



# Planning Act 2008

## 2008 CHAPTER 29

### PART 7

#### ORDERS GRANTING DEVELOPMENT CONSENT

#### CHAPTER 1

##### CONTENT OF ORDERS

##### *General*

#### **120 What may be included in order granting development consent**

- (1) An order granting development consent may impose requirements in connection with the development for which consent is granted.
- (2) The requirements may in particular include requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, or the giving of any notice, which (but for section 33(1)) would have been required for the development.
- (3) An order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted.
- (4) The provision that may be made under subsection (3) includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5.
- (5) An order granting development consent may—
  - (a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order;
  - (b) make such amendments, repeals or revocations of statutory provisions of local application as appear to the decision-maker to be necessary or expedient in consequence of a provision of the order or in connection with the order;

*Status: Point in time view as at 01/03/2010.*

*Changes to legislation: Planning Act 2008, Cross Heading: General is up to date with all changes known to be in force on or before 21 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)*

- (c) include any provision that appears to the decision-maker to be necessary or expedient for giving full effect to any other provision of the order;
  - (d) include incidental, consequential, supplementary, transitional or transitory provisions and savings.
- (6) In subsection (5) “statutory provision” means a provision of an Act or of an instrument made under an Act.
- (7) Subsections (3) to (6) are subject to subsection (8) and the following provisions of this Chapter.
- (8) An order granting development consent may not include provision—
- (a) making byelaws or conferring power to make byelaws;
  - (b) creating offences or conferring power to create offences;
  - (c) changing an existing power to make byelaws or create offences.
- (9) To the extent that provision for or relating to a matter may be included in an order granting development consent, none of the following may include any such provision—
- (a) an order under section 14 or 16 of the Harbours Act 1964 (c. 40) (orders in relation to harbours, docks and wharves);
  - (b) an order under section 4(1) of the Gas Act 1965 (c. 36) (order authorising storage of gas in underground strata);
  - (c) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as to railways, tramways, inland waterways etc.).

#### Commencement Information

**II** S. 120 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(e\)](#) (with [art. 6](#))

## 121 Proposed exercise of powers in relation to legislation

- (1) This section applies if a Panel, or the Council, proposes to make an order granting development consent which includes provision made in exercise of any of the powers conferred by section 120(5)(a) and (b) (“the legislation powers”).
- (2) Before making the order, the Panel or Council must send a draft of it to the Secretary of State.
- (3) If the Secretary of State thinks that any provision which the Panel or Council proposes to include in the order in exercise of the legislation powers would contravene Community law or any of the Convention rights, the Secretary of State may give a direction requiring the Panel or Council to make specified changes to the draft order.
- (4) The changes that may be specified in a direction under subsection (3) are limited to those that the Secretary of State thinks are required in order to prevent the contravention from arising.
- (5) The power of the Secretary of State to give a direction under subsection (3) is not exercisable after the end of the period of 28 days beginning with the day on which the Secretary of State receives the draft order.
- (6) In this section—

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“Community law” means—

- (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Community Treaties, and
- (b) all the remedies and procedures from time to time provided for by or under the Community Treaties;

“the Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42).

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**Commencement Information**

**I2** S. 121 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(e\)](#) (with [art. 6](#))

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**Changes to legislation:**

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