plan document which is being prepared, and the Secretary of State exercises their power under section 15HA(2)(c) to give directions, the modifications provide flexibility for such directions to be given to one or more of the authorities preparing the document (if section 15HA(1)(a) is engaged then directions may be given to one or more of the failing authorities). This is to ensure that there is flexibility for appropriate action to be taken depending on the precise circumstances which arise that necessitate intervention action to be taken.

5.11 As set out in section 5, these regulations are necessary to ensure the operability of the new plan-making system for minerals and waste plan documents.

6. Legislative and Legal Context

How has the law changed?

6.1 Part 2 of the Act, as amended by section 97 of, and Schedule 7 to, the Levelling-up and Regeneration Act 2023, provides that each minerals and waste planning authority must, in respect of their relevant area, prepare one or more documents which are to be known collectively as their "minerals and waste plan".

6.2 Most of Part 2 of the Act (as amended) was drafted by reference to local plans, which also form part of the development plan for areas in England. Section 15CB(8) of the Act applies a gloss to Part 2, such that it is applied in relation to a minerals and waste plan as it applies in relation to a local plan. This gloss is subject to a number of exceptions set out in section 15CB(10) and also to such modifications of the Part, as it applies in relation to a minerals and waste plan, as may be prescribed in regulations under section 15CB(9).

6.3 The first instrument modified Part 2 of the Act (as amended), as it applies in relation to a minerals and waste plan in accordance with section 15CB(8) of the Act, to displace that standard gloss and require references in specified provisions to a local plan (including within references to a joint local plan) to be read as references to a minerals and waste plan document (which means a document which is or forms part of a minerals and waste plan).

6.4 The first instrument modified sections 15I to 15IB of the Act to introduce the concept of a joint minerals and waste plan document (i.e. a document which is or forms part of a minerals and waste prepared jointly by two or more minerals and waste planning authorities). It specifically modifies a delegated power at section 15IA(4) of the Act such that in relation to minerals and waste plans, that provision is to be read as though it says that subsections (2) and (3) (of section 15IA) are subject to such modifications of Part 2 of the Act (as amended), as it applies to joint minerals and waste plan documents, as may be prescribed.

6.5 The regulations amend the first instrument to introduce further modifications relating to minerals and waste plans.

6.6 The regulations firstly modify section 15G of the Act so that it is to be read as though it requires minerals and waste planning authorities to revoke minerals and waste plan documents themselves. This is broken down into different scenarios which provide for complete or partial revocation of an existing document depending on the nature/scope of the new minerals and waste plan document that has come into effect.

6.7 These modifications are necessary to account for the different possibilities in terms of the composition of minerals and waste plans (i.e. they may be formed of one document or multiple documents, and this may change in different plan-making cycles). Automatic revocation of the kind envisaged by section 15G(1) of the Act in its unmodified form would cause significant difficulties in relation to minerals and waste plan documents, as such a provision is predicated on there being an undisputed point at which an existing minerals and waste plan is entirely replaced.

6.8 The regulations also modify section 15IA of the Act so that it is to be read as though, for subsection (3), there were substituted provisions which set out how different functions are to be exercised under Part 2 of the Act (as amended) in relation to a joint minerals and waste plan document. These modifications mirror those made by the first instrument in relation to joint local plans.

6.9 These modifications are necessary to ensure consistency with the approach being taken in relation to joint local plans. They are also needed to achieve government's policy ambitions in relation to joint documents, which seeks to strike a balance between mandating how certain things must be done to ensure consistency and reduce duplication of work whilst also providing flexibility to authorities to decide how they can best work together when preparing documents jointly.

Why was this approach taken to change the law?

6.10 This is the only possible approach to make the necessary changes to the first instrument. A number of the modifications being made by the regulations rely on the power at section 15IA(4) of the Act, which first needed to be modified in reliance on the power at section 15CB(9) of the Act such that, in relation to minerals and waste plans, it is to be read as referring to joint minerals and waste plan documents. The first instrument therefore needed to be laid and come into force, modifying section 15IA(4) of the Act, before this instrument could be made and laid before Parliament. Government considered introducing the further modifications in a free-standing instrument, however there are clear benefits to all of the modifications to Part 2 of the Act (as amended) being set out in one place, namely that users of the legislation will only need to refer to one instrument in this respect. For these reasons, we decided that the regulations should operate by way of amending the first instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 Between 22 December 2022 and 2 March 2023 a national planning policy consultation was undertaken, which included a chapter on preparing for the new system of plan-making.

7.2 The outcome of this consultation chapter was set out in a subsequent consultation, which focussed just on the implementation of the plan making reforms set out in the Act. This consultation ran between 25 July and 18 October 2023.

7.3 The July 2023 consultation contained fifteen chapters and sought views on various matters relating to the regulations, policy and guidance for the new plan-making system. This included a specific chapter on minerals and waste plans, and set out the government's intention that the process for the preparation, examination and updating of a document which is to be, or form part of, a minerals and waste plan, will continue to be the same as that for a local plan.

7.4 Several consultation events for planning authorities were held around the country, arranged by the Local Government Association's Planning Advisory Service.

7.5 Responses were accepted via an online survey, by email and by written correspondence. 490 responses were received, including 207 from local planning authorities.

7.6 The summary of responses and government response to the July 2023 consultation was published on the same webpage as the consultation itself, on 27 February 2025.[1] This set out the government would continue with the direction of travel and principles set out within the consultation document for new style minerals and waste plans, however would seek to identify solutions to address the unique challenges raised as we develop the detail to support our proposals.

7.7 Whilst there was no express consultation on the modifications set out in this instrument, it achieves the ambition set out by government in the consultation by ensuring the same modifications which have been made for joint local plans are made for joint minerals and waste plan documents. This is to ensure the legislation is

[1] Government response to the proposed plan-making reforms: consultation on implementation - GOV.UK (https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation/outcome/government-response-to-the-proposed-plan-making-reforms-consultation-on-implementation)

operable in relation to joint minerals and waste plans (including joint minerals and waste plan documents) and alignment is achieved where possible.

8. Applicable Guidance

8.1 The regulations form part of the package of Statutory Instruments which implement the new plan-making system. This package will be supported by a comprehensive suite of guidance to support planning authorities and users of the system. This includes a new resource, Create and Update a Local Plan,[2] which provides information and resources for local planning authorities creating a local plan. This sets out that the term 'new plan-making system includes the detailed procedures for minerals and waste plans set out in secondary legislation.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Regulatory Impact Assessment under the Better Regulation Framework has not been produced for this instrument.

9.2 The Regulatory Impact Assessment for the Levelling-up and Regeneration Act 2023 provides analysis of the primary legislative measures that the measures set out in this instrument derives[3].

Impact on businesses, charities and voluntary bodies

9.3 No, or no significant, impact on the private, voluntary sector or public sector is foreseen.

9.4 The legislation does not impact small or micro businesses.

9.5 A New Burdens Assessment for plan-making reforms has been prepared.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Ministry of Communities and Local Government will monitor the operation of the provisions in these instruments and the new plan-making system more broadly; considering whether any amendments may be needed as and when appropriate.

[2] Create or update a local plan using the new system - GOV.UK (https://www.gov.uk/government/collections/create-or-update-a-local-plan-using-the-new-system)
[3] Levelling-up and Regeneration Act 2023 publications - Parliamentary Bills - UK Parliament (https://bills.parliament.uk/bills/3155/publications)

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument relates to the following instruments:

- The Levelling Up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026 (S.I. 2026/169 (C. 16))
- The Town and Country Planning (Local Planning) (England) Regulations 2026 (S.I. 2026/186)
- The Town and Country Planning (Costs of Independent Examination for Local Planning etc.)(Standard Daily Amount) (England) Regulations 2026 (S.I. 2026/187)
- The Planning and Compulsory Purchase Act 2004 (Local Planning) (Modification and Consequential Amendments) (England) Regulations 2026 (S.I. 2026/170)
- The Requirement to Assist with Certain Plan Making (Prescribed Public Bodies) (England) Regulations 2026 (S.I. 2026/188)

11.2 These instruments all form part of a package of regulations which implement the new plan-making system introduced by section 97 of, and Schedule 7 to, the Levelling-up and Regeneration Act 2023. The regulations, along with the first instrument (which this instrument amends), make modifications to Part 2 of the Planning and Compulsory Purchase Act 2004 (as amended) which relate to joint local plans, joint supplementary plans and minerals and waste plans (including joint minerals and waste plan documents).

11.3 These instruments have all been sequenced so that they are laid and come into force in as similar a timeframe as possible, to ensure a smooth transition from the previous plan-making system to the new plan-making system. This instrument has been laid following the coming into force of the first instrument because a number of the modifications being made by the regulations rely on the power at section 15IA(4) of the Act, which first needed to be modified in reliance on the power at section 15CB(9) of the Act such that, in relation to minerals and waste plans, it is to be read as referring to joint minerals and waste plan documents. The first instrument therefore needed to be laid and come into force, modifying section 15IA(4) of the Act, before this instrument could be made and laid before Parliament.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).