



Planning Act 2008

2008 CHAPTER 29

PART 3

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

Transport

[^{F1}22 Highways

- (1) Highway-related development is within section 14(1)(h) only if the development is—
 - (a) construction of a highway in a case within subsection (2),
 - (b) alteration of a highway in a case within subsection (3), or
 - (c) improvement of a highway in a case within subsection (5).
- (2) Construction of a highway is within this subsection only if—
 - (a) the highway will (when constructed) be wholly in England,
 - (b) the Secretary of State [^{F2} or a strategic highways company] will be the highway authority for the highway, and
 - (c) the area of development is greater than the relevant limit set out in subsection (4).
- (3) Alteration of a highway is within this subsection only if—
 - (a) the highway is wholly in England,
 - (b) the Secretary of State [^{F3} or a strategic highways company] is the highway authority for the highway, and
 - (c) the area of development is greater than the relevant limit set out in subsection (4).
- (4) For the purposes of subsections (2)(c) and (3)(c) the relevant limit —
 - (a) in relation to the construction or alteration of a motorway, is 15 hectares,
 - (b) in relation to the construction or alteration of a highway, other than a motorway, where the speed limit for any class of vehicle is expected to be 50 miles per hour or greater, is 12.5 hectares, and

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- (c) in relation to the construction or alteration of any other highway is 7.5 hectares.
- (5) Improvement of a highway is within this subsection only if—
- (a) the highway is wholly in England,
 - (b) the Secretary of State [^{F4}or a strategic highways company] is the highway authority for the highway, and
 - (c) the improvement is likely to have a significant effect on the environment.
- (6) Highway-related development does not fall within section 14(1)(h) if—
- (a) an order mentioned in section 33(4) has been made in relation to the development before 1 March 2010,
 - (b) a further order is needed in relation to the development, and
 - (c) not more than 7 years have elapsed since the making of the earlier order.
- (7) Alteration of a highway is not within section 14(1)(h) if
- (a) planning permission has been granted for a development,
 - (b) the alteration is necessary as a result of the development, and
 - (c) the developer has asked for the alteration to be made to the highway.
- (8) Alteration of a highway is not within section 14(1)(h) if—
- (a) an order mentioned in section 33(4) has been made in relation to local highway works,
 - (b) the alteration is necessary as a result of the local highway works, and
 - (c) the local highway authority responsible for the local highway works has asked for the alteration to be made to the highway.
- (9) In this section—
- “area of development” —
- (a) in relation to construction of a highway, means the land on which the highway is to be constructed and any adjoining land expected to be used in connection with its construction;
 - (b) in relation to alteration of a highway, means the land on which the part of the highway to be altered is situated and any adjoining land expected to be used in connection with its alteration;
- “local highway authority” has the meaning given by section 329(1) of the Highways Act 1980;
- “local highway works” means works carried out by or on behalf of a local highway authority in relation to a highway for which it is the highway authority (and the local highway authority is referred to in this section as “responsible” for those works);
- “motorway” means a highway which is a special road in accordance with section 16 of the Highways Act 1980.]
- [^{F5}“strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.]

Textual Amendments

- F1** S. 22 substituted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), 3 (with art. 5)

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- F2** Words in s. 22(2)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 153\(2\); S.I. 2015/481, reg. 2\(a\)](#)
- F3** Words in s. 22(3)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 153\(2\); S.I. 2015/481, reg. 2\(a\)](#)
- F4** Words in s. 22(5)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 153\(2\); S.I. 2015/481, reg. 2\(a\)](#)
- F5** Words in s. 22(9) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 153\(3\); S.I. 2015/481, reg. 2\(a\)](#)

23 Airports

- (1) Airport-related development is within section 14(1)(i) only if the development is—
- the construction of an airport in a case within subsection (2),
 - the alteration of an airport in a case within subsection (4), or
 - an increase in the permitted use of an airport in a case within subsection (7).
- (2) Construction of an airport is within this subsection only if (when constructed) the airport—
- will be in England or in English waters, and
 - is expected to be capable of providing services which meet the requirements of subsection (3).
- (3) Services meet the requirements of this subsection if they are—
- air passenger transport services for at least 10 million passengers per year, or
 - air cargo transport services for at least 10,000 air transport movements of cargo aircraft per year.
- (4) Alteration of an airport is within this subsection only if—
- the airport is in England or in English waters, and
 - the alteration is expected to have the effect specified in subsection (5).
- (5) The effect is—
- to increase by at least 10 million per year the number of passengers for whom the airport is capable of providing air passenger transport services, or
 - to increase by at least 10,000 per year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services.
- (6) “Alteration”, in relation to an airport, includes the construction, extension or alteration of—
- a runway at the airport,
 - a building at the airport, or
 - a radar or radio mast, antenna or other apparatus at the airport.
- (7) An increase in the permitted use of an airport is within this subsection only if—
- the airport is in England or in English waters, and
 - the increase is within subsection (8).
- (8) An increase is within this subsection if—
- it is an increase of at least 10 million per year in the number of passengers for whom the airport is permitted to provide air passenger transport services, or

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- (b) it is an increase of at least 10,000 per year in the number of air transport movements of cargo aircraft for which the airport is permitted to provide air cargo transport services.
- (9) In this section—
- “air cargo transport services” means services for the carriage by air of cargo;
 - “air passenger transport services” means services for the carriage by air of passengers;
 - “air transport movement” means a landing or take-off of an aircraft;
 - “cargo” includes mail;
 - “cargo aircraft” means an aircraft which is—
 - (a) designed to transport cargo but not passengers, and
 - (b) engaged in the transport of cargo on commercial terms;
 - “English waters” means waters adjacent to England up to the seaward limits of the territorial sea;
 - “permitted” means permitted by planning permission or development consent.

Commencement Information

II S. 23 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(b\)](#) (with [art. 6](#))

24 Harbour facilities

- (1) The construction of harbour facilities is within section 14(1)(j) only if (when constructed) the harbour facilities—
- [^{F6}(a) will be—
 - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
 - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and will be, or will form part of, a reserved trust port, and]
 - (b) are expected to be capable of handling the embarkation or disembarkation of at least the relevant quantity of material per year.
- (2) The alteration of harbour facilities is within section 14(1)(j) only if—
- [^{F7}(a) the harbour facilities are—
 - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
 - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and are, or form part of, a reserved trust port, and]
 - (b) the effect of the alteration is expected to be to increase by at least the relevant quantity per year the quantity of material the embarkation or disembarkation of which the facilities are capable of handling.
- (3) “The relevant quantity” is—
- (a) in the case of facilities for container ships, 500,000 TEU;

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- (b) in the case of facilities for ro-ro ships, 250,000 units;
 - (c) in the case of facilities for cargo ships of any other description, 5 million tonnes;
 - (d) in the case of facilities for more than one of the types of ships mentioned in paragraphs (a) to (c), an equivalent quantity of material.
- (4) For the purposes of subsection (3)(d), facilities are capable of handling an equivalent quantity of material if the sum of the relevant fractions is one or more.
- (5) The relevant fractions are—
- (a) to the extent that the facilities are for container ships—

$$\frac{x}{500,000}$$

where x is the number of TEU that the facilities are capable of handling;

- (b) to the extent that the facilities are for ro-ro ships—

$$\frac{y}{250,000}$$

where y is the number of units that the facilities are capable of handling;

- (c) to the extent that the facilities are for cargo ships of any other description—

$$\frac{z}{5,000,000}$$

where z is the number of tonnes of material that the facilities are capable of handling.

- (6) In this section—

“cargo ship” means a ship which is used for carrying cargo;

“container ship” means a cargo ship which carries all or most of its cargo in containers;

[^{F8}“reserved trust port” has the meaning given in section 32 of the Wales Act 2017;]

“ro-ro ship” means a ship which is used for carrying wheeled cargo;

“TEU” means a twenty-foot equivalent unit;

“unit” in relation to a ro-ro ship means any item of wheeled cargo (whether or not self-propelled).

Textual Amendments

F6 S. 24(1)(a) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 33(2), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(g)

F7 S. 24(2)(a) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 33(3), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(g)

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F8 Words in s. 24(6) inserted (1.4.2018) by Wales Act 2017 (c. 4), ss. 33(4), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(g)

Commencement Information

I2 S. 24 in force at 1.3.2010 by S.I. 2010/101, art. 4(b) (with art. 6)

25 Railways

- (1) Construction of a railway is within section 14(1)(k) only if—
- (a) the railway will (when constructed) be wholly in England,
 - (b) the railway will (when constructed) be part of a network operated by an approved operator,
 - [^{F9}(ba) the railway will (when constructed) include a stretch of track that—
 - (i) is a continuous length of more than 2 kilometres, and
 - (ii) is not on land that was operational land of a railway undertaker immediately before the construction work began or is on land that was acquired at an earlier date for the purpose of constructing the railway,] and
 - (c) the construction of the railway is not permitted development.

- (2) Alteration of a railway is within section 14(1)(k) only if—
- (a) the part of the railway to be altered is wholly in England,
 - (b) the railway is part of a network operated by an approved operator,
 - [^{F10}(ba) the alteration of the railway will include laying a stretch of track that—
 - (i) is a continuous length of more than 2 kilometres, and
 - (ii) is not on land that was operational land of a railway undertaker immediately before the alteration work began or is on land that was acquired at an earlier date for the purpose of the alteration,] and
 - (c) the alteration of the railway is not permitted development.

[^{F11}(2A) Construction or alteration of a railway is not within section 14(1)(k) to the extent that it takes place on the operational land of a railway undertaker unless that land was acquired for the purpose of the construction or alteration.]

- (3) Construction or alteration of a railway is not within section 14(1)(k) to the extent that the railway forms part (or will when constructed form part) of a rail freight interchange.
- (4) “Approved operator” means a person who meets the conditions in subsections (5) and (6).
- (5) The condition is that the person must be—
- (a) a person who is authorised to be the operator of a network by a licence granted under section 8 of the Railways Act 1993 (c. 43) (licences for operation of railway assets), or
 - (b) a wholly-owned subsidiary of a company which is such a person.
- (6) The condition is that the person is designated, or is of a description designated, in an order made by the Secretary of State.
- (7) In this section—
- “network” has the meaning given by section 83(1) of the Railways Act 1993 (c. 43);

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[^{F12}“operational land” has the same meaning as in the TCPA 1990;]

“permitted development” means development in relation to which planning permission is granted by article 3 of the Town and Country Planning (General Permitted Development) Order 1995;

[^{F12}“railway undertaker” has the same meaning as in Part 17 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995;]

“wholly-owned subsidiary” has the same meaning as in the Companies Act 2006 (c. 46) (see section 1159 of that Act).

- (8) [^{F13}In the definition of “permitted development” in subsection (7), the reference] to the Town and Country Planning (General Permitted Development) Order 1995 is to that Order as it has effect immediately before the day on which this section comes fully into force.

Textual Amendments

- F9** S. 25(1)(ba) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(2)** (with art. 5)
- F10** S. 25(2)(ba) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(3)** (with art. 5)
- F11** S. 25(2A) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(4)** (with art. 5)
- F12** Words in s. 25(7) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(5)** (with art. 5)
- F13** Words in s. 25(8) substituted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(6)** (with art. 5)

Commencement Information

- I3** S. 25 partly in force; s. 25 in force for certain purposes at Royal Assent see s. 241
- I4** S. 25 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 4(b)** (with art. 6)

26 Rail freight interchanges

- (1) The construction of a rail freight interchange is within section 14(1)(l) only if (when constructed) each of the conditions in subsections (3) to (7) is expected to be met in relation to it.
- (2) The alteration of a rail freight interchange is within section 14(1)(l) only if—
- following the alteration, each of the conditions in subsections (3)(a) and (4) to (7) is expected to be met in relation to it, and
 - the alteration is expected to have the effect specified in subsection (8).
- (3) The land on which the rail freight interchange is situated must—
- be in England, and
 - be at least 60 hectares in area.
- (4) The rail freight interchange must be capable of handling—
- consignments of goods from more than one consignor and to more than one consignee, and
 - at least 4 goods trains per day.

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- (5) The rail freight interchange must be part of the railway network in England.
- (6) The rail freight interchange must include warehouses to which goods can be delivered from the railway network in England either directly or by means of another form of transport.
- (7) The rail freight interchange must not be part of a military establishment.
- (8) The effect referred to in subsection (2)(b) is to increase by at least 60 hectares the area of the land on which the rail freight interchange is situated.
- (9) In this section—
“goods train” means a train that (ignoring any locomotive) consists of items of rolling stock designed to carry goods;
“military establishment” means an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence.
- (10) The following terms have the meanings given by section 83(1) of the Railways Act 1993—
“network”;
“rolling stock”;
“train”.

Commencement Information

I5 S. 26 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(b\)](#) (with [art. 6](#))

Changes to legislation:

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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](#)