



# Growth and Infrastructure Act 2013

## 2013 CHAPTER 27

### *Other infrastructure provisions*

#### **18 Power stations: repeal of requirements to give notice**

- (1) In the Energy Act 1976—
  - (a) section 14 (fuelling of new and converted power stations: requirement to give notice to Secretary of State) is omitted, and
  - (b) in section 19 (penalties), in subsection (2)—
    - (i) omit paragraph (b) (including the “or” following it), and
    - (ii) in paragraph (c), omit “, 7 or 14(3)”.
- (2) In Schedule 16 to the Electricity Act 1989, paragraph 22 (which amends the provision repealed by subsection (1)(a)) is omitted.
- (3) In the Planning Act 2008—
  - (a) in section 33 (effect of requirement for development consent on other consent regimes), in subsection (1), omit paragraph (e), and
  - (b) in Schedule 2, paragraph 15 (which amends the provision repealed by subsection (1)(a)) is omitted.

#### **19 Conditions of licences under Gas Act 1986: payments to other licence-holders**

In section 7B of the Gas Act 1986 (general provisions about licences under section 7 for gas transporters, under section 7ZA for gas interconnectors, and under section 7A for gas suppliers and gas shippers) in subsection (5)(b)(ii) (gas transporter's licence may require payments to be made to holder of licence under section 7A) omit “under section 7A above”.

#### **20 Variation of consents under Electricity Act 1989**

- (1) The Electricity Act 1989 is amended as follows.
- (2) After section 36B insert—

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*Changes to legislation: There are currently no known outstanding effects for the Growth and Infrastructure Act 2013, Cross Heading: Other infrastructure provisions. (See end of Document for details)*

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### “36C Variation of consents under section 36

- (1) The person for the time being entitled to the benefit of a section 36 consent may make an application to the appropriate authority for the consent to be varied.
- (2) Regulations may make provision about the variation of a section 36 consent, including in particular provision about—
  - (a) the making and withdrawal of applications;
  - (b) fees;
  - (c) publicity and consultation requirements;
  - (d) rights to make representations;
  - (e) public inquiries;
  - (f) consideration of applications.
- (3) Regulations under subsection (2) may provide for any statutory provision applicable to the grant of a section 36 consent to apply with specified modifications to the variation of a section 36 consent.
- (4) On an application for a section 36 consent to be varied, the appropriate authority may make such variations to the consent as appear to the authority to be appropriate, having regard (in particular) to—
  - (a) the applicant's reasons for seeking the variation;
  - (b) the variations proposed;
  - (c) any objections made to the proposed variations, the views of consultees and the outcome of any public inquiry.
- (5) Regulations may make provision treating, for prescribed purposes, a section 36 consent varied under this section as granted in its varied form when the original consent was granted (rather than when the variation was made).
- (6) In this section—
 

“the appropriate authority” means—

  - (a) the Scottish Ministers, in a case where the section 36 consent relates to a generating station (or proposed generating station) in Scotland;
  - (b) the Marine Management Organisation, in a case where the section 36 consent was granted by it;
  - (c) the Secretary of State, in any other case;

“regulations” means regulations made by—

  - (a) the Scottish Ministers, in the case of section 36 consents relating to generating stations (or proposed generating stations) in Scotland;
  - (b) the Secretary of State, in any other case;

“Scotland” has the same meaning as in section 32(2) (see section 32(3));

“section 36 consent” means a consent granted under section 36 (construction, extension or operation of generating station), whenever granted;

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“statutory provision” means a provision of or made under an Act, whenever passed or made; and for this purpose “Act” includes an Act of the Scottish Parliament.”

(3) In section 106 (regulations and orders)—

(a) after subsection (1) insert—

“(1ZA) Subsection (1) does not apply to the power conferred on the Scottish Ministers by section 36C.”;

(b) after subsection (2) insert—

“(3) Regulations made by the Scottish Ministers under section 36C are subject to the negative procedure.”

**Annotations:**

**Commencement Information**

**I1** S. 20

in force at 31.7.2013 in relation to E.W. so far as it is not already in force by  
S.I. 2013/1488

,

**art. 5(a)**

**I2** S. 20

in force at 1.12.2013 in relation to S. so far as it is not already in force by  
S.I. 2013/1488

,

**art. 7**

**21 Consents under Electricity Act 1989: deemed planning permission**

(1) Section 90 of the Town and Country Planning Act 1990 (deemed planning permission: development with government authorisation) is amended as set out in subsections (2) and (3).

(2) For subsection (2) substitute—

“(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—

(a) so much of the operation or change of use to which the consent relates as constitutes development;

(b) any development ancillary to the operation or change of use to which the consent relates.

(2ZA) On varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—

(a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;

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- (b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;
  - (c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a condition subject to which a new or varied planning permission is deemed to be granted.”
- (3) For subsection (5) substitute—
- “(5) In subsection (2), the reference to ancillary development, in the case of a consent relating to the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station.
- (6) In this section, references to England or Wales include—
- (a) waters adjacent to England or Wales up to the seaward limits of the territorial sea, and
  - (b) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (7) In this section “electric line”, “extension”, “generating station” and “Renewable Energy Zone” have the same meanings as in Part 1 of the Electricity Act 1989.”
- (4) Section 57 of the Town and Country Planning (Scotland) Act 1997 (deemed planning permission: development with government authorisation) is amended as set out in subsections (5) and (6).
- (5) For subsection (2) substitute—
- “(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—
- (a) so much of the operation or change of use to which the consent relates as constitutes development;
  - (b) any development ancillary to the operation or change of use to which the consent relates.
- (2ZA) On varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—
- (a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;
  - (b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;
  - (c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a

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condition subject to which a new or varied planning permission is deemed to be granted.”

- (6) In subsection (5), for “In subsection (2) “ancillary development”, in relation to development consisting of” substitute “ In subsection (2)(b), the reference to ancillary development, in the case of a consent relating to ”.

**Annotations:**

**Commencement Information**

- I3** [S. 21\(1\)-\(3\)](#)  
in force at 31.7.2013 by  
[S.I. 2013/1488](#)  
,  
[art. 5\(b\)](#)
- I4** [S. 21\(4\)-\(6\)](#)  
in force at 1.12.2013 by  
[S.S.I. 2013/303](#)  
,  
[art. 2](#)

**22 Variation and replacement of pre-Planning Act 2008 consents**

- (1) After section 237 of the Planning Act 2008 insert—

**“237A Variation and replacement of section 33 consents: transitional provision**

- (1) This section applies where a section 33 consent (“the original consent”) has been granted or made as a result of an application made before Part 4 came into force.
- (2) Nothing in section 33 prevents the original consent, or a section 33 consent that replaces it, from being varied or replaced.
- (3) If the original consent, or a section 33 consent that replaces it, is varied or replaced, section 31 does not apply to the development to which the consent as varied, or the replacement consent, relates (and so development consent is not required for that development).
- (4) A section 33 consent replaces an earlier section 33 consent for the purposes of this section if (but only if)—
- (a) it is granted or made on an application for consent for development without complying with conditions subject to which the earlier section 33 consent was granted or made, and
  - (b) it is granted subject to, or made on, different conditions, or unconditionally.
- (5) In this section “section 33 consent” means a consent, authorisation, order, notice or scheme mentioned in section 33(1), (2) or (4).”
- (2) This section is deemed to have had effect since Part 4 of the Planning Act 2008 came into force.

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**Annotations:****Commencement Information**

- I5** [S. 22](#)  
in force at 25.6.2013 by  
[S.I. 2013/1124](#)  
,  
[art. 4\(a\)](#)

**23 Removal of Planning Act 2008 consent and certification requirements**

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 127 (compulsory acquisition of statutory undertakers' land, and rights over statutory undertakers' land)—
- (a) in subsection (2), for the words from “Secretary of State” to the end substitute “ Secretary of State is satisfied of the matters set out in subsection (3). ”;
  - (b) in subsection (5), for the words from “Secretary of State” to the end substitute “ Secretary of State is satisfied of the matters set out in subsection (6). ”;
  - (c) omit subsection (7).
- (3) Section 137 (consent of statutory undertakers etc required to extinguishment of right of way over land on which they have apparatus) is repealed.
- (4) In section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc)—
- (a) in subsection (4), for the words from “only if” to the end substitute “ only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates. ”;
  - (b) after subsection (4) insert—
 

“(4A) In this section “statutory undertakers” means persons who are, or are deemed to be, statutory undertakers for the purpose of any provision of Part 11 of TCPA 1990.

(4B) In this section the following terms have the meanings given in paragraph 1(1) of Schedule 17 to the Communications Act 2003—

“electronic communications apparatus”;

“electronic communications code”;

“electronic communications code network”;

“operator”.”;
  - (c) omit subsections (5) and (6).
- (5) In Schedule 12 (modifications of Act in its application to Scotland), in paragraph 18, for “Section 137(7)” substitute “ Section 138(4A) ”.

**Annotations:****Commencement Information**

- I6** [S. 23](#)  
in force at 25.6.2013 by  
[S.I. 2013/1124](#)

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,  
[art. 4\(b\)](#)  
(with  
[art. 6](#)  
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## 24 Special parliamentary procedure in cases under the Planning Act 2008

- (1) Sections 128 and 129 of the Planning Act 2008 (special parliamentary procedure applies to certain orders granting development consent which authorise compulsory acquisition of land belonging to a local authority or statutory undertaker) are repealed.
- (2) In section 131 of the Planning Act 2008 (special parliamentary procedure applies to certain orders granting development consent which authorise compulsory acquisition of land forming part of a common, open space, fuel allotment or field garden allotment)
  - (a) in subsection (3) (special parliamentary procedure does not apply if Secretary of State certifies that subsection (4) or (5) applies) for the words from “unless” to the end substitute “unless—
    - “(a) the Secretary of State is satisfied that one of subsections (4) to (5) applies, and
    - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.”,
  - (b) after subsection (4) insert—
    - “(4A) This subsection applies if—
      - (a) the order land is, or forms part of, an open space,
      - (b) none of the order land is of any of the other descriptions in subsection (1),
      - (c) either—
        - (i) there is no suitable land available to be given in exchange for the order land, or
        - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and
      - (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special parliamentary procedure.
    - (4B) This subsection applies if—
      - (a) the order land is, or forms part of, an open space,
      - (b) none of the order land is of any of the other descriptions in subsection (1), and
      - (c) the order land is being acquired for a temporary (although possibly long-lived) purpose.”, and
    - (c) omit subsections (6) to (10) (provision about certificates under subsection (3) (b)).
  - (3) In section 132 of the Planning Act 2008 (special parliamentary procedure applies to certain orders granting development consent which authorise compulsory acquisition

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of rights over land forming part of a common, open space, fuel allotment or field garden allotment)—

(a) in subsection (2) (special parliamentary procedure does not apply if Secretary of State certifies that one of subsections (3) to (5) applies) for the words from “unless” to the end substitute “unless—

(a) the Secretary of State is satisfied that one of subsections (3) to (5) applies, and

(b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.”,

(b) after subsection (4) insert—

“(4A) This subsection applies if—

(a) the order land is, or forms part of, an open space,

(b) none of the order land is of any of the other descriptions in subsection (1),

(c) either—

(i) there is no suitable land available to be given in exchange for the order right, or

(ii) any suitable land available to be given in exchange is available only at prohibitive cost, and

(d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special parliamentary procedure.

(4B) This subsection applies if—

(a) the order land is, or forms part of, an open space,

(b) none of the order land is of any of the other descriptions in subsection (1), and

(c) the order right is being acquired for a temporary (although possibly long-lived) purpose.”, and

(c) omit subsections (6) to (10) (provision about certificates under subsection (2) (b)).

(4) In consequence of subsection (1) the following are repealed—

(a) paragraphs 12 and 13 of Schedule 12 to the Planning Act 2008 (application of sections 128 and 129 to Scotland),

(b) section 141(2) of the Localism Act 2011 (which amended section 128), and

(c) paragraph 60 of Schedule 22 to that Act (which amended section 129).

(5) In section 130 of the Planning Act 2008 (special parliamentary procedure where order granting development consent authorises acquisition of inalienable National Trust land despite Trust's objections) after subsection (3) insert—

“(3A) In a case to which this section applies and to which section 131 or 132 also applies, special parliamentary procedure—

(a) may be required by subsection (2) whether or not also required by section 131(3) or 132(2), and

(b) may be required by section 131(3) or 132(2) whether or not also required by subsection (2).”

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- (6) An amendment or repeal made by this section applies in relation to any order granting development consent which is made after the amendment or repeal comes into force.

**Annotations:**

**Commencement Information**

**I7** [S. 24](#)  
in force at 25.6.2013 by  
[S.I. 2013/1124](#)  
,  
[art. 4\(c\)](#)  
(with  
[art. 7](#)  
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## **25 Modifications of special parliamentary procedure in certain cases**

- (1) The Statutory Orders (Special Procedure) Act 1945 is amended as follows.
- (2) In section 1(1) (Act applies where subsequent Act requires an order to be subject to parliamentary procedure) after “provision is made requiring that any such order shall be subject to special parliamentary procedure” insert “ or requiring that any such order shall be subject to special parliamentary procedure to a limited extent ”.
- (3) In section 1 after subsection (2) insert—
- “(3) In this Act “special-acquisition provision” means—
- (a) section 130, 131 or 132 of the Planning Act 2008 (certain orders granting development consent which also authorise compulsory acquisition of, or of rights over, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment),
  - (b) section 17, 18 or 19 of, or paragraph 4, 5 or 6 of Schedule 3 to, the Acquisition of Land Act 1981 (certain compulsory purchase orders which authorise compulsory acquisition of, or of rights over, land of a local authority or statutory undertaker, inalienable National Trust land, or land forming part of a common, open space or fuel or field garden allotment),
  - (c) paragraph 22 of Schedule 3 to the Harbours Act 1964 (harbour revision or empowerment order authorising compulsory purchase of, or of rights over, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment),
  - (d) paragraph 12 or 13 of Schedule 4 to the New Towns Act 1981 (order authorising compulsory purchase of local authority land, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment), or
  - (e) section 12 of the Transport and Works Act 1992 (order authorising compulsory purchase of, or of rights over, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment).

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- (4) A reference in this Act to land to which a special-acquisition provision applies is to be read as follows—
- (a) “land” has the same meaning as it has for the purposes of the special-acquisition provision, and
  - (b) in the case of a special-acquisition provision mentioned in subsection (3)(c) or (e), the reference is to—
    - (i) land (as so defined) belonging to the National Trust which is held by the Trust inalienably, or
    - (ii) land (as so defined) forming part of a common, open space or fuel or field garden allotment.
- (5) The definition of “the National Trust” given by section 7(1) of the Acquisition of Land Act 1981, and section 18(3) of that Act (meaning of “held inalienably”), apply for the purposes of subsection (4)(b)(i).
- (6) In subsection (4)(b)(ii) “common”, “fuel or field garden allotment” and “open space” have the same meaning as in section 19 of that Act.”
- (4) After section 1 insert—

**“1A Order subject to special parliamentary procedure only so far as authorising certain acquisitions of land or rights**

- (1) Where under a special-acquisition provision an order is subject to special parliamentary procedure so far as the order authorises compulsory acquisition of, or of a right over, land to which that provision applies, sections 3 to 7 of this Act apply in relation to the order with the modifications specified in subsections (3) to (19).
- (2) Where those sections apply with those modifications in relation to an order, in subsections (3) to (19) “the special authorisation” means the order so far as it authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.
- (3) In section 3(1) the reference to a petition duly presented against the order is to be read as a reference to a petition duly presented against the special authorisation.
- (4) In section 3(2)—
  - (a) the reference to petitions against an order to which this Act applies is to be read as a reference to petitions against the special authorisation, and
  - (b) in paragraphs (a) and (b) a reference to the order is to be read as a reference to the special authorisation.
- (5) In section 3(4) a reference to the order is to be read as a reference to the special authorisation.
- (6) In section 3(4A)—
  - (a) the reference in the opening words to the order to which a petition relates is to be read as a reference to the order containing the special authorisation to which a petition relates, and

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- (b) in paragraph (a) the reference to the order being one that relates to proposals of the kind mentioned is to be read as a reference to the Chairmen being of the opinion that removal of the special authorisation from the order would be inconsistent with proposals of that kind.
- (7) In section 3(5)—
  - (a) the reference to every order to which this Act applies is to be read as a reference to the special authorisation, and
  - (b) the reference to every such report is to be read as a reference to the report of the Chairmen in respect of the special authorisation.
- (8) In section 4(1)—
  - (a) the reference to any order to which this Act applies is to be read as a reference to the special authorisation,
  - (b) the reference to resolving that an order be annulled is to be read as a reference to resolving that the special authorisation be annulled,
  - (c) the reference to an order becoming void is to be read as a reference to the special authorisation becoming void, and
  - (d) the reference to taking no further proceedings on an order is to be read as a reference to taking no further proceedings on the special authorisation.
- (9) In section 4(2) the reference to the order is to be read as a reference to the special authorisation.
- (10) In section 4(3)—
  - (a) the reference to neither House resolving that the order be annulled is to be read as a reference to neither House resolving that the special authorisation be annulled, and
  - (b) the reference to petitions relating to the order is to be read as a reference to petitions relating to the special authorisation.
- (11) Section 4 is to be read as if after subsection (3) there were inserted—
  - “(4) Where either House resolves during the resolution period that the special authorisation be annulled, the Minister is to either—
    - (a) withdraw the order by notice given in the prescribed manner, or
    - (b) cause the order to be submitted to Parliament for further consideration by means of a Bill for the confirmation of the order.
  - (5) A Bill presented for the purposes of subsection (4)(b) must set out the order as laid before Parliament under section 1(2) of this Act, and any such Bill is to be treated as a public bill, except that—
    - (a) where a petition for amendment of the special authorisation was certified as proper to be received, the Bill—
      - (i) after being read a second time in the House in which it is presented, is to be referred to a joint committee of both Houses for the purposes of the consideration of that petition,
      - (ii) after it has been reported by the joint committee, is to be ordered to be considered in the House in which it is presented as if it had been reported by a committee of that House, and

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- (iii) when it has been read a third time and passed in that House, is to be treated as having passed through all its stages up to and including committee in the second House;
  - (b) where no such petition has been so certified—
    - (i) the Bill is after its presentation to be treated as having passed all its stages up to and including committee in the House in which it is presented,
    - (ii) the Bill is to be ordered to be considered in that House as if it had been reported from a committee of that House, and
    - (iii) when the Bill has been read a third time and passed in that House, the like proceedings are to be taken on the Bill in the second House.”
- (12) In section 5(1)—
  - (a) the reference to any petition against an order to which this Act applies is to be read as a reference to any petition against the special authorisation,
  - (b) the reference to the order standing referred to a committee is to be read as a reference to the special authorisation standing referred to that committee, and
  - (c) the reference to the committee's power to report the order is to be read as a reference to the committee's power to report the special authorisation.
- (13) In section 5(2) a reference to the order is to be read as a reference to the special authorisation.
- (14) In section 5(3) the reference to any order to which this Act applies is to be read as a reference to the special authorisation.
- (15) In section 6(1) the reference to an order to which this Act applies being reported without amendment is to be read as a reference to the special authorisation being reported without amendment.
- (16) In section 6(2) the reference to any such order being reported with amendments is to be read as a reference to the special authorisation being reported with amendments.
- (17) In section 6(3) the reference to it being reported, with respect to any such order, that the order be not approved is to be read as a reference to it being reported that the special authorisation be not approved.
- (18) In section 6(5)—
  - (a) the requirement for a Bill to set out the order as referred to the joint committee is to be read as a requirement for the Bill to set out the order as laid under section 1(2) of this Act, and
  - (b) in paragraph (a) the reference to a petition for amendment of the order is to be read as a petition for amendment of the special authorisation.
- (19) In section 7 a reference to an order to which this Act applies is to be read as a reference to the special authorisation.”
- (5) After section 9 insert—

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## **“9A Standing Orders in cases where section 1A applies**

- (1) In this section, a reference to a special-acquisition order is to an order which, under a special-acquisition provision, is subject to special parliamentary procedure so far as it authorises compulsory acquisition of, or of a right over, land to which that provision applies.
- (2) A reference in section 9(a) or (d) of this Act to an order to which this Act applies is, in the case of a special-acquisition order, to be read as a reference to that order so far as it authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.
- (3) The reference in section 9(f) of this Act to any order is, in the case of a special-acquisition order, to be read as a reference to that order so far as it authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.
- (4) The reference in section 9(g) of this Act to section 6 of this Act is to be read as a reference to section 4 or 6 of this Act.
- (5) Where Standing Orders of either House of Parliament make provision that relates to orders to which this Act applies and is for a purpose mentioned in section 9 then, unless the Standing Orders provide otherwise, the provision applies in relation to a special-acquisition order only so far as the order authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.”
- (6) In section 11(1) (interpretation) after the definition of “Prescribed” insert—

““Special-acquisition provision” has the meaning given by section 1(3) of this Act;”.
- (7) In the Acquisition of Land Act 1981—
  - (a) in sections 17(2) and 18(2) (certain compulsory purchase orders subject to special parliamentary procedure so far as authorising acquisition of special land if owner objects to the order) for “the order” substitute “ the compulsory purchase of the land ”, and
  - (b) in paragraphs 4(2) and 5(2) of Schedule 3 (certain compulsory purchase orders subject to special parliamentary procedure so far as authorising acquisition of rights over special land if owner objects to the order) for “the order” substitute “ the compulsory purchase of the rights ”.
- (8) In paragraph 12 of Schedule 4 to the New Towns Act 1981 (certain compulsory purchase orders subject to special parliamentary procedure so far as authorising acquisition of special land if owner objects to the order) for “to the order” substitute “ to the acquisition of the land ”.
- (9) In each of the following provisions (which refer to orders confirmed by Act under section 6 of the 1945 Act) before “6” insert “ 4 or ”

section 44(1) of the Harbours Act 1964,  
section 27 of the Acquisition of Land Act 1981,  
paragraph 16(a) of Schedule 4 to the New Towns Act 1981,  
paragraph 6(6)(a) of Schedule 11 to the Water Industry Act 1991,

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paragraph 6(6)(a) of Schedule 19 to the Water Resources Act 1991, and section 12(3)(b) of the Transport and Works Act 1992.

- (10) An amendment made by subsection (4) or (5), so far as it applies to orders granting development consent, applies to any such order made after the amendment comes into force.

**Annotations:**

**Commencement Information**

- I8** S. 25(1)-(6)  
(10)  
in force at 25.6.2013 in so far as not already in force by  
S.I. 2013/1488  
,  
**art. 3(e)**  
(with  
art. 8  
)
- I9** S. 25(1)-(6)  
(10)  
in force at 25.6.2013 for specified purposes by  
S.I. 2013/1124  
,  
**art. 4(d)**  
(with  
art. 8  
)
- I10** S. 25(7)-(9)  
in force at 25.6.2013 by  
S.I. 2013/1488  
,  
**art. 3(e)**  
(with  
art. 8  
)

**26 Bringing business and commercial projects within Planning Act 2008 regime**

- (1) The Planning Act 2008 is amended as follows.  
(2) For section 35 substitute—

**“35 Directions in relation to projects of national significance**

- (1) The Secretary of State may give a direction for development to be treated as development for which development consent is required.

This is subject to the following provisions of this section and section 35ZA.

- (2) The Secretary of State may give a direction under subsection (1) only if—  
(a) the development is or forms part of—

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- (i) a project (or proposed project) in the field of energy, transport, water, waste water or waste, or
    - (ii) a business or commercial project (or proposed project) of a prescribed description,
  - (b) the development will (when completed) be wholly in one or more of the areas specified in subsection (3), and
  - (c) the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with—
    - (i) in a case within paragraph (a)(i), one or more other projects (or proposed projects) in the same field;
    - (ii) in a case within paragraph (a)(ii), one or more other business or commercial projects (or proposed projects) of a description prescribed under paragraph (a)(ii).
- (3) The areas are—
- (a) England or waters adjacent to England up to the seaward limits of the territorial sea;
  - (b) in the case of a project for the carrying out of works in the field of energy, a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (4) The Secretary of State may give a direction under subsection (1) only with the consent of the Mayor of London if—
- (a) all or part of the development is or will be in Greater London, and
  - (b) the development is or forms part of a business or commercial project (or proposed project) of a description prescribed under subsection (2)(a)(ii).
- (5) Regulations under subsection (2)(a)(ii) may not prescribe a description of project which includes the construction of one or more dwellings.

### **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.

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- (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.
- (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

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- (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.”
- (3) In section 35A (timetable for deciding request for direction under section 35), in subsection (5), in the definition of “qualifying request”, for “35(10)” substitute “35ZA(11) ”;
- (4) In section 232 (orders and regulations)—
  - (a) in subsection (5)(e) (regulations not subject to negative procedure), after “section” insert “ 35(2)(a)(ii), ”;
  - (b) in subsection (7) (regulations subject to affirmative procedure), after “section” insert “ 35(2)(a)(ii), ”.

## 27 Authorisation of road user charging under Planning Act 2008

- (1) Section 144 of the Planning Act 2008 (content of order granting development consent: highways) is amended as follows.
- (2) After subsection (2) insert—
  - “(2A) Subsection (2) does not apply to an order that includes provision authorising other charges in respect of the use or keeping of motor vehicles on roads.
  - (2B) In subsection (2A)—
    - “motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exceptions: certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of the Road Traffic Acts;
    - “road” has the meaning given in section 142(1) of the Road Traffic Regulation Act 1984.”
- (3) Omit subsection (3).

### Annotations:

#### Commencement Information

**III** [S. 27](#)  
in force at 25.6.2013 by  
[S.I. 2013/1124](#)  
,  
[art. 9](#)  
(with  
[arts. 10](#)  
,  
[11](#)  
)

## 28 Delegation of planning functions by Mayor of London

- (1) In section 38 of the Greater London Authority Act 1999 (delegation) after subsection (2A) insert—

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“(2B) In relation to a function listed in subsection (2C), subsection (2) has effect—

- (a) as if paragraph (b) referred only to members of staff appointed under section 67(1), and
- (b) with the omission of paragraphs (c) to (f).

(2C) The functions referred to in subsection (2B) are—

- (a) the function of giving a direction under section 2A(1) or (1B) of the Town and Country Planning Act 1990 (call-in of planning applications by the Mayor), and
- (b) the function of determining an application by virtue of section 2A or 2B of that Act.”

(2) In consequence of subsection (1), omit section 2B(8) of the Town and Country Planning Act 1990 (which disapplies section 38(1) of the 1999 Act in relation to functions under sections 2A and 2B of the 1990 Act).

**Annotations:**

**Commencement Information**

**I12** [S. 28](#)  
in force at 1.10.2013 by  
[S.I. 2013/2143](#)  
,  
[art. 2\(c\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Growth and Infrastructure Act 2013,  
Cross Heading: Other infrastructure provisions.