



Planning Act 2008

2008 CHAPTER 29

PART 4

REQUIREMENT FOR DEVELOPMENT CONSENT

[^{F1}35ZA] Directions under sections 35: procedural matters

- (1) The power in section 35(1) to give a direction in a case within section 35(2)(a)(i) (projects in the field of energy etc) is exercisable only in response to a qualifying request if no application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development to which the request relates.
- (2) The power in section 35(1) to give a direction in a case within section 35(2)(a)(ii) (business or commercial projects of prescribed description) is exercisable only in response to a qualifying request made by one or more of the following—
 - (a) a person who proposes to carry out any of the development to which the request relates;
 - (b) a person who has applied, or proposes to apply, for a consent or authorisation mentioned in section 33(1) or (2) in relation to any of that development;
 - (c) a person who, if a direction under section 35(1) is given in relation to that development, proposes to apply for an order granting development consent for any of that development.
- (3) If the Secretary of State gives a direction under section 35(1) in relation to development, the Secretary of State may—
 - (a) if an application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development, direct the application to be treated as an application for an order granting development consent;
 - (b) if a person proposes to make an application for such a consent or authorisation in relation to the development, direct the proposed application to be treated as a proposed application for development consent.
- (4) A direction under section 35(1), or subsection (3) of this section, may be given so as to apply for specified purposes or generally.

Changes to legislation: Planning Act 2008, Section 35ZA is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes

- (5) A direction under subsection (3) may provide for specified provisions of or made under this or any other Act—
- (a) to have effect in relation to the application, or proposed application, with any specified modifications, or
 - (b) to be treated as having been complied with in relation to the application or proposed application.
- (6) If the Secretary of State gives a direction under subsection (3), the relevant authority must refer the application, or proposed application, to the Secretary of State instead of dealing with it themselves.
- (7) If the Secretary of State is considering whether to give a direction under subsection (3), the Secretary of State may direct the relevant authority to take no further action in relation to the application, or proposed application, until the Secretary of State has decided whether to give the direction.
- (8) The Secretary of State may require an authority within subsection (9) to provide any information required by the Secretary of State for the purpose of enabling the Secretary of State to decide—
- (a) whether to give a direction under section 35(1), and
 - (b) the terms in which such a direction should be given.
- (9) An authority is within this subsection if an application for a consent or authorisation mentioned in section 33(1) or (2) in relation to the development has been, or may be, made to it.
- (10) If the Secretary of State decides to give a direction under section 35(1), the Secretary of State must give reasons for the decision.
- (11) In this section—
- “qualifying request” means a written request, for a direction under section 35(1) or subsection (3) of this section, that—
- (a) specifies the development to which it relates, and
 - (b) explains why the conditions in section 35(2)(a) and (b) are met in relation to the development;
- “relevant authority”—
- (a) in relation to an application for a consent or authorisation mentioned in section 33(1) or (2) that has been made, means the authority to which the application was made, and
 - (b) in relation to such an application that a person proposes to make, means the authority to which the person proposes to make the application.]

Textual Amendments

- F1** Ss. 35, 35A substituted for s. 35 (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), ss. **26(2)**, **35(2)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 10A inserted by [2023 c. 55 Sch. 12 para. 1](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 223(1)(za) inserted by [2023 c. 55 s. 139\(6\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)