Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Planning Act 2008

2008 CHAPTER 29

An Act to establish the Infrastructure Planning Commission and make provision about its functions; to make provision about, and about matters ancillary to, the authorisation of projects for the development of nationally significant infrastructure; to make provision about town and country planning; to make provision about the imposition of a Community Infrastructure Levy; and for connected purposes. [26th November 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

[F1 INFRASTRUCTURE PLANNING: FEES]

Textual Amendments

F1 Words in Pt. 1 heading substituted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 3(5)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

F2 1 The Infrastructure Planning Commission

. . . . . .

Textual Amendments

F2 Ss. 1-3 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 2, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

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[F2]2 Code of conduct

. . . . . .

Textual Amendments

F2 Ss. 1-3 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 2, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

[F2]3 Register of Commissioners' interests

. . . . . .

Textual Amendments

F2 Ss. 1-3 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 2, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

4 Fees

(1) The Secretary of State may make regulations providing for the **[**[F3]charging of fees by the Secretary of State in connection with the performance of any of the Secretary of State's major-infrastructure functions**]**.

(2) Regulations under subsection (1) may in particular make provision—

(a) about when a fee (including a supplementary fee) may, and may not, be charged;

(b) about the amount which may be charged;

(c) about what may, and may not, be taken into account in calculating the amount charged;

(d) about who is liable to pay a fee charged;

(e) about when a fee charged is payable;

(f) about the recovery of fees charged;

(g) about waiver, reduction or repayment of fees;

(h) about the effect of paying or failing to pay fees charged;

(i) for the supply of information for any purpose of the regulations.

(3) The regulations may provide for the amounts of fees to be calculated by reference to costs **[**[F4]incurred by the Secretary of State**]**—

(a) in the performance of any of **[**[F5]the Secretary of State's major-infrastructure functions**]**, and

(b) in doing anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of **[**[F5]the Secretary of State's major-infrastructure functions**]**.

[[F6](4) In this section "the Secretary of State's major-infrastructure functions" means—

(a) the Secretary of State's functions under Parts 2 to 8 and under Part 12 so far as applying for the purposes of those Parts,

(b) the giving of advice to which section 51 applies, and

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(c) the Secretary of State's functions, in relation to proposed applications for orders granting development consent, under statutory provisions implementing—

(i) Council Directive 85/337/ EC on the assessment of the effects of certain public and private projects on the environment, as amended from time to time, or

(ii) provisions of an EU instrument which from time to time replace provisions of that Directive.

(5) In subsection (4)(c) "statutory provision" means a provision of an Act or of an instrument made under an Act. **]**

Textual Amendments

F3 Words in s. 4(1) substituted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 3(2)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

F4 Words in s. 4(3) substituted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 3(3)(a)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

F5 Words in s. 4(3) substituted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 3(3)(b)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

F6 S. 4(4)(5) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 3(4)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

Commencement Information

I1 S. 4 in force at 1.10.2009 in so far as not already in force by S.I. 2009/2260, **art. 2(a)**

PART 2

NATIONAL POLICY STATEMENTS

5 National policy statements

(1) The Secretary of State may designate a statement as a national policy statement for the purposes of this Act if the statement—

(a) is issued by the Secretary of State, and

(b) sets out national policy in relation to one or more specified descriptions of development.

(2) In this Act "national policy statement" means a statement designated under subsection (1) as a national policy statement for the purposes of this Act.

(3) Before designating a statement as a national policy statement for the purposes of this Act the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the statement.

(4) A statement may be designated as a national policy statement for the purposes of this Act only if the consultation and publicity requirements set out in section 7, and the

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parliamentary requirements set out in section 9, have been complied with in relation to it **[**[F7]and—

(a) the consideration period for the statement has expired without the House of Commons resolving during that period that the statement should not be proceeded with, or

(b) the statement has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period.**]**

[[F8](4A) In subsection (4) "the consideration period", in relation to a statement, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament under section 9(8), and here "sitting day" means a day on which the House of Commons sits.**]**

(5) The policy set out in a national policy statement may in particular—

(a) set out, in relation to a specified description of development, the amount, type or size of development of that description which is appropriate nationally or for a specified area;

(b) set out criteria to be applied in deciding whether a location is suitable (or potentially suitable) for a specified description of development;

(c) set out the relative weight to be given to specified criteria;

(d) identify one or more locations as suitable (or potentially suitable) or unsuitable for a specified description of development;

(e) identify one or more statutory undertakers as appropriate persons to carry out a specified description of development;

(f) set out circumstances in which it is appropriate for a specified type of action to be taken to mitigate the impact of a specified description of development.

(6) If a national policy statement sets out policy in relation to a particular description of development, the statement must set out criteria to be taken into account in the design of that description of development.

(7) A national policy statement must give reasons for the policy set out in the statement.

(8) The reasons must (in particular) include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change.

(9) The Secretary of State must—

(a) arrange for the publication of a national policy statement, [F9]...

[F10](b) . . . . . .

(10) In this section "statutory undertakers" means persons who are, or are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of TCPA 1990.

Textual Amendments

F7 Words in s. 5(4) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F8 S. 5(4A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(3)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F9 Word in s. 5(9)(a) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7(b)

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F10 S. 5(9)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 130(4), 240(2), **Sch. 25 Pt. 20** (with s. 144); S.I. 2012/628, art. 7

Commencement Information

I2 S. 5 in force at 6.4.2009 by S.I. 2009/400, **art. 2**

6 Review

(1) The Secretary of State must review each national policy statement whenever the Secretary of State thinks it appropriate to do so.

(2) A review may relate to all or part of a national policy statement.

(3) In deciding when to review a national policy statement the Secretary of State must consider whether—

(a) since the time when the statement was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the statement was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out in the statement would have been materially different.

(4) In deciding when to review part of a national policy statement ("the relevant part") the Secretary of State must consider whether—

(a) since the time when the relevant part was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the relevant part was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out in the relevant part would have been materially different.

(5) After completing a review of all or part of a national policy statement the Secretary of State must do one of the following—

(a) amend the statement;

(b) withdraw the statement's designation as a national policy statement;

(c) leave the statement as it is.

(6) Before amending a national policy statement the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the proposed amendment.

(7) The Secretary of State may amend a national policy statement only if the consultation and publicity requirements set out in section 7, and the parliamentary requirements set out in section 9, have been complied with in relation to the proposed amendment **[**[F11]and—

(a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should not be proceeded with, or

(b) the amendment has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period.**]**

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[[F12](7A) In subsection (7) "the consideration period", in relation to an amendment, means the period of 21 sitting days beginning with the first sitting day after the day on which the amendment is laid before Parliament under section 9(8), and here "sitting day" means a day on which the House of Commons sits.**]**

(8) Subsections (6) **[**[F13]to (7A)**]** do not apply if the Secretary of State thinks that the proposed amendment (taken with any other proposed amendments) does not materially affect the policy as set out in the national policy statement.

(9) If the Secretary of State amends a national policy statement, the Secretary of State must—

(a) arrange for the amendment, or the statement as amended, to be published, and

(b) lay the amendment, or the statement as amended, before Parliament.

Textual Amendments

F11 Words in s. 6(7) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(5)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F12 S. 6(7A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(6)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F13 Words in s. 6(8) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(7)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I3 S. 6 in force at 6.4.2009 by S.I. 2009/400, **art. 2**

[[F14]6A Interpretation of sections 5(4) and 6(7)

(1) This section applies for the purposes of section 5(4) and 6(7).

(2) The consultation and publicity requirements set out in section 7 are to be treated as having been complied with in relation to a statement or proposed amendment ("the final proposal") if—

(a) they have been complied with in relation to a different statement or proposed amendment ("the earlier proposal"),

(b) the final proposal is a modified version of the earlier proposal, and

(c) the Secretary of State thinks that the modifications do not materially affect the policy as set out in the earlier proposal.

(3) The consultation and publicity requirements set out in section 7 are also to be treated as having been complied with in relation to a statement or proposed amendment ("the final proposal") if—

(a) they have been complied with—

(i) in relation to a different statement or proposed amendment ("the earlier proposal"), and

(ii) in relation to modifications of the earlier proposal ("the main modifications"),

(b) the final proposal is a modified version of the earlier proposal, and

(c) there are no modifications other than the main modifications or, where the modifications include modifications other than the main modifications, the

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Secretary of State thinks that those other modifications do not materially affect the policy as set out in the earlier proposal modified by the main modifications.

(4) If section 9(8) has been complied with in relation to a statement or proposed amendment ("the final proposal"), the parliamentary requirements set out in section 9(2) to (7) are to be treated as having been complied with in relation to the final proposal where—

(a) the final proposal is not the same as what was laid under section 9(2), but

(b) those requirements have been complied with in relation to what was laid under section 9(2).

(5) Ignore any corrections of clerical or typographical errors in what was laid under section 9(8).

Textual Amendments

F14 Ss. 6A, 6B inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(8)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

6B Extension of consideration period under section 5(4A) or 6(7A)

(1) The Secretary of State may—

(a) in relation to a proposed national policy statement, extend the period mentioned in section 5(4A), or

(b) in relation to a proposed amendment of a national policy statement, extend the period mentioned in section 6(7A),

by 21 sitting days or less.

(2) The Secretary of State does that by laying before the House of Commons a statement—

(a) indicating that the period is to be extended, and

(b) setting out the length of the extension.

(3) The statement under subsection (2) must be laid before the period would have expired without the extension.

(4) The Secretary of State must publish the statement under subsection (2) in a way the Secretary of State thinks appropriate.

(5) The period may be extended more than once.**]**

Textual Amendments

F14 Ss. 6A, 6B inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(8)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

7 Consultation and publicity

(1) This section sets out the consultation and publicity requirements referred to in sections 5(4) and 6(7).

(2) The Secretary of State must carry out such consultation, and arrange for such publicity, as the Secretary of State thinks appropriate in relation to the proposal.

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This is subject to subsections (4) and (5).

(3) In this section "the proposal" means—

(a) the statement that the Secretary of State proposes to designate as a national policy statement for the purposes of this Act, or

(b) (as the case may be) the proposed amendment.

(4) The Secretary of State must consult such persons, and such descriptions of persons, as may be prescribed.

(5) If the policy set out in the proposal identifies one or more locations as suitable (or potentially suitable) for a specified description of development, the Secretary of State must ensure that appropriate steps are taken to publicise the proposal.

(6) The Secretary of State must have regard to the responses to the consultation and publicity in deciding whether to proceed with the proposal.

Commencement Information

I4 S. 7 partly in force; s. 7 in force for certain purposes at Royal Assent see s. 241

I5 S. 7 in force at 6.4.2009 in so far as not already in force by S.I. 2009/400, **art. 2**

8 Consultation on publicity requirements

(1) In deciding what steps are appropriate for the purposes of section 7(5), the Secretary of State must consult—

(a) each local authority that is within subsection (2) **[**[F15], (3) or (3A)**]**, and

(b) the Greater London Authority, if any of the locations concerned is in Greater London.

(2) A local authority is within this subsection if any of the locations concerned is in the authority's area.

(3) A local authority ("A") is within this subsection if—

(a) any of the locations concerned is in the area of another local authority ("B"),

[[F16](aa) B is a unitary council or a lower-tier district council,**]** and

(b) any part of the boundary of A's area is also a part of the boundary of B's area.

[[F17](3A) If any of the locations concerned is in the area of an upper-tier county council ("C"), a local authority ("D") is within this subsection if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.**]**

(4) In this section "local authority" means—

(a) a county council, or district council, in England;

(b) a London borough council;

(c) the Common Council of the City of London;

(d) the Council of the Isles of Scilly;

(e) a county council, or county borough council, in Wales;

(f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

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(g) a National Park authority;
(h) the Broads Authority.

[[F18](5) In this section—

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council.**]**

Textual Amendments

F15 Words in s. 8(1)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(9)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F16 S. 8(3)(aa) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(10)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F17 S. 8(3A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(11)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F18 S. 8(5) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(12)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Modifications etc. (not altering text)

C1 S. 8(1) excluded (14.8.2015) by The Progress Power (Gas Fired Power Station) Order 2015 (S.I. 2015/1570), arts. 1, **25(1)**

Commencement Information

I6 S. 8 in force at 6.4.2009 by S.I. 2009/400, **art. 2**

9 Parliamentary requirements

(1) This section sets out the parliamentary requirements referred to in sections 5(4) and 6(7).

(2) The Secretary of State must lay the proposal before Parliament.

(3) In this section "the proposal" means—

(a) the statement that the Secretary of State proposes to designate as a national policy statement for the purposes of this Act, or
(b) (as the case may be) the proposed amendment.

(4) Subsection (5) applies if, during the relevant period—

(a) either House of Parliament makes a resolution with regard to the proposal, or
(b) a committee of either House of Parliament makes recommendations with regard to the proposal.

(5) The Secretary of State must lay before Parliament a statement setting out the Secretary of State's response to the resolution or recommendations.

(6) The relevant period is the period specified by the Secretary of State in relation to the proposal.

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(7) The Secretary of State must specify the relevant period in relation to the proposal on or before the day on which the proposal is laid before Parliament under subsection (2).

[[F19](8) After the end of the relevant period, but not before the Secretary of State complies with subsection (5) if it applies, the Secretary of State must lay the proposal before Parliament.

(9) If after subsection (8) has been complied with—

(a) something other than what was laid under subsection (8) becomes the proposal, or

(b) what was laid under subsection (8) remains the proposal, or again becomes the proposal, despite the condition in section 5(4)(a) not having been met in relation to it,

subsection (8) must be complied with anew.

(10) For the purposes of subsection (9)(a) and (b) ignore any proposal to correct clerical or typographical errors in what was laid under subsection (8).**]**

Textual Amendments

F19 S. 9(8)-(10) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 130(13)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I7 S. 9 in force at 6.4.2009 by S.I. 2009/400, **art. 2**

10 Sustainable development

(1) This section applies to the Secretary of State's functions under sections 5 and 6.

(2) The Secretary of State must, in exercising those functions, do so with the objective of contributing to the achievement of sustainable development.

(3) For the purposes of subsection (2) the Secretary of State must (in particular) have regard to the desirability of—

(a) mitigating, and adapting to, climate change;

(b) achieving good design.

Commencement Information

I8 S. 10 in force at 6.4.2009 by S.I. 2009/400, **art. 2**

11 Suspension pending review

(1) This section applies if the Secretary of State thinks that the condition in subsection (2) or (3) is met.

(2) The condition is that—

(a) since the time when a national policy statement was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the statement was decided,

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(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out in the statement would have been materially different.

(3) The condition is that—

(a) since the time when part of a national policy statement ("the relevant part") was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the relevant part was decided,

(b) the change was not anticipated at that time, and

(c) if the change had been anticipated at that time, any of the policy set out in the relevant part would have been materially different.

(4) The Secretary of State may suspend the operation of all or any part of the national policy statement until a review of the statement or the relevant part has been completed.

(5) If the Secretary of State does so, the designation as a national policy statement of the statement or (as the case may be) the part of the statement that has been suspended is treated as having been withdrawn until the day on which the Secretary of State complies with section 6(5) in relation to the review.

Commencement Information

I9 S. 11 in force at 6.4.2009 by S.I. 2009/400, **art. 2**

[F20]12 Pre-commencement statements of policy, consultation etc.

. . . . . .

Textual Amendments

F20 S. 12 repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 130(14), 240(2), **Sch. 25 Pt. 20** (with s. 144); S.I. 2012/628, art. 7

13 Legal challenges relating to national policy statements

(1) A court may entertain proceedings for questioning a national policy statement or anything done, or omitted to be done, by the Secretary of State in the course of preparing such a statement only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F21]before the end of**]** the period of 6 weeks beginning with **[**[F22]the day after**]** —

(i) the day on which the statement is designated as a national policy statement for the purposes of this Act, or

(ii) (if later) the day on which the statement is published.

(2) A court may entertain proceedings for questioning a decision of the Secretary of State not to carry out a review of all or part of a national policy statement only if—

(a) the proceedings are brought by a claim for judicial review, and

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(b) the claim form is filed **[**[F23]before the end of**]** the period of 6 weeks beginning with **[**[F24]the day after**]** the day of the decision not to carry out the review.

(3) A court may entertain proceedings for questioning a decision of the Secretary of State to carry out a review of all or part of a national policy statement only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F25]before the end of**]** the period of 6 weeks beginning with **[**[F26]the day after**]** the day on which the Secretary of State complies with section 6(5) in relation to the review concerned.

(4) A court may entertain proceedings for questioning anything done, or omitted to be done, by the Secretary of State in the course of carrying out a review of all or part of a national policy statement only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F27]before the end of**]** the period of 6 weeks beginning with **[**[F28]the day after**]** the day on which the Secretary of State complies with section 6(5) in relation to the review concerned.

(5) A court may entertain proceedings for questioning anything done by the Secretary of State under section 6(5) after completing a review of all or part of a national policy statement only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F29]before the end of**]** the period of 6 weeks beginning with **[**[F30]the day after**]** the day on which the thing concerned is done.

(6) A court may entertain proceedings for questioning a decision of the Secretary of State as to whether or not to suspend the operation of all or part of a national policy statement under section 11 only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F31]before the end of**]** the period of 6 weeks beginning with **[**[F32]the day after**]** the day of the decision.

Textual Amendments

F21 Words in s. 13(1)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F22 Words in s. 13(1)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F23 Words in s. 13(2)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F24 Words in s. 13(2)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F25 Words in s. 13(3)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F26 Words in s. 13(3)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F27 Words in s. 13(4)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F28 Words in s. 13(4)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F29 Words in s. 13(5)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

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F30 Words in s. 13(5)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F31 Words in s. 13(6)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F32 Words in s. 13(6)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

Commencement Information

I10 S. 13 in force at 6.4.2009 by S.I. 2009/400, **art. 3(a)**

PART 3

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

General

14 Nationally significant infrastructure projects: general

(1) In this Act "nationally significant infrastructure project" means a project which consists of any of the following—

(a) the construction or extension of a generating station;
(b) the installation of an electric line above ground;
(c) development relating to underground gas storage facilities;
(d) the construction or alteration of an LNG facility;
(e) the construction or alteration of a gas reception facility;
(f) the construction of a pipe-line by a gas transporter;
(g) the construction of a pipe-line other than by a gas transporter;
(h) highway-related development;
(i) airport-related development;
(j) the construction or alteration of harbour facilities;
(k) the construction or alteration of a railway;
(l) the construction or alteration of a rail freight interchange;
(m) the construction or alteration of a dam or reservoir;
(n) development relating to the transfer of water resources;
(o) the construction or alteration of a waste water treatment plant **[**[F33]or of infrastructure for the transfer or storage of waste water**]** ;
(p) the construction or alteration of a hazardous waste facility **[**[F34];
(q) development relating to a radioactive waste geological disposal facility.**]**

(2) Subsection (1) is subject to sections 15 to **[**[F35]30A**]** .

(3) The Secretary of State may by order—

(a) amend subsection (1) to add a new type of project or vary or remove an existing type of project;
(b) make further provision, or amend or repeal existing provision, about the types of project which are, and are not, within subsection (1).

(4) An order under subsection (3)(b) may amend this Act.

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(5) The power conferred by subsection (3) may be exercised to add a new type of project to subsection (1) only if—

(a) a project of the new type is a project for the carrying out of works in one or more of the fields specified in subsection (6), and

(b) the works are to be carried out wholly in one or more of the areas specified in subsection (7).

(6) The fields are—

(a) energy;

(b) transport;

(c) water;

(d) waste water;

(e) waste.

(7) The areas are—

(a) England;

(b) waters adjacent to England up to the seaward limits of the territorial sea;

(c) 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.

Textual Amendments

F33 Words in s. 14(1)(o) added (23.6.2012) by The Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 (S.I. 2012/1645), arts. 1(1), **2(2)** (with art. 3)

F34 S. 14(1)(q) inserted (27.3.2015) by The Infrastructure Planning (Radioactive Waste Geological Disposal Facilities) Order 2015 (S.I. 2015/949), arts. 1(1), **2(2)(a)**

F35 Word in s. 14(2) substituted (27.3.2015) by The Infrastructure Planning (Radioactive Waste Geological Disposal Facilities) Order 2015 (S.I. 2015/949), arts. 1(1), **2(2)(b)**

Commencement Information

I11 S. 14 partly in force; s. 14 in force for certain purposes at Royal Assent see s. 241

I12 S. 14(1)(a)-(l) (2)-(7) in force at 1.3.2010 by S.I. 2010/101, **art. 3(a)** (with art. 6)

I13 S. 14(1)(o) in force at 6.4.2011 for E.W. by S.I. 2011/705, **art. 2**

I14 S. 14(1)(p) in force at 1.10.2011 by S.I. 2011/2054, **art. 2(a)**

Energy

15 Generating stations

(1) The construction or extension of a generating station is within section 14(1)(a) only if the generating station is or (when constructed or extended) is expected to be within subsection (2) or (3).

(2) A generating station is within this subsection if—

(a) it is in England or Wales,

[[F36](aa) it does not generate electricity from wind,**]**

(b) it is not an offshore generating station, and

(c) its capacity is more than 50 megawatts.

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(3) A generating station is within this subsection if—
- (a) it is an offshore generating station, and
- (b) its capacity is more than 100 megawatts.

[F37(3A) A generating station is within this subsection if—
- (a) it is in Wales,
- (b) it does not generate electricity from wind, and
- (c) its capacity is more than 350 megawatts.

(3B) A generating station is within this subsection if—
- (a) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
- (b) its capacity is more than 350 megawatts.**]**

(4) An "offshore" generating station is a generating station that is—
- (a) in waters in or adjacent to England or Wales up to the seaward limits of the territorial sea, or
- (b) in a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.

[F38(5) ""Welsh zone"" has the meaning given in section 158 of the Government of Wales Act 2006.**]**

Textual Amendments

F36 S. 15(2)(aa) inserted (5.3.2016) by The Infrastructure Planning (Onshore Wind Generating Stations) Order 2016 (S.I. 2016/306), arts. 1(2), **3** (with arts. 5-8)

F37 S. 15(3A)(3B) inserted (31.3.2017 for specified purposes, 1.4.2018 for specified purposes) by Wales Act 2017 (c. 4), **ss. 39(4)**, 71(2)(e) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, reg. 3(h)

F38 S. 15(5) inserted (31.3.2017 for specified purposes, 1.4.2018 for specified purposes, 1.4.2019 in so far as not already in force) by Wales Act 2017 (c. 4), **ss. 39(6)**, 71(2)(e) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, regs. 3(h), 5(a)

Commencement Information

I15 S. 15 in force at 1.3.2010 by S.I. 2010/101, **art. 4(a)** (with art. 6)

16 Electric lines

(1) The installation of an electric line above ground is within section 14(1)(b) only if (when installed) the electric line will be—
- (a) wholly in England,
- (b) wholly in Wales,
- (c) partly in England and partly in Wales, or
- (d) partly in England and partly in Scotland, subject to subsection (2).

(2) In the case of an electric line falling within subsection (1)(d), the installation of the line above ground is within section 14(1)(b) only to the extent that (when installed) the line will be in England.

(3) The installation of an electric line above ground is not within section 14(1)(b)—
- (a) if the nominal voltage of the line is expected to be less than 132 kilovolts, F39...

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[[F40](aa) if the length of the line (when installed) will be less than two kilometres,

(ab) if—

(i) the line will replace an existing line,

(ii) the nominal voltage of the line is expected to be greater than the nominal voltage of the existing line (but see subsection (3A)),

(iii) the height above the surface of the ground of any support for the line will not exceed the height of the highest existing support or support which is being replaced by more than 10 per cent, and

(iv) where the line is to be installed in a different position from the existing line, the distance between any new support and the existing line will not exceed 60 metres and the existing line will be removed within twelve months from the date on which the installation of the line which replaces it is complete,**]**

(b) to the extent that (when installed) the line will be within premises in the occupation or control of the person responsible for its installation **[**[F41], or

(c) if section 37(1) of the Electricity Act 1989 (consent required for overhead lines) does not apply to it by virtue of the Overhead Lines (Exemption) (England and Wales) Regulations 2009 (S.I. 2009/640), as amended by the Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010. **]**

[[F42](3A) Paragraph (ab)(ii) of subsection (3) (condition that nominal voltage of line expected to be greater than nominal voltage of existing line) does not apply if any part of the line (when installed) will be within a European site or an SSSI.**]**

[[F43](3B) The installation of an electric line above ground is not within section 14(1)(b) if the line is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force and the nominal voltage of the line is expected to be no greater than 132 kilovolts.

(3C) “"Devolved Welsh generating station”” means a generating station that—

(a) is in Wales and—

(i) generates electricity from wind, or

(ii) has a capacity of 350 megawatts or less; or

(b) is in waters adjacent to Wales up to the seaward limits of the territorial sea or in the Welsh zone and has a capacity of 350 megawatts or less.

(3D) “"Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.**]**

[[F44](4) In this section—

“European site” has the same meaning as in **[**[F45]the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012)**]** ;

“existing line” means an electric line which—

(a) has been installed or is kept installed above ground in accordance with a consent granted under section 37(1) of the Electricity Act 1989 or an order granting development consent; or

(b) has been installed above ground and is an electric line to which section 37(1) of the Electricity Act 1989 does not apply by virtue of—

(i) paragraph 5(4) or (5) of Schedule 17 to that Act, or

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(ii) the Overhead Lines (Exemption) (England and Wales) Regulations 2009 (S.I. 2009/640), as amended by the Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010;

"premises" includes any land, building or structure;

"SSSI" means a site of special scientific interest notified under sections 28 to 28D of the Wildlife and Countryside Act 1981.**]**

Textual Amendments

F39 Word in s. 16(3)(a) omitted (1.3.2010) by The Overhead Lines (Exempt Installations) Order 2010 (S.I. 2010/277), arts. 1, **2(a)**

F40 S. 16(3)(aa)(ab) inserted (18.6.2013) by The Planning Act 2008 (Nationally Significant Infrastructure Projects) (Electric Lines) Order 2013 (S.I. 2013/1479), arts. 1, **2(a)** (with art. 3)

F41 S. 16(3)(c) and word inserted (1.3.2010) by The Overhead Lines (Exempt Installations) Order 2010 (S.I. 2010/277), arts. 1, **2(b)**

F42 S. 16(3A) inserted (18.6.2013) by The Planning Act 2008 (Nationally Significant Infrastructure Projects) (Electric Lines) Order 2013 (S.I. 2013/1479), arts. 1, **2(b)** (with art. 3)

F43 S. 16(3B)-(3D) inserted (31.3.2017 for specified purposes, 1.4.2019 in so far as not already in force) by Wales Act 2017 (c. 4), **ss. 42(4)**, 71(2)(e) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, reg. 5(a)

F44 S. 16(4) substituted (18.6.2013) by The Planning Act 2008 (Nationally Significant Infrastructure Projects) (Electric Lines) Order 2013 (S.I. 2013/1479), arts. 1, **2(c)** (with art. 3)

F45 Words in s. 16(4) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 6**

Commencement Information

I16 S. 16 in force at 1.3.2010 by S.I. 2010/101, **art. 4(a)** (with art. 6)

17 Underground gas storage facilities

(1) Development relating to underground gas storage facilities is within section 14(1)(c) only if the development is within subsection (2), (3) or (5).

(2) Development is within this subsection if—

(a) it is the carrying out of operations for the purpose of creating underground gas storage facilities in England, or

(b) it is starting to use underground gas storage facilities in England,

and the condition in subsection (4) is met in relation to the facilities.

(3) Development is within this subsection if—

(a) it is starting to use underground gas storage facilities in Wales,

(b) the facilities are facilities for the storage of gas underground in natural porous strata,

(c) the proposed developer is a gas transporter, and

(d) the condition in subsection (4) is met in relation to the facilities.

(4) The condition is that—

(a) the working capacity of the facilities is expected to be at least 43 million standard cubic metres, or

(b) the maximum flow rate of the facilities is expected to be at least 4.5 million standard cubic metres per day.

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(5) Development is within this subsection if—

(a) it is the carrying out of operations for the purpose of altering underground gas storage facilities in England, and

(b) the effect of the alteration is expected to be—

(i) to increase by at least 43 million standard cubic metres the working capacity of the facilities, or

(ii) to increase by at least 4.5 million standard cubic metres per day the maximum flow rate of the facilities.

(6) "Underground gas storage facilities" means facilities for the storage of gas underground in cavities or in porous strata.

(7) In this section—

"maximum flow rate", in relation to underground gas storage facilities, means the maximum rate at which gas is able to flow out of the facilities, on the assumption that—

(a) the facilities are filled to maximum capacity, and

(b) the rate is measured after any processing of gas required on its recovery from storage;

"working capacity", in relation to underground gas storage facilities, means the capacity of the facilities for storage of gas underground, ignoring any capacity for storage of cushion gas.

(8) In subsection (7) "cushion gas" means gas which is kept in underground gas storage facilities for the purpose of enabling other gas stored there to be recovered from storage.

Commencement Information

I17 S. 17 in force at 1.3.2010 by S.I. 2010/101, **art. 4(a)** (with art. 6)

18 LNG facilities

(1) The construction of an LNG facility is within section 14(1)(d) only if (when constructed) the facility will be in England and—

(a) the storage capacity of the facility is expected to be at least 43 million standard cubic metres, or

(b) the maximum flow rate of the facility is expected to be at least 4.5 million standard cubic metres per day.

(2) The alteration of an LNG facility is within section 14(1)(d) only if the facility is in England and the effect of the alteration is expected to be—

(a) to increase by at least 43 million standard cubic metres the storage capacity of the facility, or

(b) to increase by at least 4.5 million standard cubic metres per day the maximum flow rate of the facility.

(3) "LNG facility" means a facility for—

(a) the reception of liquid natural gas from outside England,

(b) the storage of liquid natural gas, and

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(c) the regasification of liquid natural gas.

(4) In this section—

"maximum flow rate", in relation to a facility, means the maximum rate at which gas is able to flow out of the facility, on the assumption that—

(a) the facility is filled to maximum capacity, and

(b) the rate is measured after regasification of the liquid natural gas and any other processing required on the recovery of the gas from storage;

"storage capacity" means the capacity of the facility for storage of liquid natural gas.

(5) The storage capacity of an LNG facility is to be measured as if the gas were stored in regasified form.

Commencement Information

I18 S. 18 in force at 1.3.2010 by S.I. 2010/101, **art. 4(a)** (with art. 6)

19 Gas reception facilities

(1) The construction of a gas reception facility is within section 14(1)(e) only if (when constructed)—

(a) the facility will be in England and will be within subsection (4), and

(b) the maximum flow rate of the facility is expected to be at least 4.5 million standard cubic metres per day.

(2) The alteration of a gas reception facility is within section 14(1)(e) only if—

(a) the facility is in England and is within subsection (4), and

(b) the effect of the alteration is expected to be to increase by at least 4.5 million standard cubic metres per day the maximum flow rate of the facility.

(3) "Gas reception facility" means a facility for—

(a) the reception of natural gas in gaseous form from outside England, and

(b) the handling of natural gas (other than its storage).

(4) A gas reception facility is within this subsection if—

(a) the gas handled by the facility does not originate in England, Wales or Scotland,

(b) the gas does not arrive at the facility from Scotland or Wales, and

(c) the gas has not already been handled at another facility after its arrival in England.

(5) "Maximum flow rate" means the maximum rate at which gas is able to flow out of the facility.

Commencement Information

I19 S. 19 in force at 1.3.2010 by S.I. 2010/101, **art. 4(a)** (with art. 6)

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20 Gas transporter pipe-lines

(1) The construction of a pipe-line by a gas transporter is within section 14(1)(f) only if (when constructed) each of the conditions in subsections (2) to (5) is expected to be met in relation to the pipe-line.

(2) The pipe-line must be wholly or partly in England.

(3) Either—

(a) the pipe-line must be more than 800 millimetres in diameter and more than 40 kilometres in length, or

(b) the construction of the pipe-line must be likely to have a significant effect on the environment.

(4) The pipe-line must have a design operating pressure of more than 7 bar gauge.

(5) The pipe-line must convey gas for supply (directly or indirectly) to at least 50,000 customers, or potential customers, of one or more gas suppliers.

(6) In the case of a pipe-line that (when constructed) will be only partly in England, the construction of the pipe-line is within section 14(1)(f) only to the extent that the pipe-line will (when constructed) be in England.

(7) "Gas supplier" has the same meaning as in Part 1 of the Gas Act 1986 (c. 44) (see section 7A(11) of that Act).

Commencement Information

I20 S. 20 in force at 1.3.2010 by S.I. 2010/101, **art. 4(a)** (with art. 6)

21 Other pipe-lines

(1) The construction of a pipe-line other than by a gas transporter is within section 14(1)(g) only if (when constructed) the pipe-line is expected to be—

(a) a cross-country pipe-line,

(b) a pipe-line the construction of which would (but for section 33(1) of this Act) require authorisation under section 1(1) of the Pipe-lines Act 1962 (c. 58) (cross-country pipe-lines not to be constructed without authorisation), and

(c) within subsection (2).

(2) A pipe-line is within this subsection if one end of it is in England or Wales and—

(a) the other end of it is in England or Wales, or

(b) it is an oil or gas pipe-line and the other end of it is in Scotland.

(3) For the purposes of section 14(1)(g) and the previous provisions of this section, the construction of a diversion to a pipe-line is treated as the construction of a separate pipe-line.

(4) But if—

(a) the pipe-line to be diverted is itself a nationally significant pipe-line, and

(b) the length of the pipe-line which is to be diverted has not been constructed,

the construction of the diversion is treated as the construction of a cross-country pipe-line, whatever the length of the diversion.

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(5) For the purposes of subsection (4), a pipe-line is a nationally significant pipe-line if—
- (a) development consent is required for its construction by virtue of section 14(1)(g), and has been granted, or
- (b) its construction has been authorised by a pipe-line construction authorisation under section 1(1) of the Pipe-lines Act 1962 (c. 58).

(6) "Diversion" means a lateral diversion of a length of a pipe-line (whether or not that pipe-line has been constructed) where the diversion is beyond the permitted limits.

(7) The permitted limits are the limits of lateral diversion permitted by any of the following granted in respect of the construction of the pipe-line—
- (a) development consent;
- (b) authorisation under the Pipe-lines Act 1962;
- (c) planning permission.

Commencement Information
I21 S. 21 in force at 1.3.2010 by S.I. 2010/101, **art. 3(b)** (with art. 6)

Transport

[[F46]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 **[**[F47]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 **[**[F48]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
- (c) in relation to the construction or alteration of any other highway is 7.5 hectares.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(5) Improvement of a highway is within this subsection only if—

(a) the highway is wholly in England,

(b) the Secretary of State **[**[F49]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.**]**

[[F50]"strategic highways company" means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.**]**

Textual Amendments

F46 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)

F47 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)

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F48 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)

F49 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)

F50 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—
- (a) the construction of an airport in a case within subsection (2),
- (b) the alteration of an airport in a case within subsection (4), or
- (c) 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—
- (a) will be in England or in English waters, and
- (b) 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—
- (a) air passenger transport services for at least 10 million passengers per year, or
- (b) 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—
- (a) the airport is in England or in English waters, and
- (b) the alteration is expected to have the effect specified in subsection (5).

(5) The effect is—
- (a) 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
- (b) 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) a runway at the airport,
- (b) a building at the airport, or
- (c) 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—
- (a) the airport is in England or in English waters, and
- (b) the increase is within subsection (8).

(8) An increase is within this subsection if—
- (a) 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

I22 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—

(a) will be in England or Wales or in waters adjacent to England or Wales up to the seaward limits of the territorial sea, 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—

(a) the harbour facilities are in England or Wales or in waters adjacent to England or Wales up to the seaward limits of the territorial sea, 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;

(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.

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(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;

"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).

Commencement Information

I23 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,

[F51(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

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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,

[[F52](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.

[[F53](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);

[[F54]"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;

[[F54]"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) **[**[F55]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.

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Textual Amendments

F51 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)

F52 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)

F53 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)

F54 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)

F55 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

I24 S. 25 partly in force; s. 25 in force for certain purposes at Royal Assent see s. 241

I25 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—

(a) 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

(b) the alteration is expected to have the effect specified in subsection (8).

(3) The land on which the rail freight interchange is situated must—

(a) be in England, and

(b) be at least 60 hectares in area.

(4) The rail freight interchange must be capable of handling—

(a) consignments of goods from more than one consignor and to more than one consignee, and

(b) at least 4 goods trains per day.

(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;

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"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

I26 S. 26 in force at 1.3.2010 by S.I. 2010/101, **art. 4(b)** (with art. 6)

VALID FROM 01/01/2018

Water

27 Dams and reservoirs

(1) The construction of a dam or reservoir is within section 14(1)(m) only if—

(a) the dam or reservoir (when constructed) will be in England,

(b) the construction will be carried out by one or more water undertakers, and

(c) the volume of water to be held back by the dam or stored in the reservoir is expected to exceed 10 million cubic metres.

(2) The alteration of a dam or reservoir is within section 14(1)(m) only if—

(a) the dam or reservoir is in England,

(b) the alteration will be carried out by one or more water undertakers, and

(c) the additional volume of water to be held back by the dam or stored in the reservoir as a result of the alteration is expected to exceed 10 million cubic metres.

(3) "Water undertaker" means a company appointed as a water undertaker under the Water Industry Act 1991 (c. 56).

Commencement Information

I27 S. 27 in force at 1.1.2018 for E. by S.I. 2017/1078, **art. 2(c)**

28 Transfer of water resources

(1) Development relating to the transfer of water resources is within section 14(1)(n) only if—

(a) the development will be carried out in England by one or more water undertakers,

(b) the volume of water to be transferred as a result of the development is expected to exceed 100 million cubic metres per year,

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(c) the development will enable the transfer of water resources—
(i) between river basins in England,
(ii) between water undertakers' areas in England, or
(iii) between a river basin in England and a water undertaker's area in England, and
(d) the development does not relate to the transfer of drinking water.

(2) In this section—
"river basin" means an area of land drained by a river and its tributaries;
"water undertaker" means a company appointed as a water undertaker under the Water Industry Act 1991;
"water undertaker's area" means the area for which a water undertaker is appointed under that Act.

Commencement Information
I28 S. 28 in force at 1.1.2018 for E. by S.I. 2017/1078, **art. 2(d)**

Waste water

29 Waste water treatment plants

(1) The construction of a waste water treatment plant is within section 14(1)(o) only if the treatment plant (when constructed)—
(a) will be in England, and
(b) is expected to have a capacity exceeding a population equivalent of 500,000.

[F56(1A) The construction of infrastructure for the transfer or storage of waste water is within section 14(1)(o) only if —
(a) the works will be carried out wholly in England and the infrastructure will (when constructed) be wholly in England,
(b) the main purpose of the infrastructure will be—
(i) the transfer of waste water for treatment, or
(ii) the storage of waste water prior to treatment,
or both, and
(c) the infrastructure is expected to have a capacity for the storage of waste water exceeding 350,000 cubic metres.]

(2) The alteration of a waste water treatment plant is within section 14(1)(o) only if—
(a) the treatment plant is in England, and
(b) the effect of the alteration is expected to be to increase by more than a population equivalent of 500,000 the capacity of the plant.

[F57(2A) The alteration of infrastructure for the transfer or storage of waste water is within section 14(1)(o) only if—
(a) the works will be carried out wholly in England and the part of the infrastructure to be altered is wholly in England,
(b) the main purpose of the infrastructure is —

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(i) the transfer of waste water for treatment, or

(ii) the storage of waste water prior to treatment,

or both, and

(c) the effect of the alteration is expected to be to increase the capacity of the infrastructure for the storage of waste water by more than 350,000 cubic metres.**]**

(3) "Waste water" includes domestic waste water, industrial waste water and urban waste water.

(4) The following terms have the meanings given by regulation 2(1) of the Urban Waste Water Treatment (England and Wales) Regulations 1994 (S.I. 1994/2841)—

"domestic waste water";

"industrial waste water";

"population equivalent";

"urban waste water".

Textual Amendments

F56 S. 29(1A) inserted (23.6.2012) by The Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 (S.I. 2012/1645), arts. 1(1), **2(3)(a)** (with art. 3)

F57 S. 29(2A) inserted (23.6.2012) by The Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 (S.I. 2012/1645), arts. 1(1), **2(3)(b)** (with art. 3)

Commencement Information

I29 S. 29 in force at 6.4.2011 by S.I. 2011/705, **art. 2**

Waste

30 Hazardous waste facilities

(1) The construction of a hazardous waste facility is within section 14(1)(p) only if—

(a) the facility (when constructed) will be in England,

(b) the main purpose of the facility is expected to be the final disposal or recovery of hazardous waste, and

(c) the facility is expected to have the capacity specified in subsection (2).

(2) The capacity is—

(a) in the case of the disposal of hazardous waste by landfill or in a deep storage facility, more than 100,000 tonnes per year;

(b) in any other case, more than 30,000 tonnes per year.

(3) The alteration of a hazardous waste facility is within section 14(1)(p) only if—

(a) the facility is in England,

(b) the main purpose of the facility is the final disposal or recovery of hazardous waste, and

(c) the alteration is expected to have the effect specified in subsection (4).

(4) The effect is—

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(a) in the case of the disposal of hazardous waste by landfill or in a deep storage facility, to increase by more than 100,000 tonnes per year the capacity of the facility;

(b) in any other case, to increase by more than 30,000 tonnes per year the capacity of the facility.

(5) The following terms have the same meanings as in the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894) (see regulation 5 of those regulations)—

"disposal";

"hazardous waste";

"recovery".

(6) "Deep storage facility" means a facility for the storage of waste underground in a deep geological cavity.

Commencement Information

I30 S. 30 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(a)**

[F58 30A Radioactive waste geological disposal facilities

(1) A radioactive waste geological disposal facility means a facility which meets the conditions in subsection (2).

(2) The conditions are that—

(a) the main purpose of the facility is expected to be the final disposal of radioactive waste,

(b) the part of the facility where radioactive waste is to be disposed of is expected to be constructed at a depth of at least 200 metres beneath the surface of the ground or seabed, and

(c) the natural environment which surrounds the facility is expected to act, in combination with any engineered measures, to inhibit the transit of radionuclides from the part of the facility where radioactive waste is to be disposed of to the surface.

(3) Development is within section 14(1)(q) only if the development is within subsection (4) or (6) of this section.

(4) Development is within this subsection if—

(a) it is the construction of one or more boreholes, and the carrying out of any associated excavation, construction or building work,

(b) the borehole or boreholes will be constructed, and any associated excavation, construction or building work will be carried out, in England or waters adjacent to England up to the seaward limits of the territorial sea, and

(c) the conditions in subsection (5) are met in relation to each borehole.

(5) The conditions are that—

(a) the borehole is expected to be constructed to a depth of at least 150 metres beneath the surface of the ground or seabed, and

(b) the main purpose of constructing the borehole is to obtain information, data or samples to determine the suitability of a site for the construction or use of a radioactive waste geological disposal facility.

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(6) Development is within this subsection if—

(a) it is the construction of a radioactive waste geological disposal facility, and

(b) the facility (when constructed) will be in England or waters adjacent to England up to the seaward limits of the territorial sea.

(7) In this section—

"disposal" in relation to radioactive waste means emplacement in an appropriate facility without the intention to retrieve;

"radioactive waste" has the same meaning as in **[**[F59]the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)**]** (see paragraph 3(1) of Part 2 of Schedule 23 to those regulations).**]**

Textual Amendments

F58 S. 30A inserted (27.3.2015) by The Infrastructure Planning (Radioactive Waste Geological Disposal Facilities) Order 2015 (S.I. 2015/949), arts. 1(1), **2(3)**

F59 Words in s. 30A(7) substituted (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 29 para. 17** (with regs. 1(3), 77-79, Sch. 4)

PART 4

REQUIREMENT FOR DEVELOPMENT CONSENT

31 When development consent is required

Consent under this Act ("development consent") is required for development to the extent that the development is or forms part of a nationally significant infrastructure project.

Commencement Information

I31 S. 31 in force at 1.3.2010 by S.I. 2010/101, **art. 3(c)** (with art. 6)

32 Meaning of "development"

(1) In this Act (except in Part 11) "development" has the same meaning as it has in TCPA 1990.

This is subject to subsections (2) and (3).

(2) For the purposes of this Act (except Part 11)—

(a) the conversion of a generating station with a view to its being fuelled by crude liquid petroleum, a petroleum product or natural gas is treated as a material change in the use of the generating station;

(b) starting to use a cavity or strata for the underground storage of gas is treated as a material change in the use of the cavity or strata;

(c) an increase in the permitted use of an airport is treated as a material change in the use of the airport.

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(3) For the purposes of this Act (except Part 11) the following works are taken to be development (to the extent that they would not be otherwise)—

(a) works for the demolition of a listed building or its alteration or extension in a manner which would affect its character as a building of special architectural or historic interest;

(b) demolition of a building in a conservation area;

(c) works resulting in the demolition or destruction of or any damage to a scheduled monument;

(d) works for the purpose of removing or repairing a scheduled monument or any part of it;

(e) works for the purpose of making any alterations or additions to a scheduled monument;

(f) flooding or tipping operations on land in, on or under which there is a scheduled monument.

(4) In this section—

"conservation area" has the meaning given by section 91(1) of the Listed Buildings Act;

"flooding operations" has the meaning given by section 61(1) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46);

"listed building" has the meaning given by section 1(5) of the Listed Buildings Act;

"permitted" means permitted by planning permission or development consent;

"petroleum products" has the meaning given by section 21 of the Energy Act 1976 (c. 76);

"scheduled monument" has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46);

"tipping operations" has the meaning given by section 61(1) of that Act.

Commencement Information

I32 S. 32 in force at 1.3.2010 by S.I. 2010/101, **art. 3(c)** (with art. 6)

33 Effect of requirement for development consent on other consent regimes

(1) To the extent that development consent is required for development, none of the following is required to be obtained for the development or given in relation to it—

(a) planning permission;

(b) consent under section 10(1), 11(1) or 12(1) of the Green Belt (London and Home Counties) Act 1938 (c. xciii) (erection of buildings and construction of sewer main pipes, watercourses and electric lines etc. on Green Belt land);

(c) a pipe-line construction authorisation under section 1(1) of the Pipe-lines Act 1962 (c. 58) (authorisation for construction of cross-country pipe-lines);

(d) authorisation by an order under section 4(1) of the Gas Act 1965 (c. 36) (storage of gas in underground strata);

[F60](e) . . . . . .

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(f) to the extent that the development relates to land in England, consent under section 2(3) or 3 of the Ancient Monuments and Archaeological Areas Act 1979;

(g) to the extent that the development relates to land in England, notice under section 35 of the Ancient Monuments and Archaeological Areas Act 1979;

(h) consent under section 36 or 37 of the Electricity Act 1989 (c. 29) (construction etc. of generating stations and installation of overhead lines);

(i) to the extent that the development relates to land in England, consent under section 8(1), (2) or (3) of the Listed Buildings Act;

(j) to the extent that the development relates to land in England, consent under section 74(1) of the Listed Buildings Act.

(2) To the extent that development consent is required for development, the development may not be authorised by any of the following—

(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 (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.).

(3) Subsection (2) is subject to section 34.

(4) If development consent is required for the construction, improvement or alteration of a highway, none of the following may be made or confirmed in relation to the highway or in connection with the construction, improvement or alteration of the highway—

(a) an order under section 10 of the Highways Act 1980 (c. 66) (general provisions as to trunk roads) directing that the highway should become a trunk road;

(b) an order under section 14 of that Act (supplementary orders relating to trunk roads and classified roads);

(c) a scheme under section 16 of that Act (schemes authorising the provision of special roads);

(d) an order under section 18 of that Act (supplementary orders relating to special roads);

(e) an order or scheme under section 106 of that Act (orders and schemes providing for construction of bridges over or tunnels under navigable waters);

(f) an order under section 108 or 110 of that Act (orders authorising the diversion of navigable and non-navigable watercourses);

(g) an order under section 6 of the New Roads and Street Works Act 1991 (c. 22) (toll orders).

[[F61](5) The Secretary of State may by order—

(a) amend subsection (1) or (2)—

(i) to add or remove a type of consent, or

(ii) to vary the cases in relation to which a type of consent is within that subsection;

(b) make further provision, or amend or repeal provision, about—

(i) the types of consent that are, and are not, within subsection (1) or (2), or

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(ii) the cases in relation to which a type of consent is, or is not, within either of those subsections.

(6) In this section "consent" means—

(a) a consent or authorisation that is required, under legislation, to be obtained for development,

(b) a consent, or authorisation, that—

(i) may authorise development, and

(ii) is given under legislation, or

(c) a notice that is required by legislation to be given in relation to development.

(7) In subsection (6) "legislation" means an Act or an instrument made under an Act.

(8) An order under subsection (5) may not affect—

(a) a requirement for a devolved consent to be obtained for, or given in relation to, development, or

(b) whether development may be authorised by a devolved consent.

(9) A consent is "devolved" for the purposes of subsection (8) if—

(a) provision for the consent would be within the legislative competence of the National Assembly for Wales if the provision were contained in an Act of the Assembly,

(b) provision for the consent is, or could be, made by the Welsh Ministers in an instrument made under an Act,

(c) the consent is not within subsection (6)(c) and the Welsh Ministers have a power or duty—

(i) to decide, or give directions as to how to decide, whether the consent is given,

(ii) to decide, or give directions as to how to decide, some or all of the terms on which the consent is given, or

(iii) to revoke or vary the consent, or

(d) the consent is within subsection (6)(c) and the notice has to be given to the Welsh Ministers or otherwise brought to their attention.

(10) An order under subsection (5)(b) may amend this Act.**]**

Textual Amendments

F60 S. 33(1)(e) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 18(3)(a)**, 35(3)

F61 S. 33(5)-(10) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 131(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I33 S. 33 in force at 1.3.2010 by S.I. 2010/101, **art. 3(c)** (with art. 6)

34 Welsh offshore generating stations

(1) Section 33(2) does not prevent an order under section 3 of the Transport and Works Act 1992 (c. 42) from authorising the carrying out of works consisting of the construction

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or extension of a generating station that is or (when constructed or extended) will be a Welsh offshore generating station.

(2) A "Welsh offshore generating station" is a generating station that is in waters in or adjacent to Wales up to the seaward limits of the territorial sea.

(3) If, by virtue of subsection (1), an order under section 3 of the Transport and Works Act 1992 authorises the carrying out of any works, development consent is treated as not being required for the carrying out of those works.

Commencement Information

I34 S. 34 in force at 1.3.2010 by S.I. 2010/101, **art. 3(c)** (with art. 6)

[F62 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—

(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.

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Textual Amendments

F62 Ss. 35, 35A substituted for s. 35 (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 26(2)**, 35(2)

Commencement Information

I35 S. 35 in force at 1.3.2010 by S.I. 2010/101, **art. 3(c)** (with art. 6)

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.

(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

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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

F62 Ss. 35, 35A substituted for s. 35 (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 26(2)**, 35(2)

[F63 35A Timetable for deciding request for direction under section 35

(1) This section applies if the Secretary of State receives a qualifying request from a person ("R").

(2) The Secretary of State must make a decision on the qualifying request before the primary deadline, subject to subsection (3).

(3) Subsection (2) does not apply if, before the primary deadline, the Secretary of State asks R to provide the Secretary of State with information for the purpose of enabling the Secretary of State to decide—

(a) whether to give the direction requested, and

(b) the terms in which it should be given.

(4) If R—

(a) is asked under subsection (3) to provide information, and

(b) provides the information sought within the period of 14 days beginning with the day on which R is asked to do so,

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the Secretary of State must make a decision on the qualifying request before the end of the period of 28 days beginning with the day the Secretary of State receives the information.

(5) In this section—

"the primary deadline" means the end of the period of 28 days beginning with the day on which the Secretary of State receives the qualifying request;

"qualifying request" has the meaning given by section **[**[F64]35ZA(11) **]** .**]**

Textual Amendments

F63 S. 35A inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 132(10)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F64 Word in s. 35A(5) substituted (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 26(3)**, 35(2)

36 Amendments consequential on development consent regime

Schedule 2 makes amendments consequential on the development consent regime.

Commencement Information

I36 S. 36 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

PART 5

APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 1

APPLICATIONS

37 Applications for orders granting development consent

(1) An order granting development consent may be made only if an application is made for it.

(2) An application for an order granting development consent must be made to the **[**[F65]Secretary of State**]**.

(3) An application for an order granting development consent must**[**[F66], so far as necessary to secure that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory **]**—

(a) specify the development to which it relates,

(b) be made in the prescribed form,

(c) be accompanied by the consultation report, and

(d) be accompanied by documents and information of a prescribed description.

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(4) The **[**[F65]Secretary of State**]** may give guidance about how the requirements under subsection (3) are to be complied with.

(5) The **[**[F65]Secretary of State**]** may set standards for—

(a) the preparation of a document required by subsection (3)(d);

(b) the coverage in such a document of a matter falling to be dealt with in it;

(c) all or any of the collection, sources, verification, processing and presentation of information required by subsection (3)(d).

(6) The **[**[F65]Secretary of State**]** must publish, in such manner as **[**[F67]the Secretary of State**]** thinks appropriate, any guidance given under subsection (4) and any standards set under subsection (5).

(7) In subsection (3)(c) "the consultation report" means a report giving details of—

(a) what has been done in compliance with sections 42, 47 and 48 in relation to a proposed application that has become the application,

(b) any relevant responses, and

(c) the account taken of any relevant responses.

(8) In subsection (7) "relevant response" has the meaning given by section 49(3).

Textual Amendments

F65 Words in s. 37 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 5(2)**; S.I. 2012/628, art. 7(a)

F66 Words in s. 37(3) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 137(5)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F67 Words in s. 37(6) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 5(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I37 S. 37 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

[F68]38 Model provisions

. . . . . .

Textual Amendments

F68 S. 38 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 6, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

39 Register of applications

(1) The **[**[F69]Secretary of State**]** is to maintain a register of applications received by **[**[F70]the Secretary of State**]** for orders granting development consent ("the register").

(2) Where the **[**[F69]Secretary of State**]** receives an application for an order granting development consent, **[**[F71]the Secretary of State**]** must cause details of the application to be entered in the register.

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(3) The **[**[F69]Secretary of State**]** must publish the register or make arrangements for inspection of the register by the public.

(4) The **[**[F69]Secretary of State**]** must make arrangements for inspection by the public of—
- (a) applications received by the **[**[F69]Secretary of State**]** for orders granting development consent,
- (b) consultation reports received by the **[**[F69]Secretary of State**]** under section 37(3)(c), and
- (c) accompanying documents and information received by the **[**[F69]Secretary of State**]** under section 37(3)(d).

Textual Amendments

F69 Words in s. 39 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 7(2)**; S.I. 2012/628, art. 7(a)

F70 Words in s. 39(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 7(3)**; S.I. 2012/628, art. 7(a)

F71 Words in s. 39(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 7(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I38 S. 39 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

40 Applications by the Crown for orders granting development consent

(1) This section applies to an application for an order granting development consent made by or on behalf of the Crown.

(2) The Secretary of State may by regulations modify or exclude any statutory provision relating to—
- (a) the procedure to be followed before such an application is made;
- (b) the making of such an application;
- (c) the decision-making process for such an application.

(3) A statutory provision is a provision contained in or having effect under this Act or any other enactment.

Commencement Information

I39 S. 40 in force at 1.10.2009 in so far as not already in force by S.I. 2009/2260, **art. 2(b)**

CHAPTER 2

PRE-APPLICATION PROCEDURE

41 Chapter applies before application is made

(1) This Chapter applies where a person ("the applicant") proposes to make an application for an order granting development consent.

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(2) In the following provisions of this Chapter—

"the proposed application" means the proposed application mentioned in subsection (1);

"the land" means the land to which the proposed application relates or any part of that land;

"the proposed development" means the development for which the proposed application (if made) would seek development consent.

Commencement Information

I40 S. 41 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

42 Duty to consult

[[F72](1)**]** The applicant must consult the following about the proposed application—

(a) such persons as may be prescribed,

[[F73](aa) the Marine Management Organisation, in any case where the proposed development would affect, or would be likely to affect, any of the areas specified in subsection (2),**]**

(b) each local authority that is within section 43,

(c) the Greater London Authority if the land is in Greater London, and

(d) each person who is within one or more of the categories set out in section 44.

[[F74](2) The areas are—

(a) waters in or adjacent to England up to the seaward limits of the territorial sea;

(b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;

(c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;

(d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.**]**

Textual Amendments

F72 S. 42(1): s. 42 renumbered as s. 42(1) (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(2)(a)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F73 S. 42(1)(aa) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(2)(b)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F74 S. 42(2) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(2)(c)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

Commencement Information

I41 S. 42 partly in force; s. 42 in force for certain purposes at Royal Assent see s. 241

I42 S. 42 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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43 [F75Local authorities for purposes of section 42(1)(b)]

(1) A local authority is within this section if the land is in the authority's area.

(2) A local authority ("A") is within this section if—

(a) the land is in the area of another local authority ("B"),

[F76(aa) B is a unitary council or a lower-tier district council,] and

(b) any part of the boundary of A's area is also a part of the boundary of B's area.

[F77(2A) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.]

[F78(3) In this section—

"local authority" means—

(a) a county council, or district council, in England;

(b) a London borough council;

(c) the Common Council of the City of London;

(d) the Council of the Isles of Scilly;

(e) a county council, or county borough council, in Wales;

(f) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

(g) a National Park authority;

(h) the Broads Authority;

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council.]

Textual Amendments

F75 S. 43 heading substituted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(3)(a)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F76 S. 43(2)(aa) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 133(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F77 S. 43(2A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 133(3)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F78 S. 43(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 133(4)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I43 S. 43 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

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44 [[F79]Categories for purposes of section 42(1)(d)]

(1) A person is within Category 1 if the applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

(2) A person is within Category 2 if the applicant, after making diligent inquiry, knows that the person—
- (a) is interested in the land, or
- (b) has power—
  - (i) to sell and convey the land, or
  - (ii) to release the land.

(3) An expression, other than "the land", that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 (c. 56) has in subsection (2) the meaning that it has in section 5(1) of that Act.

(4) A person is within Category 3 if the applicant thinks that, if the order sought by the proposed application were to be made and fully implemented, the person would or might be entitled—
- (a) as a result of the implementing of the order,
- (b) as a result of the order having been implemented, or
- (c) as a result of use of the land once the order has been implemented,

to make a relevant claim.

This is subject to subsection (5).

(5) A person is within Category 3 only if the person is known to the applicant after making diligent inquiry.

(6) In subsection (4) "relevant claim" means—
- (a) a claim under section 10 of the Compulsory Purchase Act 1965 (c. 56) (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
- (b) a claim under Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works)**[**[F80]**;**
- (c) a claim under section 152(3)**]**.

Textual Amendments

F79 S. 44 heading substituted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(3)(b)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F80 S. 44(6)(c) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(8)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I44 S. 44 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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45 Timetable for consultation under section 42

(1) The applicant must, when consulting a person under section 42, notify the person of the deadline for the receipt by the applicant of the person's response to the consultation.

(2) A deadline notified under subsection (1) must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the consultation documents.

(3) In subsection (2) "the consultation documents" means the documents supplied to the person by the applicant for the purpose of consulting the person.

Commencement Information

I45 S. 45 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

46 Duty to notify [F81Secretary of State] of proposed application

(1) The applicant must supply the **[**F82Secretary of State**]** with such information in relation to the proposed application as the applicant would supply to the **[**F82Secretary of State**]** for the purpose of complying with section 42 if the applicant were required by that section to consult the **[**F82Secretary of State**]** about the proposed application.

(2) The applicant must comply with subsection (1) on or before commencing consultation under section 42.

Textual Amendments

F81 Words in s. 46 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 8(3)**; S.I. 2012/628, art. 7(a)

F82 Words in s. 46(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 8(2)**; S.I. 2012/628, art. 7(a)

Commencement Information

I46 S. 46 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

47 Duty to consult local community

(1) The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.

(2) Before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.

(3) The deadline for the receipt by the applicant of a local authority's response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.

(4) In subsection (3) "the consultation documents" means the documents supplied to the local authority by the applicant for the purpose of consulting the local authority under subsection (2).

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(5) In preparing the statement, the applicant must have regard to any response to consultation under subsection (2) that is received by the applicant before the deadline imposed by subsection (3).

(6) Once the applicant has prepared the statement, the applicant **[**[F83]must—

(za) make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,**]**

(a) **[**[F84]publish,**]** in a newspaper circulating in the vicinity of the land**[**[F85], a notice stating where and when the statement can be inspected**]**, and

(b) **[**[F86]publish the statement in such manner**]** as may be prescribed.

(7) The applicant must carry out consultation in accordance with the proposals set out in the statement.

Textual Amendments

F83 Words in s. 47(6) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 134(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F84 Word in s. 47(6)(a) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 134(b)(i)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F85 Words in s. 47(6)(a) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 134(b)(ii)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F86 Words in s. 47(6)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 134(c)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I47 S. 47 partly in force; s. 47 in force for certain purposes at Royal Assent see s. 241

I48 S. 47 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

48 Duty to publicise

(1) The applicant must publicise the proposed application in the prescribed manner.

(2) Regulations made for the purposes of subsection (1) must, in particular, make provision for publicity under subsection (1) to include a deadline for receipt by the applicant of responses to the publicity.

Commencement Information

I49 S. 48 partly in force; s. 48 in force for certain purposes at Royal Assent see s. 241

I50 S. 48 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

49 Duty to take account of responses to consultation and publicity

(1) Subsection (2) applies where the applicant—

(a) has complied with sections 42, 47 and 48, and

(b) proposes to go ahead with making an application for an order granting development consent (whether or not in the same terms as the proposed application).

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(2) The applicant must, when deciding whether the application that the applicant is actually to make should be in the same terms as the proposed application, have regard to any relevant responses.

(3) In subsection (2) "relevant response" means—

(a) a response from a person consulted under section 42 that is received by the applicant before the deadline imposed by section 45 in that person's case,

(b) a response to consultation under section 47(7) that is received by the applicant before any applicable deadline imposed in accordance with the statement prepared under section 47, or

(c) a response to publicity under section 48 that is received by the applicant before the deadline imposed in accordance with section 48(2) in relation to that publicity.

Commencement Information

I51 S. 49 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

50 Guidance about pre-application procedure

(1) Guidance may be issued about how to comply with the requirements of this Chapter.

(2) Guidance under this section may be issued by [F87]... the Secretary of State.

(3) The applicant must have regard to any guidance under this section.

Textual Amendments

F87 Words in s. 50(2) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 9, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I52 S. 50 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

CHAPTER 3

ASSISTANCE FOR APPLICANTS AND OTHERS

51 Advice for potential applicants and others

(1) **[**[F88]This section applies to advice**]** about—

(a) applying for an order granting development consent;

(b) making representations about an application, or a proposed application, for such an order.

[[F89](3) The Secretary of State may by regulations make provision about the giving of advice to which this section applies.

(4) In particular, regulations under subsection (3) may make provision that has the effect that—

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(a) a request for advice made by an applicant, potential applicant or other person, or

(b) advice given to an applicant, potential applicant or other person,

must be, or may be, disclosed by the Secretary of State to other persons or to the public generally.**]**

Textual Amendments

F88 Words in s. 51(1) substituted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 10(2)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

F89 S. 51(3)(4) substituted for (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 10(3)**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

Commencement Information

I53 S. 51 partly in force; s. 51 in force for certain purposes at Royal Assent see s. 241

I54 S. 51 in force at 1.10.2009 in so far as not already in force by S.I. 2009/2260, **art. 2(b)**

52 Obtaining information about interests in land

(1) Where a person is applying, or proposes to apply, for an order granting development consent, **[**[F90]subsections (2) and (2A) apply**]** for the purpose of enabling the person ("the applicant") to comply with provisions of, or made under, Chapter 2 of this Part or Chapter 1 of Part 6.

(2) The **[**[F91]Secretary of State**]** may authorise the applicant to serve a notice on a person mentioned in subsection (3) requiring the person ("the recipient") to give to the applicant in writing the name and address of any person the recipient believes is one or more of the following—

(a) an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;

(b) a person interested in the land;

(c) a person having power—

(i) to sell and convey the land, or

(ii) to release the land.

[[F92](2A) The Secretary of State may authorise the applicant to serve a notice on a person mentioned in subsection (3) requiring the person ("the recipient") to give to the applicant in writing the name and address of any person the recipient believes is a person who, if the order sought by the application or proposed application were to be made and fully implemented, would or might be entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of the use of the land once the order has been implemented,

to make a relevant claim.**]**

(3) The persons are—

(a) an occupier of the land;

(b) a person who has an interest in the land as freeholder, mortgagee or lessee;

(c) a person who directly or indirectly receives rent for the land;

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(d) a person who, in pursuance of an agreement between that person and a person interested in the land, is authorised to manage the land or to arrange for the letting of it.

(4) A notice under subsection (2) **[**[F93]or (2A)**]** must—

(a) be in writing,

(b) state that the **[**[F94]Secretary of State**]** has authorised the applicant to serve the notice,

(c) specify or describe the land to which the application, or proposed application, relates,

(d) specify the deadline by which the recipient must give the required information to the applicant, and

(e) draw attention to the provisions in subsections (6) to (9).

(5) A deadline specified under subsection (4)(d) in a notice must not be earlier than the end of the 14 days beginning with the day after the day on which the notice is served on the recipient of the notice.

[[F95](5A) A notice under subsection (2A) must explain the circumstances in which a person would or might be entitled as mentioned in that subsection.**]**

(6) A person commits an offence if the person fails without reasonable excuse to comply with a notice under subsection (2) **[**[F96]or (2A)**]** served on the person.

(7) A person commits an offence if, in response to a notice under subsection (2) **[**[F96]or (2A)**]** served on the person—

(a) the person gives information which is false in a material particular, and

(b) when the person does so, the person knows or ought reasonably to know that the information is false.

(8) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body,

(b) a person purporting to act in any such capacity, or

(c) in a case where the affairs of the body are managed by its members, a member of the body,

that person, as well as the body, is guilty of that offence and liable to be proceeded against accordingly.

(9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) In subsections **[**[F97](2) to (3)**]** "the land" means—

(a) the land to which the application, or proposed application, relates, or

(b) any part of that land.

(11) Any other expression that appears in either of paragraphs (b) and (c) of subsection (2) and also in section 5(1) of the Compulsory Purchase Act 1965 (c. 56) has in those paragraphs the meaning that it has in section 5(1) of that Act.

[[F98](12) In subsection (3) as it applies for the purposes of subsection (2A) "the land" also includes any relevant affected land (see subsection (13)).

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(13) Where the applicant believes that, if the order sought by the application or proposed application were to be made and fully implemented, there would or might be persons entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of the use of the land once the order has been implemented,

to make a relevant claim in respect of any land or in respect of an interest in any land, that land is "relevant affected land" for the purposes of subsection (12).

(14) In this section "relevant claim" means—

(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for compulsory purchase of land or not made for injurious affection resulting from compulsory purchase);

(b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);

(c) a claim under section 152(3).**]**

Textual Amendments

F90 Words in s. 52(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F91 Words in s. 52(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 11**; S.I. 2012/628, art. 7(a)

F92 S. 52(2A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(3)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F93 Words in s. 52(4) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(4)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F94 Words in s. 52(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 11**; S.I. 2012/628, art. 7(a)

F95 S. 52(5A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(5)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F96 Words in s. 52(6)(7) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(4)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F97 Words in s. 52(10) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(6)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F98 S. 52(12)-(14) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(7)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I55 S. 52 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

53 Rights of entry

(1) Any person duly authorised in writing by the **[**[F99]Secretary of State**]** may at any reasonable time enter any land for the purpose of surveying and taking levels of it**[**[F100], or in order to facilitate compliance with the provisions mentioned in subsection (1A),**]** in connection with—

(a) an application for an order granting development consent, whether in relation to that or any other land, that has been accepted by the **[**[F99]Secretary of State**]**,

(b) a proposed application for an order granting development consent, or

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(c) an order granting development consent that includes provision authorising the compulsory acquisition of that land or of an interest in it or right over it.

[[F101](1A) Those provisions are any provision of or made under an Act for the purpose of implementing—

(a) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time,

(b) Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time, or

(c) any EU instrument from time to time replacing all or any part of either of those Directives.**]**

(2) Authorisation may be given by the **[**[F102]Secretary of State**]** under subsection (1)(b) in relation to any land only if it appears to the **[**[F102]Secretary of State**]** that—

(a) the proposed applicant is considering a distinct project of real substance genuinely requiring entry onto the land,

[F103](b) . . . . . .

[F103](c) . . . . . .

(3) Subject to subsections (9) and (10), power conferred by subsection (1) to survey land includes power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals or other matter in it.

[[F104](3A) Power conferred by subsection (1) for the purpose of complying with the provisions mentioned in subsection (1A) includes power to take, and process, samples of or from any of the following found on, in or over the land—

(a) water,

(b) air,

(c) soil or rock,

(d) its flora,

(e) bodily excretions, or dead bodies, of non-human creatures, or

(f) any non-living thing present as a result of human action.**]**

(4) A person authorised under subsection (1) to enter any land—

(a) must, if so required, produce evidence of the person's authority, and state the purpose of the person's entry, before so entering,

(b) may not demand admission as of right to any land which is occupied unless 14 days' notice of the intended entry has been given to the occupier, and

(c) must comply with any other conditions subject to which the **[**[F105]Secretary of State's**]** authorisation is given.

(5) A person commits an offence if the person wilfully obstructs a person acting in the exercise of power under subsection (1).

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Where any damage is caused to land or chattels—

(a) in the exercise of a right of entry conferred under subsection (1), or

(b) in the making of any survey for the purpose of which any such right of entry has been conferred,

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compensation may be recovered by any person suffering the damage from the person exercising the right of entry.

(8) Any question of disputed compensation under subsection (7) must be referred to and determined by the **[**[F106]Upper Tribunal**]**.

(9) No person may carry out under subsection (1) any works authorised by virtue of subsection (3) unless notice of the person's intention to do so was included in the notice required by subsection (4)(b).

(10) The authority of the appropriate Minister is required for the carrying out under subsection (1) of works authorised by virtue of subsection (3) if—

(a) the land in question is held by statutory undertakers, and

(b) they object to the proposed works on the ground that execution of the works would be seriously detrimental to the carrying-on of their undertaking.

(11) In subsection (10)—

"the appropriate Minister" means—

(a) in the case of land in Wales held by water or sewerage undertakers, the Welsh Ministers, and

(b) in any other case, the Secretary of State;

"statutory undertakers" means persons who are, or who are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of TCPA 1990.

Textual Amendments

F99 Words in s. 53(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 12(2)**; S.I. 2012/628, art. 7(a)

F100 Words in s. 53(1) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 136(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F101 S. 53(1A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 136(3)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F102 Words in s. 53(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 12(2)**; S.I. 2012/628, art. 7(a)

F103 S. 53(2)(b)(c) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 136(4), 240(2), **Sch. 25 Pt. 20** (with s. 144); S.I. 2012/628, art. 7

F104 S. 53(3A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 136(5)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F105 Words in s. 53(4)(c) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 12(3)**; S.I. 2012/628, art. 7(a)

F106 Words in s. 53(8) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 292** (with Sch. 5)

Commencement Information

I56 S. 53 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

54 Rights of entry: Crown land

(1) Subsections (1) **[**[F107]to (3A)**]** of section 53 apply to Crown land subject to subsections (2) and (3) of this section.

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(2) A person must not enter Crown land unless the person ("P") has the permission of—
  (a) a person appearing to P to be entitled to give it, or
  (b) the appropriate Crown authority.

(3) In section 53(3), the words "Subject to subsections (9) and (10)" must be ignored.

(4) Subsections (4) to (6) and (9) to (11) of section 53 do not apply to anything done by virtue of subsections (1) to (3) of this section.

Textual Amendments

F107 Words in s. 54(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 136(6)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I57 S. 54 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(b)**

PART 6

DECIDING APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 1

HANDLING OF APPLICATION BY COMMISSION

55 Acceptance of applications

(1) The following provisions of this section apply where the **[**[F108]Secretary of State**]** receives an application that purports to be an application for an order granting development consent.

(2) The **[**[F108]Secretary of State**]** must, by the end of the period of 28 days beginning with the day after the day on which **[**[F109]the Secretary of State**]** receives the application, decide whether or not to accept the application.

(3) The **[**[F108]Secretary of State**]** may accept the application only if the **[**[F108]Secretary of State**]** concludes—
  (a) that it is an application for an order granting development consent,
  [F110](b) . . . . . .
  (c) that development consent is required for any of the development to which the application relates,
  [F111](d) . . . . . .
  (e) that the applicant has, in relation to a proposed application that has become the application, complied with Chapter 2 of Part 5 (pre-application procedure)**[**[F112], and
  (f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.**]**

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(4) The **[**[F108]Secretary of State**]**, when deciding whether **[**[F113]the Secretary of State**]** may reach the conclusion in subsection (3)(e), must have regard to—

(a) the consultation report received under section 37(3)(c),

(b) any adequacy of consultation representation received by **[**[F113]the Secretary of State**]** from a local authority consultee, and

(c) the extent to which the applicant has had regard to any guidance issued under section 50.

(5) In subsection (4)—

"local authority consultee" means—

(a) a local authority consulted under **[**[F114]section 42(1)(b) **]** about a proposed application that has become the application, or

(b) the Greater London Authority if consulted under **[**[F115]section 42(1)(c)**]** about that proposed application;

"adequacy of consultation representation" means a representation about whether the applicant complied, in relation to that proposed application, with the applicant's duties under sections 42, 47 and 48.

[[F116](5A) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f), must have regard to the extent to which—

(a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5), and

(b) any applicable guidance given under section 37(4) has been followed in relation to the application.**]**

(6) If the **[**[F108]Secretary of State**]** accepts the application, **[**[F117]the Secretary of State**]** must notify the applicant of the acceptance.

(7) If the **[**[F108]Secretary of State**]** is of the view that **[**[F118]the application cannot be accepted, the Secretary of State**]** must—

(a) notify that view to the applicant, and

(b) notify the applicant of **[**[F119]the Secretary of State's**]** reasons for that view.

(8) If in response the applicant modifies (or further modifies) the application, subsections (2) to (7) then apply in relation to the application as modified.

Textual Amendments

F108 Words in s. 55 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 13(2)**; S.I. 2012/628, art. 7(a)

F109 Words in s. 55(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 13(3)**; S.I. 2012/628, art. 7(a)

F110 S. 55(3)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 137(2), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

F111 S. 55(3)(d) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 137(2), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

F112 S. 55(3)(f) and preceding word inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 137(3)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F113 Words in s. 55(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 13(3)**; S.I. 2012/628, art. 7(a)

F114 Words in s. 55(5) substituted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(4)(a)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

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F115 Words in s. 55(5) substituted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(4)(b)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F116 S. 55(5A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 137(4)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F117 Words in s. 55(6) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 13(3)**; S.I. 2012/628, art. 7(a)

F118 Words in s. 55(7) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 13(4)(a)**; S.I. 2012/628, art. 7(a)

F119 Words in s. 55(7)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 13(4)(b)**; S.I. 2012/628, art. 7(a)

Commencement Information

I58 S. 55 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

56 Notifying persons of accepted application

(1) Subsections (2), (6) and (7) apply where the **[**[F120]Secretary of State**]** accepts an application for an order granting development consent.

(2) The applicant must give notice of the application to—

(a) such persons as may be prescribed,

[[F121](aa) the Marine Management Organisation, in any case where the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (2A),**]**

[[F122](b) each local authority that is within section 56A,**]**

(c) the Greater London Authority if the land to which the application relates, or any part of it, is in Greater London, and

(d) each person who is within one or more of the categories set out in section 57.

[[F123](2A) The areas are—

(a) waters in or adjacent to England up to the seaward limits of the territorial sea;

(b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;

(c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;

(d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.**]**

(3) Notice under subsection (2) must be in such form and contain such matter, and be given in such manner, as may be prescribed.

(4) The applicant must, when giving notice to a person under subsection (2), notify the person of the deadline for receipt by the **[**[F120]Secretary of State**]** of representations giving notice of the person's interest in, or objection to, the application.

(5) A deadline notified under subsection (4) must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the notice.

(6) The applicant must make available, to each person to whom notice is given under subsection (2), a copy of—

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(a) the application, and

(b) the documents and information that were required by section 37(3)(d) to accompany the application.

(7) The applicant must publicise the application in the prescribed manner.

(8) Regulations made for the purposes of subsection (7) must, in particular, make provision for publicity under subsection (7) to include a deadline for receipt by the **[**[F120]Secretary of State**]** of representations giving notice of persons' interests in, or objections to, the application.

(9) A deadline specified in accordance with subsection (8) does not apply to a person to whom notice is given under subsection (2).

Textual Amendments

F120 Words in s. 56 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 14**; S.I. 2012/628, art. 7(a)

F121 S. 56(2)(aa) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(5)(a)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F122 S. 56(2)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F123 S. 56(2A) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(5)(b)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

Commencement Information

I59 S. 56 partly in force; s. 56 in force for certain purposes at Royal Assent see s. 241

I60 S. 56 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(c)**

[[F124]**56A Local authorities for the purposes of sections 56(2)(b) and 60(2)(a)**

(1) A local authority is within this section if the land is in the authority's area.

(2) A local authority (“A”) is within this section if—

(a) the land is in the area of another local authority (“B”),

(b) B is a unitary council or a lower-tier district council, and

(c) any part of the boundary of A's area is also a part of the boundary of B's area.

(3) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.

(4) In this section—

“the land” means the land to which the application concerned relates or any part of that land;

“local authority” has the meaning given in section 102(8);

“lower-tier district council” means a district council in England for an area for which there is a county council;

“unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

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"upper-tier county council" means a county council in England for each part of whose area there is a district council.**]**

Textual Amendments

F124 S. 56A inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(3)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

57 Categories for purposes of section 56(2)(d)

(1) A person is within Category 1 if the applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

(2) A person is within Category 2 if the applicant, after making diligent inquiry, knows that the person—

(a) is interested in the land, or

(b) has power—

(i) to sell and convey the land, or

(ii) to release the land.

(3) An expression, other than "the land", that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 (c. 56) has in subsection (2) the meaning that it has in section 5(1) of that Act.

(4) A person is within Category 3 if the applicant thinks that, if the order sought by the application were to be made and fully implemented, the person would or might be entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of use of the land once the order has been implemented,

to make a relevant claim.

This is subject to subsection (5).

(5) A person is within Category 3 only if the person is known to the applicant after making diligent inquiry.

(6) In subsection (4) "relevant claim" means—

(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);

(b) a claim under Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works)**[**[F125];

(c) a claim under section 152(3).**]**

(7) In this section "the land" means the land to which the application relates or any part of that land.

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Textual Amendments

F125 S. 57(6)(c) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(9)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I61 S. 57 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(c)**

58 Certifying compliance with section 56

(1) Subsection (2) applies where—

(a) the **[**[F126]Secretary of State**]** has accepted an application for an order granting development consent, and

(b) the applicant has complied with section 56 in relation to the application.

(2) The applicant must, in such form and manner as may be prescribed, certify to the **[**[F127]Secretary of State**]** that the applicant has complied with section 56 in relation to the application.

(3) A person commits an offence if the person issues a certificate which—

(a) purports to be a certificate under subsection (2), and

(b) contains a statement which the person knows to be false or misleading in a material particular.

(4) A person commits an offence if the person recklessly issues a certificate which—

(a) purports to be a certificate under subsection (2), and

(b) contains a statement which is false or misleading in a material particular.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A magistrates' court may try an information relating to an offence under this section whenever laid.

(7) Section 127 of the Magistrates' Courts Act 1980 (c. 43) has effect subject to subsection (6) of this section.

Textual Amendments

F126 Words in s. 58(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 15**; S.I. 2012/628, art. 7(a)

F127 Words in s. 58(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 15**; S.I. 2012/628, art. 7(a)

Commencement Information

I62 S. 58 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(c)**

59 Notice of persons interested in land to which compulsory acquisition request relates

(1) This section applies where—

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(a) the **[**[F128]Secretary of State**]** has accepted an application for an order granting development consent, and

(b) the application includes a request for an order granting development consent to authorise compulsory acquisition of land or of an interest in or right over land (a "compulsory acquisition request").

(2) The applicant must give to the **[**[F129]Secretary of State**]** a notice specifying the names, and such other information as may be prescribed, of each affected person.

(3) Notice under subsection (2) must be given in such form and manner as may be prescribed.

(4) A person is an "affected person" for the purposes of this section if the applicant, after making diligent inquiry, knows that the person is interested in the land to which the compulsory acquisition request relates or any part of that land.

Textual Amendments

F128 Words in s. 59(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 16**; S.I. 2012/628, art. 7(a)

F129 Words in s. 59(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 16**; S.I. 2012/628, art. 7(a)

Commencement Information

I63 S. 59 partly in force; s. 59 in force for certain purposes at Royal Assent see s. 241

I64 S. 59 in force at 1.10.2009 by S.I. 2009/2260, **art. 2(c)**

60 Local impact reports

(1) Subsection (2) applies where the **[**[F130]Secretary of State**]** —

(a) has accepted an application for an order granting development consent, and

(b) has received—

(i) a certificate under section 58(2) in relation to the application, and

(ii) where section 59 applies, a notice under that section in relation to the application.

(2) The **[**[F130]Secretary of State**]** must give notice in writing to each of the following, inviting them to submit a local impact report **[**[F131]to the Secretary of State**]** —

[[F132](a) each local authority that is within section 56A, and**]**

(b) the Greater London Authority if the land to which the application relates, or any part of it, is in Greater London.

(3) A "local impact report" is a report in writing giving details of the likely impact of the proposed development on the authority's area (or any part of that area).

(4) "The proposed development" is the development for which the application seeks development consent.

(5) A notice under subsection (2) must specify the deadline for receipt by the **[**[F130]Secretary of State**]** of the local impact report.

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Textual Amendments

F130 Words in s. 60 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 17(2)**; S.I. 2012/628, art. 7(a)

F131 Words in s. 60(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 17(3)**; S.I. 2012/628, art. 7(a)

F132 S. 60(2)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(4)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I65 S. 60 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

61 Initial choice of Panel or single [F133appointed person]

[F134(1) Subsection (2) applies where the Secretary of State has accepted an application for an order granting development consent.]

[F135(2) The Secretary of State must decide whether the application—

(a) is to be handled by a Panel under Chapter 2, or

(b) is to be handled by a single appointed person under Chapter 3.

(3) The Secretary of State must publish the criteria that are to be applied in making decisions under subsection (2).]

Textual Amendments

F133 Words in s. 61 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 18(4)**; S.I. 2012/628, art. 7(a)

F134 S. 61(1) substituted (12.4.2015) by Infrastructure Act 2015 (c. 7), **ss. 26**, 57(5)(a); S.I. 2015/758, reg. 2 (with art. 4(2))

F135 S. 61(2)(3) substituted for s. 61(2)-(5) (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 18(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I66 S. 61 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

62 Switching from single [F136appointed person] to Panel

(1) Subsection (2) applies where an application for an order granting development consent is being handled by a single [F137appointed person] under Chapter 3.

[F138(2) The Secretary of State may decide that the application should instead be handled by a Panel under Chapter 2.

(3) The Secretary of State must publish the criteria that are to be applied in making decisions under subsection (2).]

Textual Amendments

F136 Words in s. 62 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 19(2)**; S.I. 2012/628, art. 7(a)

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F137 Words in s. 62(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 19(2)**; S.I. 2012/628, art. 7(a)

F138 S. 62(2)(3) substituted for s. 62(2)-(5) (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 19(1)**(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I67 S. 62 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[F139]63 Delegation of functions by person appointed to chair Commission

. . . . . .

Textual Amendments

F139 S. 63 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 20, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

CHAPTER 2

THE PANEL PROCEDURE

Panels

64 Panel for each application to be handled under this Chapter

(1) This Chapter applies where—

(a) the **[**[F140]Secretary of State**]** accepts an application for an order granting development consent, and

(b) under section 61(2) or 62(2), it is decided that the application is to be handled by a Panel under this Chapter.

(2) There is to be a Panel (referred to in this Chapter as "the Panel") to handle the application.

Textual Amendments

F140 Words in s. 64(1)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 21**; S.I. 2012/628, art. 7(a)

Commencement Information

I68 S. 64 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

65 Appointment of members, and lead member, of Panel

[[F141](1) The Secretary of State must appoint—

(a) **[**[F142]two,**]** three, four or five persons to be members of the Panel, and

(b) one of those persons to chair the Panel.**]**

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(2) In this Chapter "the lead member" means the person who for the time being is appointed to chair the Panel.

[F143](3) . . . . . .

[F143](4) . . . . . .

[F143](5) . . . . . .

Textual Amendments

F141 S. 65(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 22(2)**; S.I. 2012/628, art. 7(a)

F142 Word in s. 65(1)(a) inserted (5.4.2017) by Infrastructure Act 2015 (c. 7), **ss. 27(1)**, 57(5)(a); S.I. 2017/315, reg. 2

F143 S. 65(3)-(5) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 22(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I69 S. 65 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

66 Ceasing to be member, or lead member, of Panel

[F144](1) . . . . . .

(2) The person appointed to be the lead member ceases to hold that office if the person ceases to be a member of the Panel.

(3) A person may resign from membership of the Panel by giving notice in writing to the **[**[F145]Secretary of State**]**.

(4) The lead member may resign that office, without also resigning from membership of the Panel, by giving notice in writing to the **[**[F146]Secretary of State**]**.

(5) The **[**[F147]Secretary of State**]**—

(a) may remove a person ("the Panel member") from membership of the Panel if the **[**[F148]Secretary of State**]** is satisfied that the Panel member is unable, unwilling or unfit to perform the duties of Panel membership;

(b) may remove the lead member from that office, without also removing the lead member from membership of the Panel, if the **[**[F149]Secretary of State**]** is satisfied that the lead member is unable, unwilling or unfit to perform the duties of the office.

Textual Amendments

F144 S. 66(1) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 23(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F145 Words in s. 66(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 23(3)**; S.I. 2012/628, art. 7(a)

F146 Words in s. 66(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 23(3)**; S.I. 2012/628, art. 7(a)

F147 Words in s. 66(5) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 23(4)(a)**; S.I. 2012/628, art. 7(a)

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F148 Words in s. 66(5)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 23(4)(b)**; S.I. 2012/628, art. 7(a)

F149 Words in s. 66(5)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 23(4)(b)**; S.I. 2012/628, art. 7(a)

Commencement Information

I70 S. 66 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[F150]67 Panel member continuing though ceasing to be Commissioner

. . . . . .

Textual Amendments

F150 S. 67 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 24, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

68 Additional appointments to Panel

(1) Subsections (2) and (3) apply at any time after the initial members of the Panel have been appointed under section 65(1)(a).

[[F151](2) The Secretary of State may appoint a person to be a member of the Panel, but this power may not be exercised so as to cause the Panel to have more than five members.**]**

(3) If at any time the Panel has only [F152]... a single member, it is the duty of the **[**[F153]Secretary of State**]** to ensure that the power under subsection (2) is exercised so as to secure that the Panel again has at least **[**[F154]two**]** members.

(4) A person appointed under subsection (2) becomes a member of the Panel in addition to any person who is otherwise a member of the Panel.

[F155](5) . . . . . .

Textual Amendments

F151 S. 68(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 25(2)**; S.I. 2012/628, art. 7(a)

F152 Words in s. 68(3) omitted (5.4.2017) by virtue of Infrastructure Act 2015 (c. 7), **ss. 27(2)(a)**, 57(5)(a); S.I. 2017/315, reg. 2

F153 Words in s. 68(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 25(3)**; S.I. 2012/628, art. 7(a)

F154 Word in s. 68(3) substituted (5.4.2017) by Infrastructure Act 2015 (c. 7), **ss. 27(2)(b)**, 57(5)(a); S.I. 2017/315, reg. 2

F155 S. 68(5) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 25(4), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I71 S. 68 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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69 Replacement of lead member of Panel

(1) Subsection (2) applies where a person ceases to hold the office of lead member.

(2) The **[**[F156]Secretary of State**]** must appoint a member of the Panel to chair the Panel.

(3) A person may be appointed under subsection (2) even though that person was not a member of the Panel when the vacancy arose.

[F157](4) . . . . . .

Textual Amendments

F156 Words in s. 69(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 26(2)**; S.I. 2012/628, art. 7(a)

F157 S. 69(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 26(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I72 S. 69 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[F158]70 Membership of Panel where application relates to land in Wales

. . . . . .

Textual Amendments

F158 S. 70 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 27, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

71 Supplementary provision where Panel replaces single **[**[F159]appointed person**]**

(1) Subsections (2) and (3) apply where this Chapter applies as the result of a decision under section 62(2).

(2) **[**[F160]An appointed person**]** —

(a) may be appointed under section 65(1)(a) or 68(2) as a member of the Panel, and

(b) if a member of the Panel, may be appointed under section 65(1)(b) or 69(2) to chair the Panel.

(3) The Panel may, so far as it thinks appropriate, decide to treat things done by or in relation to **[**[F161]an appointed person**]** in proceedings under Chapter 3 on the application as done by or in relation to the Panel.

(4) Where the Panel makes a decision under subsection (3), the lead member is under a duty to ensure that the membership of the Panel has the necessary knowledge of the proceedings under Chapter 3 on the application.

[[F162](5) In this section "appointed person" means a person appointed to handle the application under Chapter 3.**]**

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Textual Amendments

F159 Words in s. 71 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 28(5)**; S.I. 2012/628, art. 7(a)

F160 Words in s. 71(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 28(2)**; S.I. 2012/628, art. 7(a)

F161 Words in s. 71(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 28(3)**; S.I. 2012/628, art. 7(a)

F162 S. 71(5) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 28(4)**; S.I. 2012/628, art. 7(a)

Commencement Information

I73 S. 71 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

72 Panel ceasing to have any members

(1) If the Panel ceases to have any members, a new Panel must be constituted under section 65(1).

(2) At times after the new Panel has been constituted (but subject to the further application of this subsection in the event that the new Panel ceases to have any members), references in this Chapter to the Panel are to be read as references to the new Panel.

(3) The new Panel may, so far as it thinks appropriate, decide to treat things—

(a) done by or in relation to a previous Panel appointed to handle the application, or

(b) treated under section 71(3) as done by or in relation to a previous Panel appointed to handle the application,

as done by or in relation to the new Panel.

(4) Where the Panel makes a decision under subsection (3), the lead member is under a duty to ensure that the membership of the Panel has the necessary knowledge of the proceedings on the application up until the reconstitution of the Panel.

(5) The power under section 68(2) is not exercisable at times when the Panel has no members.

Commencement Information

I74 S. 72 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

73 Consequences of changes in Panel

(1) The Panel's continuing identity is to be taken not to be affected by—

(a) any change in the membership of the Panel;

(b) the Panel's coming to have only [F163]... a single member;

(c) any change in the lead member;

(d) a vacancy in that office.

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(2) When there is a change in the membership of the Panel, the lead member is under a duty to ensure that the membership of the Panel after the change has the necessary knowledge of the proceedings on the application up until the change.

(3) Subsection (2) does not apply where the change occurs as a result of the Panel being reconstituted as required by section 72(1).

Textual Amendments

F163 Words in s. 73(1)(b) omitted (5.4.2017) by virtue of Infrastructure Act 2015 (c. 7), **ss. 27(3)**, 57(5)(a); S.I. 2017/315, reg. 2

Commencement Information

I75 S. 73 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Panel's role in relation to application

74 Panel to decide, or make recommendation in respect of, application

[F164](1) . . . . . .

(2) **[**[F165]The Panel**]** has the functions of—

(a) examining the application, and

(b) making a report to the Secretary of State on the application setting out—

(i) the Panel's findings and conclusions in respect of the application, and

(ii) the Panel's recommendation as to the decision to be made on the application.

(3) The Panel's functions under this section are to be carried out in accordance with Chapter 4.

[F166](4) . . . . . .

Textual Amendments

F164 S. 74(1) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 29(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F165 Words in s. 74(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 29(3)**; S.I. 2012/628, art. 7(a)

F166 S. 74(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 29(4), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I76 S. 74 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

75 Decision-making by the Panel

[[F167](A1) If the members of a Panel with two members disagree as to a proposed decision by the Panel, the view of the lead member is to prevail.**]**

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(1) The making of a decision by **[**[F168]a Panel with three or more members**]** requires the agreement of a majority of its members.

(2) The lead member has a second (or casting) vote in the event that the number of members of the Panel agreeing to a proposed decision is the same as the number of members not so agreeing.

Textual Amendments

F167 S. 75(A1) inserted (5.4.2017) by Infrastructure Act 2015 (c. 7), **ss. 27(4)(a)**, 57(5)(a); S.I. 2017/315, reg. 2

F168 Words in s. 75(1) substituted (5.4.2017) by Infrastructure Act 2015 (c. 7), **ss. 27(4)(b)**, 57(5)(a); S.I. 2017/315, reg. 2

Commencement Information

I77 S. 75 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

76 Allocation within Panel of Panel's functions

(1) This section applies in relation to the Panel's examination of the application.

(2) The Panel, as an alternative to itself undertaking a part of the examination, may allocate the undertaking of that part to any one or more of the members of the Panel.

(3) Where there is an allocation under subsection (2)—

(a) anything that under Chapter 4 is required or authorised to be done by or to the Panel in connection with the allocated part of the examination may be done by or to the member or members concerned (or by or to the Panel), and

(b) findings and conclusions of the member or members concerned in respect of the matters allocated are to be taken to be the Panel's.

(4) Subsection (3)(b) has effect subject to any decision of the Panel, made on the occasion of making the allocation or earlier, as to the status of any such findings or conclusions.

(5) Where there is an allocation under subsection (2) to two or more of the members of the Panel, the making of a decision by the members concerned requires the agreement of all of them.

Commencement Information

I78 S. 76 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

77 Exercise of Panel's powers for examining application

(1) In this section "procedural power" means any power conferred on the Panel for the purposes of its examination of the application.

(2) A procedural power, as well as being exercisable by the Panel itself, is also (subject to subsection (3)) exercisable by any one or more of the members of the Panel.

(3) The Panel may decide to restrict or prohibit the exercise of a procedural power otherwise than by the Panel itself.

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(4) Subsection (2)—

(a) applies whether or not there is an allocation under section 76(2), and

(b) where there is such an allocation, is in addition to section 76(3)(a).

(5) Subsection (3) does not authorise curtailment of a power conferred by section 76(3)(a).

Commencement Information

I79 S. 77 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

CHAPTER 3

THE [F169SINGLE-APPOINTED-PERSON] PROCEDURE

Textual Amendments

F169 Words in Pt. 6 Ch. 3 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 30(6)**; S.I. 2012/628, art. 7(a)

The single [F170appointed person]

Textual Amendments

F170 Words in s. 78 cross-heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 30(5)**; S.I. 2012/628, art. 7(a)

78 Single [F171appointed person] to handle application

(1) This Chapter applies where—

(a) the [F172Secretary of State] accepts an application for an order granting development consent, and

(b) under section 61(2), it is decided that the application is to be handled by a single [F173appointed person] under this Chapter.

(2) In this Chapter "the single [F174appointed person]" means the person who is appointed to handle the application under this Chapter.

Textual Amendments

F171 Words in s. 78 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 30(5)**; S.I. 2012/628, art. 7(a)

F172 Words in s. 78(1)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 30(2)**; S.I. 2012/628, art. 7(a)

F173 Words in s. 78(1)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 30(3)**; S.I. 2012/628, art. 7(a)

F174 Words in s. 78(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 30(4)**; S.I. 2012/628, art. 7(a)

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Commencement Information

I80 S. 78 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[[F175]79 Appointment of single appointed person

The Secretary of State must appoint a person to handle the application.]

Textual Amendments

F175 S. 79 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 31**; S.I. 2012/628, art. 7(a)

80 Ceasing to be the single [[F176]appointed person]

[F177](1) . . . . . .

(2) A person may resign from being the single [[F178]appointed person] by giving notice in writing to the [[F179]Secretary of State].

(3) The [[F180]Secretary of State] may remove a person ("the appointee") from being the single [[F181]appointed person][[F182]if the Secretary of State] is satisfied that the appointee is unable, unwilling or unfit to perform the duties of the single [[F181]appointed person].

Textual Amendments

F176 Words in s. 80 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 32(5)**; S.I. 2012/628, art. 7(a)

F177 S. 80(1) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 32(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F178 Words in s. 80(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 32(3)(a)**; S.I. 2012/628, art. 7(a)

F179 Words in s. 80(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 32(3)(b)**; S.I. 2012/628, art. 7(a)

F180 Words in s. 80(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 32(4)(a)**; S.I. 2012/628, art. 7(a)

F181 Words in s. 80(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 32(4)(b)**; S.I. 2012/628, art. 7(a)

F182 Words in s. 80(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 32(4)(c)**; S.I. 2012/628, art. 7(a)

Commencement Information

I81 S. 80 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[F183]81 Single Commissioner continuing though ceasing to be Commissioner

. . . . . .

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Textual Amendments

F183 S. 81 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 33, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

82 Appointment of replacement single [F184appointed person]

(1) Where a person ceases to be the single [F184appointed person], a new appointment of a person to handle the application must be made under section 79.

(2) Where that happens, the new single [F184appointed person] may, so far as may be appropriate, decide to treat things done by or in relation to any previous single [F184appointed person] as done by or in relation to the new single [F184appointed person].

(3) Where the single [F184appointed person] makes a decision under subsection (2), the single [F184appointed person] is under a duty to acquire the necessary knowledge of the previous proceedings on the application.

Textual Amendments

F184 Words in s. 82 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 34**; S.I. 2012/628, art. 7(a)

Commencement Information

I82 S. 82 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Single [F185appointed person]'s role in relation to application

Textual Amendments

F185 Words in s. 83 cross-heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 35(2)**; S.I. 2012/628, art. 7(a)

83 Single [F186appointed person] to examine and report on application

(1) The single [F187appointed person] has the functions of—

(a) examining the application, and

(b) making a report [F188to the Secretary of State] on the application setting out—

(i) the single [F187appointed person]'s findings and conclusions in respect of the application, and

(ii) the single [F187appointed person]'s recommendation as to the decision to be made on the application.

F189(2) . . . . . .

(3) The single [F190appointed person]'s functions under subsection (1) are to be carried out in accordance with Chapter 4.

F191(4) . . . . . .

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Textual Amendments

F186 Words in s. 83 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 35(2)**; S.I. 2012/628, art. 7(a)

F187 Words in s. 83(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 35(2)**; S.I. 2012/628, art. 7(a)

F188 Words in s. 83(1)(b) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 35(3)**; S.I. 2012/628, art. 7(a)

F189 S. 83(2) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 35(4), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F190 Words in s. 83(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 35(2)**; S.I. 2012/628, art. 7(a)

F191 S. 83(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 35(5), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I83 S. 83 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

. . . . . .

F192 84 Report from single Commissioner to be referred to Council

. . . . . .

Textual Amendments

F192 Ss. 84, 85 and cross-heading repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 36, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F192 85 Decisions made by the Council on the application

(1) This section applies to decisions made by the Council in deciding the application.

(2) At least five members of the Council must participate in making a decision.

(3) The making of a decision requires the agreement of a majority of the members of the Council who are participating in making it.

(4) The person chairing the Council has a second (or casting) vote in the event that the number of members of the Council agreeing to a proposed decision is the same as the number of members not so agreeing.

Textual Amendments

F192 Ss. 84, 85 and cross-heading repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 36, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

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CHAPTER 4

EXAMINATION OF APPLICATIONS UNDER CHAPTER 2 OR 3

86 Chapter applies to examination by Panel or single [F193appointed person]

(1) This Chapter applies—

(a) in relation to the examination of an application by a Panel under Chapter 2, and

(b) in relation to the examination of an application by a single **[**F194appointed person**]** under Chapter 3.

(2) In this Chapter as it applies in relation to the examination of an application by a Panel under Chapter 2, "the Examining authority" means the Panel.

(3) In this Chapter as it applies in relation to the examination of an application by a single **[**F194appointed person**]** under Chapter 3, "the Examining authority" means the single **[**F194appointed person**]**.

Textual Amendments

F193 Words in s. 86 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 37**; S.I. 2012/628, art. 7(a)

F194 Words in s. 86 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 37**; S.I. 2012/628, art. 7(a)

Commencement Information

I84 S. 86 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

87 Examining authority to control examination of application

(1) It is for the Examining authority to decide how to examine the application.

(2) The Examining authority, in making any decision about how the application is to be examined, must—

(a) comply with—

(i) the following provisions of this Chapter, and

(ii) any rules made under section 97, and

F195(b) . . . . . .

(3) The Examining authority may in examining the application disregard representations if the Examining authority considers that the representations—

(a) are vexatious or frivolous,

(b) relate to the merits of policy set out in a national policy statement, or

(c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

Textual Amendments

F195 S. 87(2)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 38, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

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Commencement Information

I85 S. 87 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

88 Initial assessment of issues, and preliminary meeting

(1) The Examining authority must make such an initial assessment of the principal issues arising on the application as the Examining authority thinks appropriate.

(2) After making that assessment, the Examining authority must hold a meeting.

(3) The Examining authority must invite to the meeting—

(a) the applicant, [F196]...

(b) each other interested party,

[[F197](c) each statutory party, and

(d) each local authority that is within section 88A,**]**

whether or not the Examining authority is required by rules under section 97, or chooses, also to invite other persons.

[[F198](3A) In subsection (3)(c) "statutory party" means a person specified in, or of a description specified in, regulations made by the Secretary of State.**]**

(4) The purposes of the meeting are—

(a) to enable invitees present at the meeting to make representations to the Examining authority about how the application should be examined,

(b) to discuss any other matter that the Examining authority wishes to discuss, and

(c) any other purpose that may be specified in rules under section 97.

(5) Subsections (2) to (4) do not prevent the Examining authority holding other meetings.

(6) Rules under section 97—

(a) may (in particular) make provision supplementing subsections (1) to (4), and

(b) must make provision as to when the assessment under subsection (1) is to be made and as to when the meeting required by subsection (2) is to be held.

Textual Amendments

F196 Word in s. 88(3)(a) repealed (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), ss. 138(5)(a), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/57, art. 2(c); S.I. 2012/628, art. 7(a)

F197 S. 88(3)(c)(d) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), **ss. 138(5)(b)**, 240(2) (with s. 144); S.I. 2012/57, art. 2(c); S.I. 2012/628, art. 7(a)

F198 S. 88(3A) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), **ss. 138(5)(c)**, 240(2) (with s. 144); S.I. 2012/57, art. 2(c); S.I. 2012/628, art. 7(a)

Commencement Information

I86 S. 88 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

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[F199 88A Local authorities for the purposes of section 88(3)(d)

(1) A local authority ("A") is within this section if—

(a) the land is in the area of another local authority ("B"),

(b) B is a unitary council or a lower-tier district council, and

(c) any part of the boundary of A's area is also a part of the boundary of B's area.

(2) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.

(3) In this section—

"the land" means the land to which the application relates or any part of that land;

"local authority" has the meaning given in section 102(8);

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council.]

Textual Amendments

F199 S. 88A inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(6)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

89 Examining authority's decisions about how application is to be examined

(1) The Examining authority must in the light of the discussion at the meeting held under section 88(2) make such procedural decisions as the Examining authority thinks appropriate.

(2) The decisions required by subsection (1) may be made at or after the meeting.

[F200 (2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d)—

(a) of those decisions, and

(b) that the person may notify the Examining authority in writing that the person is to become an interested party.]

(3) The Examining authority may make procedural decisions otherwise than as required by subsection (1), and may do so at any time before or after the meeting.

(4) The Examining authority must inform each interested party of any procedural decision made by the Examining authority.

(5) In this section "procedural decision" means a decision about how the application is to be examined.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Textual Amendments

F200 S. 89(2A) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(7)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I87 S. 89 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

90 Written representations

(1) The Examining authority's examination of the application is to take the form of consideration of written representations about the application.

(2) Subsection (1) has effect subject to—

(a) any requirement under section 91, 92 or 93 to cause a hearing to be held, and

(b) any decision by the Examining authority that any part of the examination is to take a form that is neither—

(i) consideration of written representations, nor

(ii) consideration of oral representations made at a hearing.

(3) Rules under section 97 may (in particular) specify written representations about the application which are to be, or which may be or may not be, considered under subsection (1).

Commencement Information

I88 S. 90 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

91 Hearings about specific issues

(1) Subsections (2) and (3) apply where the Examining authority decides that it is necessary for the Examining authority's examination of the application to include the consideration of oral representations about a particular issue made at a hearing in order to ensure—

(a) adequate examination of the issue, or

(b) that an interested party has a fair chance to put the party's case.

(2) The Examining authority must cause a hearing to be held for the purpose of receiving oral representations about the issue.

(3) At the hearing, each interested party is entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the issue.

(4) Where the Examining authority is a Panel acting under Chapter 2, any two or more hearings under subsection (2) may be held concurrently.

Commencement Information

I89 S. 91 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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92 Compulsory acquisition hearings

(1) This section applies where the application includes a request for an order granting development consent to authorise compulsory acquisition of land or of an interest in or right over land (a "compulsory acquisition request").

(2) The Examining authority must fix, and cause each affected person to be informed of, the deadline by which an affected person must notify the **[**[F201]Secretary of State**]** that the person wishes a compulsory acquisition hearing to be held.

(3) If the **[**[F201]Secretary of State**]** receives notification from at least one affected person before the deadline, the Examining authority must cause a compulsory acquisition hearing to be held.

(4) At a compulsory acquisition hearing, the following are entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the compulsory acquisition request—

(a) the applicant;

(b) each affected person.

(5) A person is an "affected person" for the purposes of this section if the person's name has been given to the **[**[F201]Secretary of State**]** in a notice under section 59.

Textual Amendments

F201 Words in s. 92 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 39**; S.I. 2012/628, art. 7(a)

Commencement Information

I90 S. 92 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

93 Open-floor hearings

(1) The Examining authority must fix, and cause the interested parties to be informed of, the deadline by which an interested party must notify the **[**[F202]Secretary of State**]** of the party's wish to be heard at an open-floor hearing.

(2) If the **[**[F202]Secretary of State**]** receives notification from at least one interested party before the deadline, the Examining authority must cause an open-floor hearing to be held.

(3) At an open-floor hearing, each interested party is entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the application.

Textual Amendments

F202 Words in s. 93 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 40**; S.I. 2012/628, art. 7(a)

Commencement Information

I91 S. 93 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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94 Hearings: general provisions

(1) The following provisions of this section apply—
- (a) to a hearing under section 91(2),
- (b) to a compulsory acquisition hearing (see section 92), and
- (c) to an open-floor hearing (see section 93).

(2) The hearing—
- (a) must be in public, and
- (b) must be presided over by one or more of the members of the Panel or (as the case may be) the single **[**[F203]appointed person**]**.

(3) It is for the Examining authority to decide how the hearing is to be conducted.

(4) In particular, it is for the Examining authority to decide—
- (a) whether a person making oral representations at the hearing may be questioned at the hearing by another person and, if so, the matters to which the questioning may relate;
- (b) the amount of time to be allowed at the hearing—
  - (i) for the making of a person's representations (including representations made in exercise of an entitlement under section 91(3), 92(4) or 93(3)), or
  - (ii) for any questioning by another person.

(5) The Examining authority's powers under subsections (3) and (4) are subject to—
- (a) subsection (2), and
- (b) any rules made under section 97.

(6) Although the Examining authority's powers under subsections (3) and (4) may be exercised for the purpose of controlling exercise of an entitlement under section 91(3), 92(4) or 93(3), those powers may not be exercised so as to deprive the person entitled of all benefit of the entitlement.

(7) In making decisions under subsection (4)(a), the Examining authority must apply the principle that any oral questioning of a person making representations at a hearing (whether the applicant or any other person) should be undertaken by the Examining authority except where the Examining authority thinks that oral questioning by another person is necessary in order to ensure—
- (a) adequate testing of any representations, or
- (b) that a person has a fair chance to put the person's case.

(8) The Examining authority may refuse to allow representations to be made at the hearing (including representations made in exercise of an entitlement under section 91(3), 92(4) or 93(3)) if the Examining authority considers that the representations—
- (a) are irrelevant, vexatious or frivolous,
- (b) relate to the merits of policy set out in a national policy statement,
- (c) repeat other representations already made (in any form and by any person), or
- (d) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

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Textual Amendments

F203 Words in s. 94(2)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 41**; S.I. 2012/628, art. 7(a)

Commencement Information

I92 S. 94 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

95 Hearings: disruption, supervision and costs

(1) Where an interested party or any other person behaves in a disruptive manner at a hearing, the Examining authority may decide to do any one or more of the following—

(a) exclude the person from all, or part, of the remainder of the hearing;

(b) allow the person to continue to attend the hearing only if the person complies with conditions specified by the Examining authority;

(c) exclude the person from other hearings;

(d) direct that the person is allowed to attend other hearings only if the person complies with conditions specified by the Examining authority.

(2) In this section "hearing" means—

(a) a preliminary meeting under section 88,

(b) a hearing under section 91(2),

(c) a compulsory acquisition hearing (see section 92),

(d) an open-floor hearing (see section 93),

(e) any other meeting or hearing that the Examining authority causes to be held for the purposes of the Examining authority's examination of the application, or

(f) a site visit.

F204(3) . . . . . .

(4) Subsection (5) of section 250 of the Local Government Act 1972 (c. 70) (provisions about costs applying where Minister causes a local inquiry to be held) applies in relation to the Examining authority's examination of the application as it applies in relation to an inquiry under that section, but with references to the Minister causing the inquiry to be held being read as references to the Examining authority.

This is subject to subsection (5) of this section.

(5) Subsections (6) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) (provisions about expenses applying where Minister causes a local inquiry to be held) apply in relation to the Examining authority's examination of the application in so far as relating to a hearing held in Scotland as they apply in relation to an inquiry under that section, but with references to the Minister causing the inquiry to be held being read as references to the Examining authority.

Textual Amendments

F204 S. 95(3) omitted (19.9.2013) by virtue of The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 40(a)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I93 S. 95 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[[F205]95A Hearings: defence and national security

(1) Subsection (2) applies if the Secretary of State is satisfied that if all or part of the Examining Authority's examination of the application takes the form of a meeting or hearing—

(a) the making of particular oral representations at such a meeting or hearing would be likely to result in the disclosure of information as to defence or national security, and

(b) the public disclosure of that information would be contrary to the national interest.

(2) The Secretary of State may direct that representations of a description specified in the direction may be made only to persons of a description so specified (instead of being made in public).

(3) If the Secretary of State gives a direction under subsection (2), the Attorney General or (where the representations are to be made in Scotland) the Advocate General for Scotland may appoint a person (an "appointed representative") to represent the interests of an interested party who (by virtue of the direction) is prevented from being present when the representations are made.

(4) Rules under section 97 may (in particular) make provision as to the functions of an appointed representative.

(5) The Secretary of State may direct a person (a "responsible person") to pay the fees and expenses of an appointed representative if the Secretary of State thinks that the responsible person is interested in a meeting or hearing in relation to any representations that are the subject of a direction under subsection (2).

(6) Subsections (7) and (8) apply if the Secretary of State gives a direction under subsection (5).

(7) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.

(8) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person, or determined by the Secretary of State, to be certified.

(9) An amount so certified is recoverable from the responsible person as a civil debt.

(10) In this section "representations" includes evidence.**]**

Textual Amendments

F205 S. 95A inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 42**; S.I. 2012/57, art. 2(a); S.I. 2012/628, art. 7(a)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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96 Representations not made orally may be made in writing

(1) Subsection (2) applies where—

(a) a person asks the Examining authority to be allowed to make oral representations about the application at a hearing,

(b) the person does not (for whatever reason) make the representations orally at a hearing,

(c) written representations from the person are received by the **[**[F206]Secretary of State**]** before the Examining authority completes the Examining authority's examination of the application, and

(d) the written representations state that they are ones that the person asked to be allowed to, but did not, make orally at a hearing.

(2) The Examining authority must consider the written representations as part of the Examining authority's examination of the application, subject to section 87(3).

Textual Amendments

F206 Words in s. 96(1)(c) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 43**; S.I. 2012/628, art. 7(a)

Commencement Information

I94 S. 96 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

97 Procedure rules

(1) The Lord Chancellor or (if subsection (2) applies) the Secretary of State[F207]... may make rules regulating the procedure to be followed in connection with the Examining authority's examination of the application.

(2) This subsection applies if the development to which the application relates (or part of the development) is the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—

(a) one end of which is in England or Wales, and

(b) the other end of which is in Scotland.

(3) Rules under subsection (1) may make provision for or in connection with authorising the Examining authority, alone or with others, to enter onto land, including land owned or occupied otherwise than by the applicant, for the purpose of inspecting the land as part of the Examining authority's examination of the application.

(4) Rules under subsection (1) may regulate procedure in connection with matters preparatory to the Examining authority's examination of the application, and in connection with matters subsequent to the examination, as well as in connection with the conduct of the examination.

(5) Power under this section to make rules includes power to make different provision for different purposes.

(6) Power under this section to make rules is exercisable by statutory instrument.

(7) A statutory instrument containing rules under this section is subject to annulment pursuant to a resolution of either House of Parliament.

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Textual Amendments

F207 Words in s. 97(1) omitted (19.9.2013) by virtue of The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 40(b)**

Commencement Information

I95 S. 97 in force at 1.3.2010 in so far as not already in force by S.I. 2010/101, **art. 3(d)** (with art. 6)

98 Timetable for examining, and reporting on, application

(1) The Examining authority is under a duty to complete the Examining authority's examination of the application by the end of the period of 6 months beginning with the day after the start day.

(2) The start day is the day on which the meeting required by section 88 is held or, if that meeting is held on two or more days, the later or latest of those days.

(3) **[**[F208]The Examining authority is under a duty to make its report under section 74(2)(b) or 83(1)(b)**]** by the end of the period of 3 months **[**[F209]beginning with—

(a) the deadline for completion of its examination of the application, or

(b) (if earlier) the end of the day on which it completes the examination.**]**

(4) The **[**[F210]Secretary of State**]** may set a date for a deadline under this section that is later than the date for the time being set.

(5) The power under subsection (4) may be exercised—

(a) more than once in relation to the same deadline;

(b) after the date for the time being set for the deadline.

[[F211](6) Subsections (7) and (8) apply where the power under subsection (4) is exercised.

(7) The Secretary of State must—

(a) notify each interested party of the new deadline, and

(b) publicise the new deadline in such manner as the Secretary of State thinks appropriate.

(8) The Secretary of State exercising the power must make a statement, to the House of Parliament of which that Secretary of State is a member, announcing the new deadline.

(9) A statement under subsection (8) may be written or oral.**]**

Textual Amendments

F208 Words in s. 98(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 44(2)**; S.I. 2012/628, art. 7(a)

F209 Words in s. 98(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 139(2)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F210 Words in s. 98(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 44(3)**; S.I. 2012/628, art. 7(a)

F211 S. 98(6)-(9) substituted for s. 98(6) (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 44(4)**; S.I. 2012/628, art. 7(a)

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Commencement Information

I96 S. 98 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

99 Completion of Examining authority's examination of application

When the Examining authority has completed its examination of the application, it must inform each of the interested parties of that fact.

Commencement Information

I97 S. 99 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

100 Assessors

(1) The **[**[F212]Secretary of State**]** may, at the request of the Examining authority, appoint a person to act as an assessor to assist the Examining authority in the Examining authority's examination of the application.

(2) A person may be appointed as an assessor only if it appears to the **[**[F213]Secretary of State**]** that the person has expertise that makes the person a suitable person to provide assistance to the Examining authority.

Textual Amendments

F212 Words in s. 100(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 45(2)**; S.I. 2012/628, art. 7(a)

F213 Words in s. 100(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 45(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I98 S. 100 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

101 Legal advice and assistance

(1) The **[**[F214]Secretary of State**]** may, at the request of the Examining authority, appoint a barrister, solicitor or advocate to provide legal advice and assistance to the Examining authority in connection with its examination of the application.

(2) The assistance that may be given by a person appointed under subsection (1) includes carrying out on behalf of the Examining authority any oral questioning of a person making representations at a hearing.

Textual Amendments

F214 Words in s. 101(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 46**; S.I. 2012/628, art. 7(a)

Commencement Information

I99 S. 101 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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102 Interpretation of Chapter 4: "interested party" and other expressions

(1) For the purposes of this Chapter, a person is an "interested party" if—

(a) the person is the applicant,

[[F215](aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),

(ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,**]**

[[F216](ba) the person is the Marine Management Organisation and the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (1A),**]**

[[F217](c) the person is a local authority in whose area the land is located,

(ca) the person—

(i) is mentioned in section 88(3)(c) or (d), and

(ii) has notified the Examining authority as mentioned in section 89(2A)(b),**]**

(d) the person is the Greater London Authority and the land is in Greater London, or

(e) the person has made a relevant representation.

[[F218](1ZA) But a person ceases to be an "interested party" for the purposes of this Chapter upon notifying the Examining authority in writing that the person no longer wishes to be an interested party.**]**

[[F219](1A) The areas are—

(a) waters in or adjacent to England up to the seaward limits of the territorial sea;

(b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;

(c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;

(d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.**]**

(2) In this Chapter "representation" includes evidence, and references to the making of a representation include the giving of evidence.

[F220](3) . . . . . .

(4) A representation is a relevant representation for the purposes of subsection (1) to the extent that—

(a) it is a representation about the application,

(b) it is made to the **[**[F221]Secretary of State**]** in the prescribed form and manner,

(c) it is received by the **[**[F221]Secretary of State**]** no later than the deadline that applies under section 56 to the person making it,

(d) it contains material of a prescribed description, and

(e) it does not contain—

(i) material about compensation for compulsory acquisition of land or of an interest in or right over land,

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(ii) material about the merits of policy set out in a national policy statement, or

(iii) material that is vexatious or frivolous.

[F222](5) . . . . . .

[F222](6) . . . . . .

[F222](7) . . . . . .

(8) In **[**[F223]subsection (1)(c)**]** "local authority" means—

(a) a county council, or district council, in England;

(b) a London borough council;

(c) the Common Council of the City of London;

(d) the Council of the Isles of Scilly;

(e) a county council, or county borough council, in Wales;

(f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

(g) a National Park authority;

(h) the Broads Authority.

(9) In this section "the land" means the land to which the application relates or any part of that land.

Textual Amendments

F215 S. 102(1)(aa)(ab) substituted for s. 102(1)(b) (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(8)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F216 S. 102(1)(ba) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(6)(a)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F217 S. 102(1)(c)(ca) substituted for s. 102(1)(c) (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(8)(b)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F218 S. 102(1ZA) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(8)(c)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F219 S. 102(1A) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 23(6)(b)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 6

F220 S. 102(3) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 138(8)(d), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

F221 Words in s. 102(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 47**; S.I. 2012/628, art. 7(a)

F222 S. 102(5)-(7) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 138(8)(e), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

F223 Words in s. 102(8) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(8)(f)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

I100 S. 102 in force for certain purposes at Royal Assent see s. 241

I101 S. 102 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[[F224]**102A Persons in certain categories may ask to become interested parties etc**

(1) Subsection (2) applies if—

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(a) a person makes a request to the Examining authority to become an interested party,
(b) the request states that the person claims to be within one or more of the categories set out in section 102B,
(c) the person has not been notified of the acceptance of the application in accordance with section 56(2)(d), and
(d) the applicant has issued a certificate under section 58 in relation to the application.

(2) The Examining authority must decide whether it considers that the person is within one or more of the categories set out in section 102B.

(3) If the Examining authority decides that it considers that the person is within one or more of the categories set out in section 102B, the Examining authority must notify the person, and the applicant, that the person has become an interested party under section 102(1)(ab).

(4) If the Examining authority thinks that a person might successfully make a request mentioned in subsection (1)(a), the Examining authority may inform the person about becoming an interested party under section 102(1)(ab).

But the Examining authority is under no obligation to make enquiries in order to discover persons who might make such a request.

Textual Amendments

F224 Ss. 102A, 102B inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(9)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

102B Categories for the purposes of section 102A

(1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

(2) A person is within Category 2 if the person—
(a) is interested in the land, or
(b) has power—
(i) to sell and convey the land, or
(ii) to release the land.

(3) An expression, other than "the land", that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.

(4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled—
(a) as a result of the implementing of the order,
(b) as a result of the order having been implemented, or
(c) as a result of use of the land once the order has been implemented,
to make a relevant claim.

(5) In subsection (4) "relevant claim" means—

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(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);

(b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);

(c) a claim under section 152(3).

(6) In this section "the land" means the land to which the application relates or any part of that land.**]**

Textual Amendments

F224 Ss. 102A, 102B inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(9)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

CHAPTER 5

DECISIONS ON APPLICATIONS

103 [F225Secretary of State is to decide applications]

(1) The Secretary of State has the function of deciding an application for an order granting development consent F226...

F227(2) . . . . . .

Textual Amendments

F225 S. 103 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 48(4)**; S.I. 2012/628, art. 7(a)

F226 Words in s. 103(1) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 48(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F227 S. 103(2) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 48(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I102 S. 103 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

104 [F228Decisions in cases where national policy statement has effect]

(1) This section applies in relation to an application for an order granting development consent if **[**F229a national policy statement has effect in relation to development of the description to which the application relates**]**.

(2) In deciding the application the **[**F230Secretary of State**]** must have regard to—

(a) any national policy statement which has effect in relation to development of the description to which the application relates (a "relevant national policy statement"),

[F231(aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;**]**

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(b) any local impact report (within the meaning given by section 60(3)) submitted to the **[**[F232]Secretary of State**]** before the deadline specified in a notice under section 60(2),

(c) any matters prescribed in relation to development of the description to which the application relates, and

(d) any other matters which the **[**[F230]Secretary of State**]** thinks are both important and relevant to **[**[F233]the Secretary of State's**]** decision.

(3) The **[**[F234]Secretary of State**]** must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies.

(4) This subsection applies if the **[**[F235]Secretary of State**]** is satisfied that deciding the application in accordance with any relevant national policy statement would lead to the United Kingdom being in breach of any of its international obligations.

(5) This subsection applies if the **[**[F236]Secretary of State is**]** satisfied that deciding the application in accordance with any relevant national policy statement would lead to the **[**[F237]Secretary of State being in breach of any duty imposed on the Secretary of State**]** by or under any enactment.

(6) This subsection applies if the **[**[F238]Secretary of State**]** is satisfied that deciding the application in accordance with any relevant national policy statement would be unlawful by virtue of any enactment.

(7) This subsection applies if the **[**[F239]Secretary of State**]** is satisfied that the adverse impact of the proposed development would outweigh its benefits.

(8) This subsection applies if the **[**[F240]Secretary of State**]** is satisfied that any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.

(9) For the avoidance of doubt, the fact that any relevant national policy statement identifies a location as suitable (or potentially suitable) for a particular description of development does not prevent one or more of subsections (4) to (8) from applying.

Textual Amendments

F228 S. 104 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(7)**; S.I. 2012/628, art. 7(a)

F229 Words in s. 104(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(2)**; S.I. 2012/628, art. 7(a)

F230 Words in s. 104(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(3)(a)**; S.I. 2012/628, art. 7(a)

F231 S. 104(2)(aa) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 58(5)**, 324(2)(a)

F232 Words in s. 104(2)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(3)(b)**; S.I. 2012/628, art. 7(a)

F233 Words in s. 104(2)(d) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(3)(c)**; S.I. 2012/628, art. 7(a)

F234 Words in s. 104(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(4)**; S.I. 2012/628, art. 7(a)

F235 Words in s. 104(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(4)**; S.I. 2012/628, art. 7(a)

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F236 Words in s. 104(5) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(5)(a)**; S.I. 2012/628, art. 7(a)

F237 Words in s. 104(5) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(5)(b)**; S.I. 2012/628, art. 7(a)

F238 Words in s. 104(6) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(6)**; S.I. 2012/628, art. 7(a)

F239 Words in s. 104(7) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(6)**; S.I. 2012/628, art. 7(a)

F240 Words in s. 104(8) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 49(6)**; S.I. 2012/628, art. 7(a)

Commencement Information

I103 S. 104 partly in force; s. 104 in force for certain purposes at Royal Assent see s. 241

I104 S. 104 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

105 [F241Decisions in cases where no national policy statement has effect]

(1) This section applies in relation to an application for an order granting development consent **[**F242if section 104 does not apply in relation to the application**]**.

(2) In deciding the application the Secretary of State must have regard to—

(a) any local impact report (within the meaning given by section 60(3)) submitted to the **[**F243Secretary of State**]** before the deadline specified in a notice under section 60(2),

(b) any matters prescribed in relation to development of the description to which the application relates, and

(c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

Textual Amendments

F241 S. 105 heading substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 50(4)**; S.I. 2012/628, art. 7(a)

F242 Words in s. 105(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 50(2)**; S.I. 2012/628, art. 7(a)

F243 Words in s. 105(2)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 50(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I105 S. 105 partly in force; s. 105 in force for certain purposes at Royal Assent see s. 241

I106 S. 105 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

106 Matters that may be disregarded when deciding application

(1) In deciding an application for an order granting development consent, the **[**F244Secretary of State**]** may disregard representations if the **[**F244Secretary of State**]** considers that the representations—

(a) are vexatious or frivolous,

(b) relate to the merits of policy set out in a national policy statement, or

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(c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

(2) In this section "representation" includes evidence.

Textual Amendments

F244 Words in s. 106(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 51**; S.I. 2012/628, art. 7(a)

Commencement Information

I107 S. 106 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

107 Timetable for decisions

(1) The **[**[F245]Secretary of State**]** is under a duty to decide an application for an order granting development consent by the end of the period of 3 months beginning **[**[F246]with —

(a) the **][**[F247]deadline under section 98(3)**][**[F248], or

(b) (if earlier) the end of the day on which the Secretary of State receives a report on the application under section 74(2)(b) or 83(1)(b).**]**

[F249](2) . . . . . .

(3) The **[**[F250]Secretary of State**]** may set a date for the deadline under subsection (1) that is later than the date for the time being set.

[F251](4) . . . . . .

(5) The power under subsection (3) may be exercised—

(a) more than once in relation to the same deadline;

(b) after the date for the time being set for the deadline.

[[F252](6) Subsection (7) applies where the power under subsection (3) is exercised.

(7) The Secretary of State exercising the power must make a statement, to the House of Parliament of which that Secretary of State is a member, announcing the new deadline.

(8) A statement under subsection (7) must be published in such form and manner as the Secretary of State considers appropriate.

(8A) A statement under subsection (7) may be written or oral.**]**

Textual Amendments

F245 Words in s. 107(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 52(2)(a)**; S.I. 2012/628, art. 7(a)

F246 Words in s. 107(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 139(3)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F247 Words in s. 107(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 52(2)(b)**; S.I. 2012/628, art. 7(a)

F248 S. 107(1)(b) and preceding word inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 139(3)(b)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

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F249 S. 107(2) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 52(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F250 Words in s. 107(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 52(4)**; S.I. 2012/628, art. 7(a)

F251 S. 107(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 52(5), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F252 S. 107(6)-(8A) substituted for s. 107(6)-(9) (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 52(6)**; S.I. 2012/628, art. 7(a)

Commencement Information

I108 S. 107 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

CHAPTER 6

SUSPENSION OF DECISION-MAKING PROCESS

108 Suspension during review of national policy statement

(1) This section applies where—

(a) an application is made for an order granting development consent for development of a description in relation to which a national policy statement has effect, and

(b) the Secretary of State thinks that, as a result of a change in circumstances since the national policy statement was first published or (if later) the statement or any part of it was last reviewed, all or part of the statement should be reviewed before the application is decided.

(2) The Secretary of State may direct that, until the review has been completed and the Secretary of State has complied with section 6(5) in relation to the review, **[**[F253]examination of the application by a Panel under Chapter 2, or a single appointed person under Chapter 3, is suspended (if not already completed).**]**

Textual Amendments

F253 Words in s. 108(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 53**; S.I. 2012/628, art. 7(a)

Commencement Information

I109 S. 108 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

[F254]CHAPTER 7

INTERVENTION BY SECRETARY OF STATE

Textual Amendments

F254 Pt. 6 Ch. 7 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 54, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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109 Intervention: significant change in circumstances

. . . . . .

110 Intervention: defence and national security

. . . . . .

111 Intervention: other circumstances

. . . . . .

112 Power of Secretary of State to intervene

. . . . . .

113 Effect of intervention

. . . . . .

CHAPTER 8

GRANT OR REFUSAL

114 Grant or refusal of development consent

(1) When **[**[F255]the Secretary of State**]** has decided an application for an order granting development consent, the **[**[F256]Secretary of State**]** must either—

(a) make an order granting development consent, or

(b) refuse development consent.

(2) The Secretary of State may by regulations make provision regulating the procedure to be followed if the **[**[F257]Secretary of State**]** proposes to make an order granting development consent on terms which are materially different from those proposed in the application.

Textual Amendments

F255 Words in s. 114(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 55(2)(a)**; S.I. 2012/628, art. 7(a)

F256 Words in s. 114(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 55(2)(b)**; S.I. 2012/628, art. 7(a)

F257 Words in s. 114(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 55(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I110 S. 114 partly in force; s. 114 in force for certain purposes at Royal Assent see s. 241

I111 S. 114 in force at 1.3.2010 in so far as not already in force by S.I. 2010/101, **art. 3(d)** (with art. 6)

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115 Development for which development consent may be granted

(1) Development consent may be granted for development which is—

(a) development for which development consent is required, or

(b) associated development**[**[F258], or

(c) related housing development.**]**

(2) "Associated development" means development which—

(a) is associated with the development within subsection (1)(a) (or any part of it),

(b) **[**[F259]does not consist of or include**]** the construction or extension of one or more dwellings, and

, or

(c) is within subsection (3) **[**[F260], (4) or (4A)**]**.

(3) Development is within this subsection if it is to be carried out wholly in one or more of the following areas—

(a) England;

(b) waters adjacent to England up to the seaward limits of the territorial sea;

(c) in the case of development 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) Development is within this subsection if—

(a) it is to be carried out wholly in Wales,

(b) it is the carrying out or construction of surface works, boreholes or pipes, and

(c) the development within subsection (1)(a) with which it is associated is development within section 17(3).

[[F261](4A) Development is within this subsection if the development within subsection (1)(a) with which it is associated is—

(a) the construction or extension of a generating station that is or (when constructed or extended) is expected to be within section 15(3A) or (3B), or

(b) the installation of an electric line that is or (when installed) is expected to be within section 14(1)(b).**]**

[[F262](4B) Related housing development" means development which—

(a) consists of or includes the construction or extension of one or more dwellings,

(b) is on the same site as, or is next to or close to, any part of the development within subsection (1)(a), or is otherwise associated with that development (or any part of it),

(c) is to be carried out wholly in England, and

(d) meets the condition in subsection (4C).

(4C) Development meets the condition in this subsection if the development within subsection (1)(a) to which it is related is to be carried out in one or more of the following areas—

(a) England;

(b) waters adjacent to England up to the seaward limits of the territorial sea.**]**

(5) To the extent that development consent is granted for associated development **[**[F263]or related housing development**]**, section 33 applies to the development as it applies to development for which development consent is required.

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[F264](6) . . . . . .

[[F265](7) The Secretary of State, in deciding an application for an order granting development consent for development that includes related housing development, must take into account any matters set out in guidance published by the Secretary of State.**]**

Textual Amendments

F258 S. 115(1)(c) and word inserted (6.4.2017) by Housing and Planning Act 2016 (c. 22), **ss. 160(2)**, 216(3); S.I. 2017/281, reg. 4(i) (with reg. 7)

F259 Words in s. 115(2)(b) substituted (6.4.2017) by Housing and Planning Act 2016 (c. 22), **ss. 160(3)**, 216(3); S.I. 2017/281, reg. 4(i) (with reg. 7)

F260 Words in s. 115(2)(c) substituted (31.3.2017) by Wales Act 2017 (c. 4), **ss. 43(2)**, 71(2)(e) (with Sch. 7 paras. 1, 6)

F261 S. 115(4A) inserted (31.3.2017) by Wales Act 2017 (c. 4), **ss. 43(3)**, 71(2)(e) (with Sch. 7 paras. 1, 6)

F262 S. 115(4B)(4C) inserted (6.4.2017) by Housing and Planning Act 2016 (c. 22), **ss. 160(4)**, 216(3); S.I. 2017/281, reg. 4(i) (with reg. 7)

F263 Words in s. 115(5) inserted (6.4.2017) by Housing and Planning Act 2016 (c. 22), **ss. 160(5)**, 216(3); S.I. 2017/281, reg. 4(i) (with reg. 7)

F264 S. 115(6) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 56, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F265 S. 115(7) inserted (6.4.2017) by Housing and Planning Act 2016 (c. 22), **ss. 160(6)**, 216(3); S.I. 2017/281, reg. 4(i) (with reg. 7)

Commencement Information

I112 S. 115 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

116 Reasons for decision to grant or refuse development consent

(1) The **[**[F266]Secretary of State**]** must prepare a statement of **[**[F267]the Secretary of State's**]** reasons for deciding to—

(a) make an order granting development consent, or

(b) refuse development consent.

(2) The **[**[F268]Secretary of State**]** must provide a copy of the statement to each person who is an interested party in relation to the application for the purposes of Chapter 4 (see section 102).

(3) The **[**[F269]Secretary of State**]** must publish the statement in such manner as **[**[F270]the Secretary of State**]** thinks appropriate.

[F271](4) . . . . . .

Textual Amendments

F266 Words in s. 116(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 57(2)(a)**; S.I. 2012/628, art. 7(a)

F267 Words in s. 116(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 57(2)(b)**; S.I. 2012/628, art. 7(a)

F268 Words in s. 116(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 57(3)**; S.I. 2012/628, art. 7(a)

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F269 Words in s. 116(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 57(4)(a)**; S.I. 2012/628, art. 7(a)

F270 Words in s. 116(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 57(4)(b)**; S.I. 2012/628, art. 7(a)

F271 S. 116(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 57(5), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I113 S. 116 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

117 Orders granting development consent: formalities

(1) This section applies in relation to an order granting development consent.

[F272](2) . . . . . .

(3) Except in a case within subsection (4), the **[**[F273]Secretary of State**]** must publish the order in such manner as **[**[F274]the Secretary of State**]** thinks appropriate.

[[F275](4) If the order includes provision—

(a) made under section 120(3) for or relating to any of the matters listed in paragraphs 32A and 32B of Schedule 5, or

(b) made in the exercise of any of the powers conferred by section 120(5)(a) or (b),

the order must be contained in a statutory instrument.**]**

[F276](5) . . . . . .

(6) As soon as practicable after the instrument **[**[F277]containing the order is made, the Secretary of State**]** must deposit in the office of the Clerk of the Parliaments a copy of—

(a) the instrument,

(b) the latest version of any plan supplied by the applicant in connection with the application for the order contained in the instrument, and

(c) the statement of reasons prepared under section 116(1).

[F278](7) . . . . . .

Textual Amendments

F272 S. 117(2) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 58(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F273 Words in s. 117(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(3)(a)**; S.I. 2012/628, art. 7(a)

F274 Words in s. 117(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(3)(b)**; S.I. 2012/628, art. 7(a)

F275 S. 117(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(4)**; S.I. 2012/628, art. 7(a)

F276 S. 117(5) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 58(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F277 Words in s. 117(6) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(5)**; S.I. 2012/628, art. 7(a)

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F278 S. 117(7) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 58(6), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I114 S. 117 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

CHAPTER 9

LEGAL CHALLENGES

118 Legal challenges relating to applications for orders granting development consent

(1) A court may entertain proceedings for questioning an order granting development consent only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F279]before the end of**]** the period of 6 weeks beginning with **[**[F280]the day after**]** —

(i) the day on which the order is published, or

(ii) if later, the day on which the statement of reasons for making the order is published.

(2) A court may entertain proceedings for questioning a refusal of development consent only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F281]before the end of**]** the period of 6 weeks beginning with **[**[F282]the day after**]** the day on which the statement of reasons for the refusal is published.

(3) A court may entertain proceedings for questioning a decision of the **[**[F283]Secretary of State**]** under section 55 not to accept an application for an order granting development consent only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F284]before the end of**]** the period of 6 weeks beginning with **[**[F285]the day after**]** the day on which the **[**[F283]Secretary of State**]** notifies the applicant as required by subsection (7) of that section.

(4) A court may entertain proceedings for questioning a decision under paragraph 1 of Schedule 4 in relation to an error or omission in a decision document only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F286]before the end of**]** the period of 6 weeks beginning with the day **[**[F287]after the day**]** on which a correction notice in respect of the error or omission is issued under paragraph 2 of that Schedule or, if the correction is required to be made by order contained in a statutory instrument, the day **[**[F287]after the day**]** on which the order is published.

(5) A court may entertain proceedings for questioning a decision under paragraph 2(1) of Schedule 6 to make a change to an order granting development consent only if—

(a) the proceedings are brought by a claim for judicial review, and

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(b) the claim form is filed **[**[F288]before the end of**]** the period of 6 weeks beginning with the day **[**[F289]after the day**]** on which notice of the change is given under paragraph 2(12)(b) of that Schedule or, if the change to the order is required to be made by order contained in a statutory instrument, the day **[**[F289]after the day**]** on which the order making the change is published.

(6) A court may entertain proceedings for questioning a decision under paragraph 3(1) of Schedule 6 to make a change to, or revoke, an order granting development consent only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F290]before the end of**]** the period of 6 weeks beginning with the day **[**[F291]after the day**]** on which notice of the change or revocation is given under paragraph 4(6) of that Schedule or, if the change or revocation is required to be made by order contained in a statutory instrument, the day **[**[F291]after the day**]** on which the order making the change or revocation is published.

(7) A court may entertain proceedings for questioning anything else done, or omitted to be done, by the Secretary of State [F292]... in relation to an application for an order granting development consent only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed **[**[F293]before the end of**]** the period of 6 weeks beginning with **[**[F294]the day after**]** the relevant day.

(8) "The relevant day", in relation to an application for an order granting development consent, means the day on which—

(a) the application is withdrawn,

(b) the order granting development consent is published or (if later) the statement of reasons for making the order is published, or

(c) the statement of reasons for the refusal of development consent is published.

(9) Subsections (7) and (8) do not apply in relation to—

(a) a failure to decide an application for an order granting development consent, or

(b) anything which delays (or is likely to delay) the decision on such an application.

Textual Amendments

F279 Words in s. 118(1)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F280 Words in s. 118(1)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F281 Words in s. 118(2)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F282 Words in s. 118(2)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

F283 Words in s. 118(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 59(2)**; S.I. 2012/628, art. 7(a)

F284 Words in s. 118(3)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

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F285 Words in s. 118(3)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F286 Words in s. 118(4)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F287 Words in s. 118(4)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F288 Words in s. 118(5)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F289 Words in s. 118(5)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F290 Words in s. 118(6)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F291 Words in s. 118(6)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F292 Words in s. 118(7) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 59(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7
F293 Words in s. 118(7)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(c)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
F294 Words in s. 118(7)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(c)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

Commencement Information
I115 S. 118 in force at 1.3.2010 by S.I. 2010/101, **art. 4(c)** (with art. 6)
I116 S. 118 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

CHAPTER 10

CORRECTION OF ERRORS

119 Correction of errors in development consent decisions

Schedule 4 (correction of errors in development consent decisions) has effect.

Commencement Information
I117 S. 119 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

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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 **[**[F295]—

(a)**]** 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**[**[F296];

(b) requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a)**]**.

(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 **[**[F297]Secretary of State**]** to be necessary or expedient in consequence of a provision of the order or in connection with the order;

(c) include any provision that appears to the **[**[F298]Secretary of State**]** 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.

[[F299](8) With the exception of provision made under subsection (3) for or relating to any of the matters listed in paragraph 32B of Schedule 5, an order granting development consent may not include—

(a) provision creating offences,

(b) provision conferring power to create offences, or

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(c) provision changing an existing power to 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.).

Textual Amendments

F295 Words in s. 120(2) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 140(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F296 S. 120(2)(b) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 140(b)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F297 Words in s. 120(5)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 60(2)**; S.I. 2012/628, art. 7(a)

F298 Words in s. 120(5)(c) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 60(2)**; S.I. 2012/628, art. 7(a)

F299 S. 120(8) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 60(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

I118 S. 120 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

[F300]121 Proposed exercise of powers in relation to legislation

. . . . . .

Textual Amendments

F300 S. 121 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 61, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Compulsory acquisition

122 Purpose for which compulsory acquisition may be authorised

(1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the **[**[F301]Secretary of State**]** is satisfied that the conditions in subsections (2) and (3) are met.

(2) The condition is that the land—

(a) is required for the development to which the development consent relates,

(b) is required to facilitate or is incidental to that development, or

(c) is replacement land which is to be given in exchange for the order land under section 131 or 132.

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(3) The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily.

Textual Amendments

F301 Words in s. 122(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 62**; S.I. 2012/628, art. 7(a)

Commencement Information

I119 S. 122 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

123 Land to which authorisation of compulsory acquisition can relate

(1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the **[**[F302]Secretary of State**]** is satisfied that one of the conditions in subsections (2) to (4) is met.

(2) The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.

(3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.

(4) The condition is that the prescribed procedure has been followed in relation to the land.

Textual Amendments

F302 Words in s. 123(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 62**; S.I. 2012/628, art. 7(a)

Commencement Information

I120 S. 123 partly in force; s. 123 in force for certain purposes at Royal Assent see s. 241

I121 S. 123 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

[F303]124 Guidance about authorisation of compulsory acquisition

. . . . . .

Textual Amendments

F303 S. 124 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 63, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

125 Application of compulsory acquisition provisions

(1) This section applies if an order granting development consent includes provision authorising the compulsory acquisition of land.

(2) Part 1 of the Compulsory Purchase Act 1965 (c. 56) (procedure for compulsory purchase) applies to the compulsory acquisition of land under the order—

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(a) as it applies to a compulsory purchase to which Part 2 of the Acquisition of Land Act 1981 (c. 67) applies, and

(b) as if the order were a compulsory purchase order under that Act.

(3) Part 1 of the Compulsory Purchase Act 1965, as applied by subsection (2), has effect with the omission of the following provisions—

(a) section 4 (time limit for exercise of compulsory purchase powers);

(b) section 10 (compensation for injurious affection);

F304 (c) . . . . . .

(4) In so far as the order includes provision authorising the compulsory acquisition of land in Scotland—

(a) subsections (2) and (3) do not apply, and

(b) the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) ("the 1947 Act") applies to the compulsory acquisition of that land under the order as if the order were a compulsory purchase order as defined in section 1(1) of that Act.

(5) The 1947 Act, as applied by subsection (4), has effect with the omission of the following provisions—

(a) Parts 2 and 3 of the First Schedule (compulsory purchase by Ministers and special provisions as to certain descriptions of land);

(b) section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19) (time limit for exercise of compulsory purchase powers) (that section being incorporated into the 1947 Act by paragraph 1 of the Second Schedule to the 1947 Act).

(6) Subsections (2) to (5) are subject to any contrary provision made by the order granting development consent.

Textual Amendments

F304 S. 125(3)(c) omitted (13.7.2016) by virtue of Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 16 para. 17**; S.I. 2016/733, reg. 3(j)

Commencement Information

I122 S. 125 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

126 Compensation for compulsory acquisition

(1) This section applies in relation to an order granting development consent which includes provision authorising the compulsory acquisition of land.

(2) The order may not include provision the effect of which is to modify the application of a compensation provision, except to the extent necessary to apply the provision to the compulsory acquisition of land authorised by the order.

(3) The order may not include provision the effect of which is to exclude the application of a compensation provision.

(4) A compensation provision is a provision of or made under an Act which relates to compensation for the compulsory acquisition of land.

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Commencement Information

I123 S. 126 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

127 Statutory undertakers' land

(1) This section applies in relation to land ("statutory undertakers' land") if—

(a) the land has been acquired by statutory undertakers for the purposes of their undertaking,

(b) a representation has been made about an application for an order granting development consent before the completion of the examination of the application, and the representation has not been withdrawn, and

(c) as a result of the representation the **[**[F305]Secretary of State**]** is satisfied that—

(i) the land is used for the purposes of carrying on the statutory undertakers' undertaking, or

(ii) an interest in the land is held for those purposes.

(2) An order granting development consent may include provision authorising the compulsory acquisition of statutory undertakers' land only to the extent that the **[**[F306]Secretary of State is satisfied of the matters set out in subsection (3).**]**

(3) The matters are that the nature and situation of the land are such that—

(a) it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or

(b) if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.

(4) Subsections (2) and (3) do not apply in a case within subsection (5).

(5) An order granting development consent may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the **[**[F307]Secretary of State is satisfied of the matters set out in subsection (6).**]**

(6) The matters are that the nature and situation of the land are such that—

(a) the right can be purchased without serious detriment to the carrying on of the undertaking, or

(b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.

[F308](7) . . . . . .

(8) In this section—

"statutory undertakers" has the meaning given by section 8 of the Acquisition of Land Act 1981 (c. 67) and also includes the undertakers—

(a) which are deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment;

(b) which are statutory undertakers for the purposes of section 16(1) and (2) of that Act (see section 16(3) of that Act).

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(9) In the application of this section to a statutory undertaker which is a health service body (as defined in section 60(7) of the National Health Service and Community Care Act 1990 (c. 19)), references to land acquired or available for acquisition by the statutory undertakers are to be construed as references to land acquired or available for acquisition by the Secretary of State for use or occupation by the body.

Textual Amendments

F305 Words in s. 127(1)(c) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 64(2)**; S.I. 2012/628, art. 7(a)

F306 Words in s. 127(2) substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(2)(a)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

F307 Words in s. 127(5) substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(2)(b)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

F308 S. 127(7) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 23(2)(c)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

Commencement Information

I124 S. 127 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

F309 128 Local authority and statutory undertakers' land: general

. . . . . .

Textual Amendments

F309 S. 129 repealed (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(1)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F309 129 Local authority and statutory undertakers' land: acquisition by public body

. . . . . .

Textual Amendments

F309 S. 129 repealed (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(1)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

Commencement Information

I125 S. 129 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

130 National Trust land

(1) This section applies to land belonging to the National Trust which is held by the Trust inalienably.

(2) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of land to which this section applies, if the condition in subsection (3) is met.

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(3) The condition is that—

(a) a representation has been made by the National Trust about the application for the order granting development consent before the completion of the examination of the application,

[[F310](aa) the representation contains an objection to the compulsory acquisition of the land,**]** and

(b) the **[**[F311]objection**]** has not been withdrawn.

[[F312](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).**]**

(4) In this section "held inalienably", in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the National Trust Act 1907 (c. cxxxvi) or section 8 of the National Trust Act 1939 (c. lxxxvi).

(5) In this section "the National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907 (c. cxxxvi).

Textual Amendments

F310 S. 130(3)(aa) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 141(3)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F311 Word in s. 130(3)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 141(3)(b)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F312 S. 130(3A) inserted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(5)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

Commencement Information

I126 S. 130 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

131 Commons, open spaces etc: compulsory acquisition of land

(1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.

(2) This section does not apply in a case to which section 132 applies.

(3) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of land to which this section applies, **[**[F313]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.**]**

(4) This subsection applies if—

(a) replacement land has been or will be given in exchange for the order land, and

(b) the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.

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[[F314](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.**]**

(5) This subsection applies if—

(a) the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and

(b) the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

[F315](6) . . . . . .

[F315](7) . . . . . .

[F315](8) . . . . . .

[F315](9) . . . . . .

[F315](10) . . . . . .

(11) If an order granting development consent authorises the compulsory acquisition of land to which this section applies, it may include provision—

(a) for vesting replacement land given in exchange as mentioned in subsection (4)(a) in the prospective seller and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and

(b) for discharging the order land from all rights, trusts and incidents to which it is subject.

(12) In this section —

"common", "fuel or field garden allotment" and "open space" have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);

"the order land" means the land authorised to be compulsorily acquired;

"the prospective seller" means the person or persons in whom the order land is vested;

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"replacement land" means land which is not less in area than the order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.

Textual Amendments

F313 Words in s. 131(3) substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(2)(a)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F314 S. 131(4A)(4B) inserted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(2)(b)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F315 S. 131(6)-(10) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 24(2)(c)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

Commencement Information

I127 S. 131 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

132 Commons, open spaces etc: compulsory acquisition of rights over land

(1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.

(2) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, **[**[F316]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**]**.

(3) This subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons—

(a) the persons in whom it is vested,

(b) other persons, if any, entitled to rights of common or other rights, and

(c) the public.

(4) This subsection applies if—

(a) replacement land has been or will be given in exchange for the order right, and

(b) the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the order granting development consent).

[[F317](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

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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.**]**

(5) This subsection applies if—

(a) the order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and

(b) the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

F318(6) . . . . . .

F318(7) . . . . . .

F318(8) . . . . . .

F318(9) . . . . . .

F318(10) . . . . . .

(11) If an order granting development consent authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, it may include provision—

(a) for vesting replacement land given in exchange as mentioned in subsection (4)(a) in the persons in whom the order land is vested and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and

(b) for discharging the order land from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of the order right.

(12) In this section —

"common", "fuel or field garden allotment" and "open space" have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);

"the order land" means the land to which this section applies over which the order right is to be exercisable;

"the order right" means the right authorised to be compulsorily acquired;

"replacement land" means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right—

(a) the persons in whom the order land is vested,

(b) the persons, if any, entitled to rights of common or other rights over the order land, and

(c) the public.

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Textual Amendments

F316 Words in s. 132(2) substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(3)(a)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F317 S. 132(4A)(4B) inserted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(3)(b)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F318 S. 132(6)-(10) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 24(3)(c)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

Commencement Information

I128 S. 132 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

133 Rights in connection with underground gas storage facilities

(1) This section applies if—

(a) the development to which an order granting development consent relates is development within section 14(1)(c), and

(b) the order authorises the compulsory acquisition of one or more rights within subsection (2).

(2) The rights are—

(a) a right to store gas in underground gas storage facilities;

(b) a right to stop up a well, borehole or shaft, or prevent its use by another person;

(c) a right of way over land.

(3) If the right within subsection (2) is an existing right to store gas in underground gas storage facilities, this Act has effect in relation to the compulsory acquisition of the right with the omission of section 131.

(4) If the order authorises the compulsory acquisition of the right by the creation of a new right within subsection (2), this Act has effect in relation to the compulsory acquisition of the right with the omission of sections 127 to 132.

Commencement Information

I129 S. 133 in force at 1.3.2010 by S.I. 2010/101, **art. 4(d)** (with art. 6)

134 Notice of authorisation of compulsory acquisition

(1) This section applies if—

(a) an order is made granting development consent, and

(b) the order includes provision authorising the compulsory acquisition of land.

(2) In this section —

"the order land" means—

(a) in a case where the order granting development consent authorises the compulsory acquisition of a right over land by the creation of a new right, the land over which the right is to be exercisable;

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(b) in any other case where the order granting development consent authorises the compulsory acquisition of land, the land authorised to be compulsorily acquired;

"the prospective purchaser" means—

(a) in a case where the order granting development consent authorises the compulsory acquisition of a right over land by the creation of a new right, the person for whose benefit the order authorises the creation of the right;

(b) in any other case where the order granting development consent authorises the compulsory acquisition of land, the person authorised by the order to compulsorily acquire the land.

(3) After the order has been made, the prospective purchaser must—

[[F319](za) make a copy of the order available, at a place in the vicinity of the land, for inspection by the public at all reasonable hours,**]**

(a) serve a compulsory acquisition notice [F320]... on each person to whom subsection (4) applies, and

(b) affix a compulsory acquisition notice to a conspicuous object or objects on or near the order land.

(4) This subsection applies to any person who, if the order granting development consent were a compulsory purchase order, would be a qualifying person for the purposes of section 12(1) of the Acquisition of Land Act 1981 (c. 67) (notice to owners, lessees and occupiers).

(5) A compulsory acquisition notice which is affixed under subsection (3)(b) must—

(a) be addressed to persons occupying or having an interest in the order land, and

(b) so far as practicable, be kept in place by the prospective purchaser until the end of the period of 6 weeks beginning with the date on which the order is published.

(6) The prospective purchaser must also publish a compulsory acquisition notice in one or more local newspapers circulating in the locality in which the order land is situated.

[[F321](6A) The prospective purchaser must send a compulsory acquisition notice to the Chief Land Registrar and it shall be a local land charge in respect of the land in England or Wales to which it relates.**]**

(7) A compulsory acquisition notice is a notice in the prescribed form—

(a) describing the order land,

(b) in a case where the order granting development consent authorises the compulsory acquisition of a right over land by the creation of a new right, describing the right,

(c) stating that the order granting development consent includes provision authorising the compulsory acquisition of a right over the land by the creation of a right over it or (as the case may be) the compulsory acquisition of the land,

[[F322](cza) in a case where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981—

(i) containing a prescribed statement about the effect of those Parts, and

(ii) inviting any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the

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prospective purchaser information about the person's name, address and interest in land, using a prescribed form,**]**

[[F323](ca) stating where and when a copy of the order is available for inspection in accordance with subsection (3)(za),**]** and

(d) stating that a person aggrieved by the order may challenge the order only in accordance with section 118.

[F324](8) . . . . . .

Textual Amendments

F319 S. 134(3)(za) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 142(2)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F320 Words in s. 134(3)(a) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 142(2)(b), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

F321 S. 134(6A) inserted (E.W.) (2.2.2017) by The Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017 (S.I. 2017/16), reg. 1(2), **Sch. para. 6(1)(a)** (with Sch. para. 6(2))

F322 S. 134(7)(cza) inserted (E.W.) (2.2.2017) by The Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017 (S.I. 2017/16), reg. 1(2), **Sch. para. 6(1)(b)** (with Sch. para. 6(2))

F323 S. 134(7)(ca) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), **ss. 142(3)**, 240(2) (with s. 144); S.I. 2012/57, art. 2(d); S.I. 2012/628, art. 7(a)

F324 S. 134(8) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 142(4), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

Commencement Information

I130 S. 134 partly in force; s. 134 in force for certain purposes at Royal Assent see s. 241

I131 S. 134 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

Miscellaneous

135 Orders: Crown land

(1) An order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if—

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate Crown authority consents to the acquisition.

(2) An order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.

(3) The reference in subsection (2) to rights benefiting the Crown does not include rights which benefit the general public.

(4) For the purposes of this section "the Crown" includes—

(a) the Duchy of Lancaster;

(b) the Duchy of Cornwall;

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(c) the Speaker of the House of Lords;
(d) the Speaker of the House of Commons;
(e) the Corporate Officer of the House of Lords;
(f) the Corporate Officer of the House of Commons.

Commencement Information
I132 S. 135 in force at 1.3.2010 by S.I. 2010/101, **art. 3(g)** (with art. 6)

136 Public rights of way

(1) An order granting development consent may extinguish a public right of way over land only if the **[**[F325]Secretary of State**]** is satisfied that—
(a) an alternative right of way has been or will be provided, or
(b) the provision of an alternative right of way is not required.

(2) The following provisions of this section apply if—
(a) an order granting development consent makes provision for the acquisition of land, compulsorily or by agreement,
(b) the order extinguishes a public right of way over the land, and
(c) the right of way is not a right enjoyable by vehicular traffic.

(3) The order granting development consent may not provide for the right of way to be extinguished from a date which is earlier than the date on which the order is published.

(4) Subsection (5) applies if—
(a) the order granting development consent extinguishes the right of way from a date ("the extinguishment date") which is earlier than the date on which the acquisition of the land is completed, and
(b) at any time after the extinguishment date it appears to the **[**[F326]Secretary of State**]** that the proposal to acquire the land has been abandoned.

(5) The **[**[F327]Secretary of State**]** must by order direct that the right is to revive.

[F328](6) . . . . . .

(7) Nothing in subsection (5) prevents the making of a further order extinguishing the right of way.

Textual Amendments
F325 Words in s. 136(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(2)**; S.I. 2012/628, art. 7(a)
F326 Words in s. 136(4)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(3)**; S.I. 2012/628, art. 7(a)
F327 Words in s. 136(5) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(3)**; S.I. 2012/628, art. 7(a)
F328 S. 136(6) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 66(4), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

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Commencement Information

I133 S. 136 in force at 1.3.2010 by S.I. 2010/101, **art. 3(g)** (with art. 6)

[F329]137 Public rights of way: statutory undertakers' apparatus etc.

. . . . . .

Textual Amendments

F329 S. 137 repealed (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(3)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

138 Extinguishment of rights, and removal of apparatus, of statutory undertakers etc.

(1) This section applies if an order granting development consent authorises the acquisition of land (compulsorily or by agreement) and—

(a) there subsists over the land a relevant right, or

(b) there is on, under or over the land relevant apparatus.

(2) "Relevant right" means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which—

(a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

(3) "Relevant apparatus" means—

(a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) electronic communications apparatus kept installed for the purposes of an electronic communications code network.

(4) The order may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, **[**[F330]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**]**

[[F331](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.

[[F332](4B) In this section—

"electronic communications apparatus" has the meaning given in paragraph 5 of the electronic communications code;

"electronic communications code" means the code set out in Schedule 3A to the Communications Act 2003;

"operator of an electronic communications code network" has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;**]**

[F333](5) . . . . . .

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[F333](6) . . . . . .]

Textual Amendments

F330 Words in s. 138(4) substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(4)(a)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

F331 S. 138(4A)(4B) inserted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(4)(b)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

F332 S. 138(4B) substituted (28.12.2017) by The Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Primary Legislation) Regulations 2017 (S.I. 2017/1285), reg. 1(1), **Sch. 1 para. 12(2)**

F333 S. 138(5)(6) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 23(4)(c)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

Commencement Information

I134 S. 138 in force at 1.3.2010 by S.I. 2010/101, **art. 3(g)** (with art. 6)

139 Common land and rights of common

(1) An order granting development consent may not include provision the effect of which is to exclude or modify the application of a provision of or made under the Commons Act 2006, except in accordance with section 131 or 132.

(2) For the purposes of section 38(6)(a) of the Commons Act 2006, works carried out under a power conferred by an order granting development consent are not to be taken to be carried out under a power conferred by or under an enactment, except in a case to which section 131 or 132 applies.

(3) An order granting development consent may not authorise the suspension of, or extinguishment or interference with, registered rights of common, except in accordance with section 131 or 132.

(4) "Registered rights of common" means rights of common registered under—
  (a) the Commons Act 2006, or
  (b) the Commons Registration Act 1965.

Commencement Information

I135 S. 139 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

140 Operation of generating stations

An order granting development consent may include provision authorising the operation of a generating station only if the development to which the order relates is or includes the construction or extension of the generating station.

Commencement Information

I136 S. 140 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

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141 Keeping electric lines installed above ground

An order granting development consent may include provision authorising an electric line to be kept installed above ground only if the development to which the order relates is or includes the installation of the line above ground.

Commencement Information
I137 S. 141 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

142 Use of underground gas storage facilities

An order granting development consent may include provision authorising the use of underground gas storage facilities only if the development to which the order relates is or includes development within section 17(2), (3) or (5).

Commencement Information
I138 S. 142 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

143 Diversion of watercourses

(1) An order granting development consent may include provision authorising the diversion of any part of a navigable watercourse only if the condition in subsection (2) is met.

(2) The new length of watercourse must be navigable in a reasonably convenient manner by vessels of a kind that are accustomed to using the part of the watercourse which is to be diverted.

(3) In deciding whether the condition in subsection (2) is met, the effect of any bridge or tunnel must be ignored if the construction of the bridge or tunnel is part of the development for which consent is granted by the order granting development consent.

(4) If an order granting development consent includes provision authorising the diversion of any part of a navigable watercourse, the order is also to be taken to authorise the diversion of any tow path or other way adjacent to that part.

Commencement Information
I139 S. 143 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

144 Highways

(1) An order granting development consent may include provision authorising the charging of tolls in relation to a highway only if a request to that effect has been included in the application for the order.

(2) If an order granting development consent includes provision authorising the charging of tolls in relation to a highway, the order is treated as a toll order for the purposes of sections 7 to 18 of the New Roads and Street Works Act 1991 (c. 22).

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[[F334](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.**]**

[F335](3) . . . . . .

Textual Amendments

F334 S. 144(2A)(2B) inserted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 27(2)**, 35(1); S.I. 2013/1124, art. 9 (with arts. 10, 11)

F335 S. 144(3) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 27(3)**, 35(1); S.I. 2013/1124, art. 9 (with arts. 10, 11)

Commencement Information

I140 S. 144 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

145 Harbours

(1) An order granting development consent may include provision for the creation of a harbour authority only if—

(a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and

(b) the creation of a harbour authority is necessary or expedient for the purposes of the development.

(2) An order granting development consent may include provision changing the powers or duties of a harbour authority only if—

(a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and

(b) the authority has requested the inclusion of the provision or has consented in writing to its inclusion.

(3) An order granting development consent may include provision authorising the transfer of property, rights or liabilities from one harbour authority to another only if—

(a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and

(b) the order makes provision for the payment of compensation of an amount—

(i) determined in accordance with the order, or

(ii) agreed between the parties to the transfer.

(4) An order granting development consent which includes provision for the creation of a harbour authority, or changing the powers or duties of a harbour authority, may also make other provision in relation to the authority.

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This is subject to subsection (6).

(5) Subject to subsection (6), the provision which may be included in relation to a harbour authority includes in particular—

(a) any provision in relation to a harbour authority which could be included in a harbour revision order under section 14 of the Harbours Act 1964 (c. 40) by virtue of any provision of Schedule 2 to that Act;

(b) provision conferring power on the authority to change provision made in relation to it (by the order or by virtue of this paragraph), where the provision is about—

(i) the procedures (including financial procedures) of the authority;

(ii) the power of the authority to impose charges;

(iii) the power of the authority to delegate any of its functions;

(iv) the welfare of officers and employees of the authority and financial and other provision made for them.

(6) The order may not include provision—

(a) which, by virtue of any other provision of this Act, is not permitted to be included in an order granting development consent;

(b) conferring power on a harbour authority to delegate, or makes changes to its powers so as to permit the delegation of, any of the functions mentioned in paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964.

Commencement Information

I141 S. 145 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

146 Discharge of water

(1) This section applies if—

(a) an order granting development consent includes provision authorising the discharge of water into inland waters or underground strata, and

(b) but for the order, the person to whom development consent is granted would have had no power to take water, or to require discharges to be made, from the inland waters or other source from which the discharges authorised by the order are intended to be made.

(2) The order does not have the effect of conferring any such power on that person.

Commencement Information

I142 S. 146 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

147 Development of Green Belt land

(1) This section applies if an order granting development consent includes provision—

(a) authorising the acquisition of Green Belt land, compulsorily or by agreement,

(b) authorising the sale, exchange or appropriation of Green Belt land, or

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(c) freeing land from any restriction imposed upon it by or under the Green Belt (London and Home Counties) Act 1938 (c. xciii), or by a covenant or other agreement entered into for the purposes of that Act.

(2) The **[**[F336]Secretary of State**]** must notify the relevant local authorities of the provision made by the order.

[F337](3) . . . . . .

(4) The relevant local authorities are—

(a) each local authority in whose area all or part of the land is situated,

(b) any local authority in whom all or part of the land is vested, and

(c) each contributing local authority.

(5) In this section "local authority" and "contributing local authority" have the same meanings as in the Green Belt (London and Home Counties) Act 1938 (c. xciii) (see section 2(1) of that Act).

Textual Amendments

F336 Words in s. 147(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 68(2)**; S.I. 2012/628, art. 7(a)

F337 S. 147(3) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 68(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I143 S. 147 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

[F338]148 Deemed consent under section 34 of the Coast Protection Act 1949

. . . . . .

Textual Amendments

F338 S. 148 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7)(a), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

Commencement Information

I144 S. 148 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

[F339]149 Deemed licences under Part 2 of the Food and Environment Protection Act 1985

. . . . . .

Textual Amendments

F339 S. 149 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7)(b), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

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Commencement Information

I145 S. 149 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

[F340 149A Deemed consent under a marine licence

(1) An order granting development consent may include provision deeming a marine licence to have been issued under Part 4 of the Marine and Coastal Access Act 2009 (marine licensing) for any activity only if the activity is to be carried out wholly in one or more of the areas specified in subsection (2).

(2) The areas are—

(a) England,

(b) waters adjacent to England up to the seaward limits of the territorial sea,

(c) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions,

(d) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions,

(e) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.

(3) Subsections (4) and (5) apply if an order granting development consent includes provision—

(a) deeming a marine licence to have been granted under Part 4 of the Marine and Coastal Access Act 2009 subject to specified conditions, and

(b) deeming those conditions to have been attached to the marine licence by the Secretary of State under that Part.

(4) A person who fails to comply with such a condition does not commit an offence under section 161 of this Act.

(5) Sections 68 (notice of applications) and 69(3) and (5) (representations) of the Marine and Coastal Access Act 2009 do not apply in relation to the deemed marine licence.**]**

Textual Amendments

F340 S. 149A inserted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 4(2)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

150 Removal of consent requirements

(1) An order granting development consent may include provision the effect of which is to remove a requirement for a prescribed consent or authorisation to be granted, only if the relevant body has consented to the inclusion of the provision.

(2) "The relevant body" is the person or body which would otherwise be required to grant the prescribed consent or authorisation.

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Commencement Information

I146 S. 150 partly in force; s. 150 in force for certain purposes at Royal Assent see s. 241

I147 S. 150 in force at 1.3.2010 by S.I. 2010/101, **art. 3(h)** (with art. 6)

151 Liability under existing regimes

An order granting development consent may not include provision the effect of which is to exclude or modify the application of—

(a) any provision of the Nuclear Installations Act 1965 (c. 57);

(b) section 28 of, and Schedule 2 to, the Reservoirs Act 1975 (c. 23) (liability for damage and injury due to escape of water from a reservoir constructed after 1930);

(c) section 209 of the Water Industry Act 1991 (c. 56) (civil liability of water undertakers for escapes of water from pipes);

(d) section 48A of the Water Resources Act 1991 (c. 57) (civil remedies for loss or damage due to water abstraction).

Commencement Information

I148 S. 151 in force at 1.3.2010 by S.I. 2010/101, **art. 3(h)** (with art. 6)

152 Compensation in case where no right to claim in nuisance

(1) This section applies if, by virtue of section 158 or an order granting development consent, there is a defence of statutory authority in civil or criminal proceedings for nuisance in respect of any authorised works.

(2) "Authorised works" are—

(a) development for which consent is granted by an order granting development consent;

(b) anything else authorised by an order granting development consent.

(3) A person by whom or on whose behalf any authorised works are carried out must pay compensation to any person whose land is injuriously affected by the carrying out of the works.

(4) A dispute as to whether compensation under subsection (3) is payable, or as to the amount of the compensation, must be referred to the**[**[F341]Upper Tribunal**]**.

(5) Subsection (2) of section 10 of the Compulsory Purchase Act 1965 (c. 56) (limitation on compensation) applies to subsection (3) of this section as it applies to that section.

(6) Any rule or principle applied to the construction of section 10 of that Act must be applied to the construction of subsection (3) of this section (with any necessary modifications).

(7) Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works) applies in relation to authorised works as if—

(a) references in that Part to any public works were to any authorised works;

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(b) references in that Part to the responsible authority were to the person for whose benefit the order granting development consent has effect for the time being;

(c) sections 1(6) and 17 were omitted.

(8) An order granting development consent may not include provision the effect of which is to remove or modify the application of any of subsections (1) to (7).

Textual Amendments

F341 Words in s. 152(4) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 293** (with Sch. 5)

Modifications etc. (not altering text)

C2 S. 152 applied (26.9.2012) by The Network Rail (Ipswich Chord) Order 2012 (S.I. 2012/2284), arts. 1, **19(5)** (with art. 26(2))

C3 S. 152 applied (6.11.2012) by The Network Rail (North Doncaster Chord) Order 2012 (S.I. 2012/2635), arts. 1, **25(5)** (with art. 35(2))

C4 S. 152 applied (21.4.2014) by The Network Rail (Norton Bridge Area Improvements) Order 2014 (S.I. 2014/909), arts. 1, **23(5)** (with art. 34(2))

C5 S. 152 applied (18.9.2014) by The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 (S.I. 2014/2269), arts. 1, **21(5)** (with art. 21(6))

C6 S. 152 applied (7.1.2015) by The Willington C Gas Pipeline Order 2014 (S.I. 2014/3328), arts. 1, **19(3)(a)**

C7 S. 152 applied (23.6.2015) by The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015 (S.I. 2015/1347), arts. 1, **24(5)** (with art. 24(6))

C8 S. 152 applied (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **25(5)** (with arts. 51, 53)

C9 S. 152 applied (18.2.2016) by The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016 (S.I. 2016/73), arts. 1, **22(5)** (with arts. 22(6), 37)

C10 S. 152 applied (25.3.2016) by The Thorpe Marsh Gas Pipeline Order 2016 (S.I. 2016/297), arts. 1, **24(4)** (with arts. 24(5), 39)

C11 S. 152 applied (7.9.2016) by The Hornsea Two Offshore Wind Farm Order 2016 (S.I. 2016/844), arts. 1(2), **21(4)** (with arts. 21(5), 37, 38)

C12 S. 152 applied (29.3.2017) by The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330), arts. 1, **19(3)(a)** (with arts. 19(4), 31)

C13 S. 152 applied (29.8.2017) by The East Anglia THREE Offshore Wind Farm Order 2017 (S.I. 2017/826), arts. 1, **18(4)** (with arts. 5(9), 18(5), 36, 37, Sch. 8 para. 34)

C14 S. 152 applied (22.12.2017) by The M20 Junction 10a Development Consent Order 2017 (S.I. 2017/1202), arts. 1, **26(5)** (with arts. 4, 37)

Commencement Information

I149 S. 152 in force at 1.3.2010 by S.I. 2010/101, **art. 3(h)** (with art. 6)

CHAPTER 2

CHANGES TO, AND REVOCATION OF, ORDERS

153 Changes to, and revocation of, orders granting development consent

Schedule 6 (changes to, and revocation of, orders granting development consent) has effect.

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Commencement Information
I150 S. 153 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

CHAPTER 3

GENERAL

154 Duration of order granting development consent

(1) Development for which development consent is granted must be begun before the end of—
  (a) the prescribed period, or
  (b) such other period (whether longer or shorter than that prescribed) as is specified in the order granting the consent.

(2) If the development is not begun before the end of the period applicable under subsection (1), the order granting development consent ceases to have effect at the end of that period.

(3) Where an order granting development consent authorises the compulsory acquisition of land, steps of a prescribed description must be taken in relation to the compulsory acquisition before the end of—
  (a) the prescribed period, or
  (b) such other period (whether longer or shorter than that prescribed) as is specified in the order.

(4) If steps of the prescribed description are not taken before the end of the period applicable under subsection (3), the authority to compulsorily acquire the land under the order ceases to have effect.

Commencement Information
I151 S. 154 partly in force; s. 154 in force for certain purposes at Royal Assent see s. 241
I152 S. 154 in force at 1.3.2010 by S.I. 2010/101, **art. 3(i)** (with art. 6)

155 When development begins

(1) For the purposes of this Act (except Part 11) development is taken to begin on the earliest date on which any material operation comprised in, or carried out for the purposes of, the development begins to be carried out.

(2) "Material operation" means any operation except an operation of a prescribed description.

Modifications etc. (not altering text)
C15 S. 155 modified (1.3.2010) by The Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 (S.I. 2010/105), regs. 1(1), **4**

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Commencement Information

I153 S. 155 partly in force; s. 155 in force for certain purposes at Royal Assent see s. 241

I154 S. 155 in force at 1.3.2010 by S.I. 2010/101, **art. 3(i)** (with art. 6)

156 Benefit of order granting development consent

(1) If an order granting development consent is made in respect of any land, the order has effect for the benefit of the land and all persons for the time being interested in the land.

(2) Subsection (1) is subject to subsection (3) and any contrary provision made in the order.

(3) To the extent that the development for which development consent is granted is development within section 17(3), the order granting the consent has effect for the benefit of a person for the time being interested in the land only if the person is a gas transporter.

Modifications etc. (not altering text)

C16 S. 156(1) applied (20.2.2013) by The Kentish Flats Extension Order 2013 (S.I. 2013/343), arts. 1, **7(1)** (with arts. 13, 14)

C17 S. 156(1) applied (28.2.2013) by The Rookery South (Resource Recovery Facility) Order 2011 2013 (S.I. 2013/680), **art. 7(1)**

Commencement Information

I155 S. 156 in force at 1.3.2010 by S.I. 2010/101, **art. 3(i)** (with art. 6)

157 Use of buildings in respect of which development consent granted

(1) If development consent is granted for development which includes the erection, extension, alteration or re-erection of a building, the order granting consent may specify the purposes for which the building is authorised to be used.

(2) If no purpose is so specified, the consent is taken to authorise the use of the building for the purpose for which it is designed.

Commencement Information

I156 S. 157 in force at 1.3.2010 by S.I. 2010/101, **art. 3(i)** (with art. 6)

158 Nuisance: statutory authority

(1) This subsection confers statutory authority for—

(a) carrying out development for which consent is granted by an order granting development consent;

(b) doing anything else authorised by an order granting development consent.

(2) Statutory authority under subsection (1) is conferred only for the purpose of providing a defence in civil or criminal proceedings for nuisance.

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(3) Subsections (1) and (2) are subject to any contrary provision made in any particular case by an order granting development consent.

Modifications etc. (not altering text)

C18 S. 158 modified (2.10.2014) by The Clocaenog Forest Wind Farm Order 2014 (S.I. 2014/2441), arts. 1, **9(4)** (with art. 33)

C19 S. 158(1) excluded (24.7.2014) by The Daventry International Rail Freight Interchange Alteration Order 2014 (S.I. 2014/1796), arts. 1, **9** (with art. 24(2), Sch. 6 para. 3)

C20 S. 158(2) excluded (24.7.2014) by The Daventry International Rail Freight Interchange Alteration Order 2014 (S.I. 2014/1796), arts. 1, **9** (with art. 24(2), Sch. 6 para. 3)

C21 S. 158(2) applied (29.3.2017) by The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330), arts. 1, **19(1)** (with art. 31)

Commencement Information

I157 S. 158 in force at 1.3.2010 by S.I. 2010/101, **art. 3(i)** (with art. 6)

159 Interpretation: land and rights over land

(1) This section applies for the purposes of this Part.

(2) "Land" includes any interest in or right over land.

(3) Acquiring a right over land includes acquiring it by the creation of a new right as well as by the acquisition of an existing one.

Commencement Information

I158 S. 159 in force at 1.3.2010 by S.I. 2010/101, **art. 3(i)** (with art. 6)

PART 8

ENFORCEMENT

Offences

160 Development without development consent

(1) A person commits an offence if the person carries out, or causes to be carried out, development for which development consent is required at a time when no development consent is in force in respect of the development.

(2) A person guilty of an offence under this section is liable**[**[F342]—

(b) on conviction on indictment, to a fine.**][**[F342]on summary conviction, or on conviction on indictment, to a fine**]**

(3) **[**[F343]The Secretary of State may by order amend subsection (2)(a) to increase the level of the fine for the time being specified in that provision.**]**

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Textual Amendments

F342 Words in s. 160(2) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 41(2)(a)** (with reg. 5(1))

F343 S. 160(3) omitted (E.W.) (12.3.2015) by virtue of The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 41(2)(b)** (with reg. 5(1))

Commencement Information

I159 S. 160 partly in force; s. 160 in force for certain purposes at Royal Assent see s. 241

I160 S. 160 in force at 1.3.2010 in so far as not already in force by S.I. 2010/101, **art. 3(j)** (with art. 6)

161 Breach of terms of order granting development consent

(1) A person commits an offence if without reasonable excuse the person—

(a) carries out, or causes to be carried out, development in breach of the terms of an order granting development consent, or

(b) otherwise fails to comply with the terms of an order granting development consent.

(2) Subsection (1) is subject to **[**[F344]section 149A(4) **]**.

(3) It is a defence for a person charged with an offence under this section to prove that—

(a) the breach or failure to comply occurred only because of an error or omission in the order, and

(b) a correction notice specifying the correction of the error or omission has been issued under paragraph 2 of Schedule 4.

(4) A person guilty of an offence under this section is liable**[**[F345]—

(b) on conviction on indictment, to a fine.**][**[F345]on summary conviction, or on conviction on indictment, to a fine**]**

(5) **[**[F346]The Secretary of State may by order amend subsection (4)(a) to increase the level of the fine for the time being specified in that provision.**]**

Textual Amendments

F344 Words in s. 161(2) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 4(3)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

F345 Words in s. 161(4) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 41(3)(a)** (with reg. 5(1))

F346 S. 161(5) omitted (E.W.) (12.3.2015) by virtue of The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 41(3)(b)** (with reg. 5(1))

Commencement Information

I161 S. 161 partly in force; s. 161 in force for certain purposes at Royal Assent see s. 241

I162 S. 161 in force at 1.3.2010 in so far as not already in force by S.I. 2010/101, **art. 3(j)** (with art. 6)

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162 Time limits

(1) A person may not be charged with an offence under section 160 or 161 after the end of—

(a) the relevant 4-year period, or

(b) if subsection (3) applies, the extended period.

(2) The "relevant 4-year period" means—

(a) in the case of an offence under section 160, the period of 4 years beginning with the date on which the development was substantially completed;

(b) in the case of an offence under section 161, the period of 4 years beginning with the later of—

(i) the date on which the development was substantially completed, and

(ii) the date on which the breach or failure to comply occurred.

(3) This subsection applies if during the relevant 4-year period—

(a) an information notice has been served under section 167, or

(b) an injunction has been applied for under section 171.

(4) The "extended period" means the period of 4 years beginning with—

(a) the date of service of the information notice, if subsection (3)(a) applies;

(b) the date of the application for the injunction, if subsection (3)(b) applies;

(c) the later (or latest) of those dates, if both paragraphs (a) and (b) of subsection (3) apply.

Commencement Information

I163 S. 162 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

Rights of entry

163 Right to enter without warrant

(1) This section applies in relation to any land if the relevant local planning authority has reasonable grounds for suspecting that an offence under section 160 or 161 is being, or has been, committed on or in respect of the land.

(2) A person authorised in writing by the relevant local planning authority may at any reasonable hour enter the land for the purpose of ascertaining whether an offence under section 160 or 161 is being, or has been, committed on the land.

(3) A person may enter a building used as a dwelling-house under subsection (2) only if 24 hours' notice of the intended entry has been given to the occupier of the building.

Commencement Information

I164 S. 163 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

164 Right to enter under warrant

(1) This section applies if it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for suspecting that an offence under section 160 or 161 is being, or has been, committed on or in respect of any land, and

(b) that the condition in subsection (2) is met.

(2) The condition is that—

(a) admission to the land has been refused, or a refusal is reasonably apprehended, or

(b) the case is one of urgency.

(3) The justice of the peace may issue a warrant authorising any person who is authorised in writing for the purpose by the relevant local planning authority to enter the land.

(4) For the purposes of subsection (2)(a) admission to land is to be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(5) A warrant authorises entry on one occasion only and that entry must be—

(a) before the end of the period of one month beginning with the date of the issue of the warrant, and

(b) at a reasonable hour, unless the case is one of urgency.

Commencement Information

I165 S. 164 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

165 Rights of entry: supplementary provisions

(1) A person authorised to enter land in pursuance of a right of entry conferred under or by virtue of section 163 or 164 ("a relevant right of entry")—

(a) must, if so required, produce evidence of the authority and state the purpose of entry before entering the land,

(b) may take on to the land such other persons as may be necessary, and

(c) must, if the person leaves the land at a time when the owner or occupier is not present, leave it as effectively secured against trespassers as it was found.

(2) A person commits an offence if the person wilfully obstructs a person acting in the exercise of a relevant right of entry.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any damage is caused to land or chattels in the exercise of a relevant right of entry, compensation may be recovered by any person suffering the damage from the local planning authority that authorised the entry.

(5) Except so far as otherwise provided by regulations, any question of disputed compensation under subsection (4) is to be referred to and determined by the **[**[F347]Upper Tribunal**]**.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(6) In relation to the determination of any such question, the provisions of **[**[F348]section**]**4 of the Land Compensation Act 1961 (c. 33) apply subject to any necessary modifications and to any other prescribed modifications.

Textual Amendments

F347 Words in s. 165(5) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 294(a)** (with Sch. 5)

F348 Word in s. 165(6) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 294(b)** (with Sch. 5)

Commencement Information

I166 S. 165 partly in force; s. 165 in force for certain purposes at Royal Assent see s. 241

I167 S. 165 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

166 Rights of entry: Crown land

Sections 163 and 164 do not apply to Crown land.

Commencement Information

I168 S. 166 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

Information notices

167 Power to require information

(1) This section applies in relation to any land if it appears to the relevant local planning authority that an offence under section 160 or 161 may have been committed on or in respect of the land.

(2) The relevant local planning authority may serve an information notice.

(3) The information notice may be served on any person who—

(a) is the owner or occupier of the land or has any other interest in it, or

(b) is carrying out operations on the land or is using it for any purpose.

(4) The information notice may require the person on whom it is served to give such of the following information as may be specified in the notice—

(a) information about any operations being carried out in, on, over or under the land, any use of the land and any other activities being carried out in, on, over or under the land, and

(b) information about the provisions of any order granting development consent for development of the land.

(5) An information notice must inform the person on whom it is served of the likely consequences of a failure to respond to the notice.

(6) A requirement of an information notice is complied with by giving the required information to the relevant local planning authority in writing.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Commencement Information
I169 S. 167 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

168 Offences relating to information notices

(1) A person commits an offence if without reasonable excuse the person fails to comply with any requirement of an information notice served under section 167 before the end of the period mentioned in subsection (2).

(2) The period referred to in subsection (1) is the period of 21 days beginning with the day on which the information notice is served.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A person commits an offence if the person—
- (a) makes any statement purporting to comply with a requirement of an information notice which he knows to be false or misleading in a material respect, or
- (b) recklessly makes such a statement which is false or misleading in a material respect.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I170 S. 168 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

Notices of unauthorised development

169 Notice of unauthorised development

(1) Subsection (2) applies if a person is found guilty of an offence under section 160 committed on or in respect of any land.

(2) The relevant local planning authority may serve a notice of unauthorised development on the person requiring such steps as may be specified in the notice to be taken—
- (a) to remove the development, and
- (b) to restore the land on which the development has been carried out to its condition before the development was carried out.

(3) Subsection (4) applies if a person is found guilty of an offence under section 161 committed on or in respect of any land.

(4) The relevant local planning authority may serve a notice of unauthorised development on the person requiring the person to remedy the breach or failure to comply.

(5) A notice of unauthorised development—
- (a) must specify the period within which any steps are required to be taken, and
- (b) may specify different periods for different steps.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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(6) Where different periods apply to different steps, references in this Part to the period for compliance with a notice of unauthorised development, in relation to any step, are to the period within which the step is required to be taken.

(7) A notice of unauthorised development must specify such additional matters as may be prescribed.

Commencement Information

I171 S. 169 partly in force; s. 169 in force for certain purposes at Royal Assent see s. 241

I172 S. 169 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

170 Execution of works required by notice of unauthorised development

(1) If any of the steps specified in a notice of unauthorised development have not been taken before the end of the period for compliance with the notice, the relevant local planning authority may—

(a) enter the land on which the development has been carried out and take those steps, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by it in doing so.

(2) Where a notice of unauthorised development has been served in respect of development—

(a) any expenses incurred by the owner or occupier of the land for the purposes of complying with it, and

(b) any sums paid by the owner of the land under subsection (1) in respect of expenses incurred by the relevant local planning authority in taking steps required by it,

are to be deemed to be incurred or paid for the use and at the request of the person found guilty of the offence under section 160 or 161.

(3) Regulations may provide that all or any of the following sections of the Public Health Act 1936 (c. 49) are to apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice of unauthorised development—

section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);

section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act).

(4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under subsection (3) may also provide for the charging on the land on which the development is carried out of any expenses recoverable by the relevant local planning authority under subsection (1).

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(6) A person commits an offence if the person wilfully obstructs a person acting in the exercise of powers under subsection (1).

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I173 S. 170 partly in force; s. 170 in force for certain purposes at Royal Assent see s. 241

I174 S. 170 in force at 1.3.2010 in so far as not already in force by S.I. 2010/101, **art. 3(j)** (with art. 6)

Injunctions

171 Injunctions

(1) A local planning authority may apply to the court for an injunction if it considers it necessary or expedient for any actual or apprehended prohibited activity to be restrained by injunction.

(2) Prohibited activity means activity that constitutes an offence under section 160 or 161 in relation to land in the area of the local planning authority.

(3) On an application under this section the court may grant such an injunction as the court thinks fit for the purpose of restraining the prohibited activity.

(4) In this section "the court" means the High Court or **[**[F349]the county court**]**.

Textual Amendments

F349 Words in s. 171(4) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I175 S. 171 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

Isles of Scilly

172 Isles of Scilly

(1) The Secretary of State may by order provide for the exercise by the Council of the Isles of Scilly in relation to land in the Council's area of any functions exercisable by a local planning authority under any provision of this Part.

(2) Before making an order under this section the Secretary of State must consult the Council of the Isles of Scilly.

Commencement Information

I176 S. 172 in force at 1.3.2010 in so far as not already in force by S.I. 2010/101, **art. 3(j)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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The relevant local planning authority

173 The relevant local planning authority

(1) This section applies for the purposes of this Part.

(2) The relevant local planning authority in relation to any land is the local planning authority for the area in which the land is situated.

This is subject to subsections (3) to (5).

(3) Subsections (4) and (5) apply if the land is in an area for which there is both a district planning authority and a county planning authority.

(4) If any of the relevant development is the construction or alteration of a hazardous waste facility within section 14(1)(p), the relevant local planning authority is the county planning authority.

(5) In any other case, the relevant local planning authority is the district planning authority.

(6) "The relevant development" is—

(a) if the relevant offence is an offence under section 160 or 161(1)(a), the development referred to in section 160(1) or 161(1)(a);

(b) if the relevant offence is an offence under section 161(1)(b), the development to which the order granting development consent mentioned in section 161(1)(b) relates.

(7) "The relevant offence" is the offence by reference to which a provision of this Part confers a function on a local planning authority.

Commencement Information

I177 S. 173 in force at 1.3.2010 by S.I. 2010/101, **art. 3(j)** (with art. 6)

PART 9

CHANGES TO EXISTING PLANNING REGIMES

CHAPTER 1

CHANGES RELATED TO DEVELOPMENT CONSENT REGIME

Planning obligations

174 Planning obligations

(1) TCPA 1990 is amended as follows.

(2) In section 106 (planning obligations)—

(a) after subsection (1) insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

"(1A) In the case of a development consent obligation, the reference to development in subsection (1)(a) includes anything that constitutes development for the purposes of the Planning Act 2008.";

(b) in subsection (9) after paragraph (a) insert—

"(aa) if the obligation is a development consent obligation, contains a statement to that effect;";

(c) after subsection (13) insert—

"(14) In this section and section 106A "development consent obligation" means a planning obligation entered into in connection with an application (or a proposed application) for an order granting development consent."

(3) In section 106A(11) (modification and discharge of planning obligations: meaning of "the appropriate authority") after paragraph (a) insert—

"(aa) the Secretary of State, in the case of any development consent obligation where the application in connection with which the obligation was entered into was (or is to be) decided by the Secretary of State;

(ab) the Infrastructure Planning Commission, in the case of any other development consent obligation;".

(4) In section 106B(1) (appeals) after "an authority" insert " (other than the Secretary of State or the Infrastructure Planning Commission) ".

(5) After section 106B insert—

"**106C Legal challenges relating to development consent obligations**

(1) A court may entertain proceedings for questioning a failure by the Secretary of State or the Infrastructure Planning Commission to give notice as mentioned in section 106A(7) only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed during the period of 6 weeks beginning with the day on which the period prescribed under section 106A(7) ends.

(2) A court may entertain proceedings for questioning a determination by the Secretary of State or the Infrastructure Planning Commission that a planning obligation shall continue to have effect without modification only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106A(7)."

Commencement Information

I178 S. 174 in force at 1.3.2010 by S.I. 2010/101, **art. 3(k)** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Blighted land

175 Blighted land: England and Wales

(1) TCPA 1990 is amended as follows.

(2) In Schedule 13 (blighted land) after paragraph 23 insert—

"24 Land falls within this paragraph if—

(a) the compulsory acquisition of the land is authorised by an order granting development consent, or

(b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by an order granting development consent are exercisable, or

(c) an application for an order granting development consent seeks authority to compulsorily acquire the land.

Land identified in national policy statements

25 Land falls within this paragraph if the land is in a location identified in a national policy statement as suitable (or potentially suitable) for a specified description of development.

Note

Land ceases to fall within this paragraph when the national policy statement—

(a) ceases to have effect, or

(b) ceases to identify the land as suitable or potentially suitable for that description of development."

(3) In section 150(1)(b) (notices requiring purchase of blighted land)—

(a) for "21 or" insert " 21, ",

(b) after "notes)" insert " or paragraph 24 ", and

(c) after "Schedule 13 and" insert " (except in the case of land falling within paragraph 24(c) of that Schedule) ".

(4) In section 151 (counter-notices objecting to blight notices) after subsection (7) insert—

"(7A) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of paragraph 25 of Schedule 13 do not include those mentioned in subsection (4)(b)."

(5) After section 165 (power of Secretary of State to acquire land affected by orders relating to new towns etc. where blight notice served) insert—

"**165A Power of Secretary of State to acquire land identified in national policy statements where blight notice served**

Where a blight notice has been served in respect of land falling within paragraph 25 of Schedule 13, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph."

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(6) In section 169 (meaning of "the appropriate authority" for purposes of Chapter 2 of Part 6) after subsection (5) insert—

"(6) In relation to land falling within paragraph 25 of Schedule 13, "the appropriate authority" is—

(a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;

(b) in any other case, the Secretary of State.

(7) If any question arises by virtue of subsection (6)—

(a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a statutory undertaker; or

(b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes,

that question shall be referred to the Secretary of State, whose decision shall be final.

(8) In subsections (6) and (7) "statutory undertaker" means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11."

(7) In section 170 ("appropriate enactment" for purposes of Chapter 2) after subsection (8) insert—

"(8A) In relation to land falling within paragraph 24(a) or (b) of that Schedule, "the appropriate enactment" is the order granting development consent.

(8B) In relation to land falling within paragraph 24(c) of that Schedule, "the appropriate enactment" is an order in the terms of the order applied for.

(8C) In relation to land falling within paragraph 25 of that Schedule, "the appropriate enactment" is section 165A."

(8) In section 171(1) (general interpretation of Chapter 2 of Part 6) at the appropriate place insert—

""national policy statement" has the meaning given by section 5(2) of the Planning Act 2008;".

Commencement Information

I179 S. 175 in force at 1.3.2010 for E.W. in so far as not already in force by S.I. 2010/101, **art. 4(f)** (with art. 6)

I180 S. 175(1) (2) (4)-(8) in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(b)**

176 Blighted land: Scotland

(1) The Town and Country Planning (Scotland) Act 1997 (c. 8) is amended as follows.

(2) In Schedule 14 (blighted land) after paragraph 16 insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

"17 (1) This paragraph applies to land which relates to the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—

(a) one end of which is in England or Wales, and

(b) the other end of which is in Scotland,

where one of the following conditions is met.

(2) The conditions are—

(a) the compulsory acquisition of the land is authorised by an order granting development consent under the Planning Act 2008,

(b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable,

(c) an application for such an order seeks authority to compulsorily acquire the land.

Land identified in national policy statements so far as relating to certain pipe-lines

18 This paragraph applies to land which is in a location identified in a national policy statement as suitable (or potentially suitable) for the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—

(a) one end of which is in England or Wales, and

(b) the other end of which is in Scotland.

Note

Land ceases to be within this paragraph when the national policy statement—

(a) ceases to have effect, or

(b) ceases to identify the land as suitable or potentially suitable for the construction of such a pipe-line."

(3) In section 100 (scope of Chapter 2 of Part 5) after subsection (5) insert—

"(5A) In the application of subsections (3)(a) and (4) in relation to land to which paragraph 17 or 18 of Schedule 14 applies, references to the Scottish Ministers are to be read as references to the Secretary of State."

(4) In section 101(1)(b) (notices requiring purchase of blighted land)—

(a) for "or 15" substitute " , 15 or 17 ", and

(b) after "Schedule 14 and" insert " (except in the case of land falling within paragraph 17 by virtue of paragraph 17(2)(c)) ".

(5) In section 102 (counter-notices objecting to blight notices) after subsection (7) insert—

"(7A) An objection may not be made on the ground mentioned in paragraph (b) of subsection (4) in a counter-notice to a blight notice served by virtue of paragraph 18 of Schedule 14."

(6) After section 116 insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

"**116A Power of Secretary of State to acquire land identified in national policy statements where blight notice served**

Where a blight notice has been served in respect of land falling within paragraph 18 of Schedule 14, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph."

(7) In section 120 (meaning of "the appropriate authority" for purposes of Chapter 2 of Part 5) after subsection (4) insert—

"(5) In relation to land falling within paragraph 18 of Schedule 14, "the appropriate authority" is—

(a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;

(b) in any other case, the Secretary of State.

(6) If any question arises by virtue of subsection (5)—

(a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a statutory undertaker; or

(b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes,

that question shall be referred to the Secretary of State, whose decision shall be final.

(7) In subsections (5) and (6) "statutory undertaker" means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 10."

(8) In section 121 ("appropriate enactment" for purposes of Chapter 2) after subsection (7) insert—

"(7A) In relation to land falling within paragraph 17 of that Schedule by virtue of paragraph 17(2)(a) or (b), "the appropriate enactment" means the order granting development consent.

(7B) In relation to land falling within paragraph 17 of that Schedule by virtue of paragraph 17(2)(c), "the appropriate enactment" means an order in the terms of the order applied for.

(7C) In relation to land falling within paragraph 18 of that Schedule, "the appropriate enactment" means section 116A."

(9) In section 122 (general interpretation of Chapter 2 of Part 5)—

(a) after the definition of "crofter" insert—

""cross-country pipe-line" has the meaning given by section 66 of the Pipe-lines Act 1962 (c. 58);

"gas transporter" has the same meaning as in Part 1 of the Gas Act 1986 (see section 7(1) of that Act);", and

(b) after the definition of "hereditament" insert—

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""national policy statement" has the meaning given by section 5(2) of the Planning Act 2008;".

Commencement Information

I181 S. 176 in force at 1.3.2010 for S. in so far as not already in force by S.I. 2010/101, **art. 5** (with art. 6)

I182 S. 176(1)-(3) (5)-(9) in force at 6.4.2009 for specified purposes for S. by S.I. 2009/400, **art. 4(a)**

Grants

177 Grants for advice and assistance: England and Wales

In section 304A(1) of TCPA 1990 (grants for assisting the provision of advice and assistance in connection with planning matters), after paragraph (b) insert—

"(ba) the Planning Act 2008;".

Commencement Information

I183 S. 177 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(c)**

178 Grants for advice and assistance: Scotland

(1) The Secretary of State may make grants for the purpose of assisting any person to provide advice and assistance in connection with any matter which is related to the application of this Act to Scotland.

(2) The Secretary of State may, as respects any such grant, provide that it is to be subject to such terms and conditions as the Secretary of State thinks appropriate.

Commencement Information

I184 S. 178 in force at 6.4.2009 by S.I. 2009/400, **art. 4(b)**

CHAPTER 2

OTHER CHANGES TO EXISTING PLANNING REGIMES

Regional functions

[F350]179 Delegation of functions of regional planning bodies

. . . . . .

Textual Amendments

F350 S. 179 repealed (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 146(3), 148(5), (5), **Sch. 7 Pt. 4**; S.I. 2009/3318, art. 4(ii)

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Commencement Information

I185 S. 179 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(d)**

Local development

180 Local development documents

(1) PCPA 2004 is amended as follows.

(2) In section 15(2) (matters which must be specified in local development scheme)—

(a) omit paragraph (a);

(b) before paragraph (b) insert—

"(aa) the local development documents which are to be development plan documents;";

(c) in paragraph (b) for "document" substitute " development plan document ";

(d) omit paragraph (c);

(e) in paragraphs (d) and (f) for "documents" substitute " development plan documents ".

(3) In section 17 (local development documents)—

(a) omit subsections (1) and (2);

(b) in subsection (3) for "The local development documents" substitute " The local planning authority's local development documents ";

(c) in subsection (4) for the words before "in relation to development which is a county matter" substitute " Where a county council is required to prepare a minerals and waste development scheme in respect of an area, the council's local development documents must (taken as a whole) set out the council's policies (however expressed) for that area ";

(d) in subsection (7), before paragraph (a) insert—

"(za) which descriptions of documents are, or if prepared are, to be prepared as local development documents;".

(4) In section 18 (statements of community involvement)—

(a) for subsection (3) substitute—

"(3) For the purposes of this Part (except sections 19(2) and 24) the statement of community involvement is a local development document.

This is subject to section 17(8).";

(b) after subsection (3) insert—

"(3A) The statement of community involvement must not be specified as a development plan document in the local development scheme.";

(c) omit subsections (4) to (6).

(5) In section 19 (preparation of local development documents)—

(a) in subsection (1) for "Local development documents" substitute " Development plan documents ";

(b) in subsection (2) after "In preparing a" insert " development plan document or any other ";

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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) in subsection (3) for "other local development documents" substitute " local development documents (other than their statement of community involvement) ";

(d) in subsection (5) for "document" substitute " development plan document ".

(6) In section 37 (interpretation of Part 2)—

(a) in subsection (2) for "section 17" substitute " sections 17 and 18(3) ";

(b) for subsection (3) substitute—

"(3) A development plan document is a local development document which is specified as a development plan document in the local development scheme."

(7) In section 38 (development plan) after subsection (8) insert—

"(9) Development plan document must be construed in accordance with section 37(3)."

Commencement Information

I186 S. 180 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(e)**

Climate change

F351 181 Regional spatial strategies: climate change policies

. . . . . .

Textual Amendments

F351 S. 181 repealed (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 146(3), 148(5), (5), **Sch. 7 Pt. 4**; S.I. 2009/3318, art. 4(ii)

Commencement Information

I187 S. 181 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(e)**

182 Development plan documents: climate change policies

In section 19 of PCPA 2004 (preparation of local development documents) after subsection (1) insert—

"(1A) Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change."

Commencement Information

I188 S. 182 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(e)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Good design

183 Good design

In section 39 of PCPA 2004 (sustainable development) after subsection (2) insert—

"(2A) For the purposes of subsection (2) the person or body must (in particular) have regard to the desirability of achieving good design."

Commencement Information

I189 S. 183 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(a)**

Correction of errors

184 Correction of errors in decisions

In section 56(3)(c) of PCPA 2004 (appropriate consent required for correction of errors) at the beginning insert " in a case where the decision document relates to the exercise of a function in relation to Wales, ".

Commencement Information

I190 S. 184 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(f)**

Validity of strategies, plans and documents

185 Power of High Court to remit strategies, plans and documents

In section 113 of PCPA 2004 (validity of strategies, plans and documents) for subsection (7) substitute—

"(7) The High Court may—

(a) quash the relevant document;

(b) remit the relevant document to a person or body with a function relating to its preparation, publication, adoption or approval.

(7A) If the High Court remits the relevant document under subsection (7)(b) it may give directions as to the action to be taken in relation to the document.

(7B) Directions under subsection (7A) may in particular—

(a) require the relevant document to be treated (generally or for specified purposes) as not having been approved or adopted;

(b) require specified steps in the process that has resulted in the approval or adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;

(c) require action to be taken by a person or body with a function relating to the preparation, publication, adoption or approval of the document (whether or not the person or body to which the document is remitted);

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(d) require action to be taken by one person or body to depend on what action has been taken by another person or body.

(7C) The High Court's powers under subsections (7) and (7A) are exercisable in relation to the relevant document—

(a) wholly or in part;

(b) generally or as it affects the property of the applicant."

Commencement Information

I191 S. 185 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(a)**

I192 S. 185 in force at 8.8.2014 for W. by S.I. 2014/1769, **art. 2(a)**

PROSPECTIVE

186 Power of High Court to remit unitary development plans in Wales

(1) Subsection (2) applies in relation to section 287 of TCPA 1990 (proceedings for questioning validity of development plans etc.), as that section continues to have effect by virtue of paragraph (3) of article 3 of the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005 (S.I. 2005/2847) for the purposes of the transitional arrangements mentioned in that paragraph.

(2) In that section, after subsection (3) insert—

"(3A) Subsections (3B) to (3E) apply if—

(a) an application is made under this section in relation to a unitary development plan, and

(b) on the application the High Court is satisfied as mentioned in subsection (2)(b).

(3B) The High Court may remit the plan to a person or body with a function relating to its preparation, publication, adoption or approval.

(3C) If the High Court remits the plan under subsection (3B) it may give directions as to the action to be taken in relation to the plan.

(3D) Directions under subsection (3B) may in particular—

(a) require the plan to be treated (generally or for specified purposes) as not having been approved or adopted;

(b) require specified steps in the process that has resulted in the approval or adoption of the plan to be treated (generally or for specified purposes) as having been taken or as not having been taken;

(c) require action to be taken by a person or body with a function relating to the preparation, publication, adoption or approval of the plan (whether or not the person or body to which it is remitted);

(d) require action to be taken by one person or body to depend on what action has been taken by another person or body.

(3E) The High Court's powers under subsections (3B) and (3C) are exercisable in relation to the plan—

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(a) wholly or in part;
(b) generally or as it affects the property of the applicant."

Determination of applications

187 Power to decline to determine applications: amendments

Schedule 7 (power to decline to determine applications: amendments) has effect.

Commencement Information
I193 S. 187 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**

Planning permission

188 Local development orders: removal of requirement to implement policies

(1) Section 61A of TCPA 1990 (local development orders) is amended as set out in subsections (2) and (3).

(2) Omit subsection (1) (requirement to implement policies).

(3) In subsection (2) for "A local development order may" substitute " A local planning authority may by order (a local development order) ".

(4) In paragraph 2 of Schedule 4A to TCPA 1990 (revision of local development orders) omit sub-paragraphs (4) and (5).

Commencement Information
I194 S. 188 in force at 23.6.2009 for E. by S.I. 2009/1303, **art. 2(a)**
I195 S. 188 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(a)**

189 Compensation where development order or local development order withdrawn

(1) Section 108 of TCPA 1990 (compensation for refusal or conditional grant of planning permission formerly granted by development order or local development order) is amended as follows.

(2) After subsection (2) insert—

"(2A) Where—

(a) planning permission granted by a development order for development in England of a prescribed description is withdrawn by the issue of directions under powers conferred by the order, or

(b) planning permission granted by a local development order for development in England is withdrawn by the issue of directions under powers conferred by the order,

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this section applies only if the application referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the directions took effect."

(3) After subsection (3A) insert—

"(3B) This section does not apply if—

(a) in the case of planning permission granted by a development order, the condition in subsection (3C) is met;

(b) in the case of planning permission granted by a local development order, the condition in subsection (3D) is met.

(3C) The condition referred to in subsection (3B)(a) is that—

(a) the planning permission is granted for development in England of a prescribed description,

(b) the planning permission is withdrawn in the prescribed manner,

(c) notice of the withdrawal was published in the prescribed manner not less than 12 months or more than the prescribed period before the withdrawal took effect, and

(d) either—

(i) the development authorised by the development order had not started before the notice was published, or

(ii) the development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.

(3D) The condition referred to in subsection (3B)(b) is that—

(a) the planning permission is granted for development in England,

(b) the planning permission is withdrawn by the revocation or amendment of the local development order, or by the issue of directions under powers conferred by the local development order,

(c) notice of the revocation, amendment or directions was published in the prescribed manner not less than 12 months or more than the prescribed period before the revocation, amendment or directions (as the case may be) took effect, and

(d) either—

(i) the development authorised by the local development order had not started before the notice was published, or

(ii) the local development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn."

(4) After subsection (4) insert—

"(5) Regulations under this section prescribing a description of development may (in particular) do so by reference to one or more classes or descriptions of development specified in a development order.

(6) In this section "prescribed" means prescribed by regulations made by the Secretary of State."

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Commencement Information

I196 S. 189 in force at 6.4.2010 for E.W. by S.I. 2010/566, **art. 3(a)** (with art. 4)

190 Power to make non-material changes to planning permission

(1) TCPA 1990 is amended as follows.

(2) After section 96 insert—

"Non-material changes to planning permission

96A Power to make non-material changes to planning permission

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(3) The power conferred by subsection (1) includes power—
  (a) to impose new conditions;
  (b) to remove or alter existing conditions.

(4) The power conferred by subsection (1) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.

(5) An application under subsection (4) must be made in the form and manner prescribed by development order.

(6) Subsection (7) applies in relation to an application under subsection (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the planning permission relates.

(7) The application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

(8) A local planning authority must comply with such requirements as may be prescribed by development order as to consultation and publicity in relation to the exercise of the power conferred by subsection (1)."

(3) In section 5(3) (purposes for which Broads Authority is the sole local district planning authority) for "97" substitute " 96A ".

(4) In section 69(1) (register of applications etc)—
  (a) after paragraph (a) insert—
    "(aa) applications for non-material changes to planning permission under section 96A;",
  (b) in subsection (2)(a) after "(1)(a)" insert " and (aa) ", and
  (c) in subsection (4) after "(1)(a)" insert " , (aa) ".

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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(5) In section 286(1) (challenges to validity on ground of authority's powers) after paragraph (a) insert—

"(aa) an application for non-material changes to planning permission under section 96A;".

(6) In Schedule 1 (local planning authorities: distribution of functions), in paragraph 3(1), after paragraph (a) insert—

"(aa) applications for non-material changes to planning permission under section 96A;".

Commencement Information

I197 S. 190(1)-(3) (5) (6) in force at 1.10.2009 for E.W. by S.I. 2009/2260, **art. 3**

I198 S. 190(4) in force at 6.4.2010 for E.W. by S.I. 2010/566, **art. 3(b)**

Validity of planning decisions

191 Validity of orders, decisions and directions

(1) Section 284(3) of TCPA 1990 (validity of certain actions on the part of the Secretary of State) is amended as follows.

(2) Before paragraph (a) insert—

"(za) any decision on an application referred to the Secretary of State under section 76A;".

(3) In paragraph (a) omit "for planning permission".

Commencement Information

I199 S. 191(1)(3) in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(c)** (with art. 6(1))

I200 S. 191(2) in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(g)** (with art. 6(1))

Trees

192 Tree preservation orders

(1) Chapter 1 of Part 8 of TCPA 1990 (special controls: trees) is amended as follows.

(2) In section 198 (power to make tree preservation orders) omit—

(a) subsections (3) and (4) (provision that may be made by tree preservation orders),

(b) subsection (6) (matters to which tree preservation orders do not apply), and

(c) subsections (8) and (9) (power to make provision about application for consent under tree preservation order).

(3) Omit section 199 (form of and procedure applicable to tree preservation orders).

(4) Omit section 201 (provisional tree preservation orders).

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Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(5) In section 202 (power for Secretary of State or Welsh Ministers to make tree preservation orders), omit subsection (3) (procedure applicable to orders made by Secretary of State or Welsh Ministers).

(6) Omit sections 203 to 205 (compensation in connection with tree preservation orders).

(7) After section 202 insert—

"**202A Tree preservation regulations: general**

(1) The appropriate national authority may by regulations make provision in connection with tree preservation orders.

(2) Sections 202B to 202G make further provision about what may, in particular, be contained in regulations under subsection (1).

(3) In this section and those sections "tree preservation order" includes an order under section 202(1).

(4) In this Act "tree preservation regulations" means regulations under subsection (1).

(5) In subsection (1) "the appropriate national authority"—
  (a) in relation to England means the Secretary of State, and
  (b) in relation to Wales means the Welsh Ministers.

(6) Section 333(3) does not apply in relation to tree preservation regulations made by the Welsh Ministers.

(7) Tree preservation regulations made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.

202B Tree preservation regulations: making of tree preservation orders

(1) Tree preservation regulations may make provision about—
  (a) the form of tree preservation orders;
  (b) the procedure to be followed in connection with the making of tree preservation orders;
  (c) when a tree preservation order takes effect.

(2) If tree preservation regulations make provision for tree preservation orders not to take effect until confirmed, tree preservation regulations may—
  (a) make provision for tree preservation orders to take effect provisionally until confirmed;
  (b) make provision about who is to confirm a tree preservation order;
  (c) make provision about the procedure to be followed in connection with confirmation of tree preservation orders.

202C Tree preservation regulations: prohibited activities

(1) Tree preservation regulations may make provision for prohibiting all or any of the following—
  (a) cutting down of trees;

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(b) topping of trees;
(c) lopping of trees;
(d) uprooting of trees;
(e) wilful damage of trees;
(f) wilful destruction of trees.

(2) A prohibition imposed on a person may (in particular) relate to things whose doing the person causes or permits (as well as to things the person does).

(3) A prohibition may be imposed subject to exceptions.

(4) In particular, provision may be made for a prohibition not to apply to things done with consent.

(5) In this section "tree" means a tree in respect of which a tree preservation order is in force.

202D Tree preservation regulations: consent for prohibited activities

(1) This section applies if tree preservation regulations make provision under section 202C(4).

(2) Tree preservation regulations may make provision—
(a) about who may give consent;
(b) for the giving of consent subject to conditions;
(c) about the procedure to be followed in connection with obtaining consent.

(3) The conditions for which provision may be made under subsection (2)(b) include—
(a) conditions as to planting of trees;
(b) conditions requiring approvals to be obtained from the person giving the consent;
(c) conditions limiting the duration of the consent.

(4) The conditions mentioned in subsection (3)(a) include—
(a) conditions requiring trees to be planted;
(b) conditions about the planting of any trees required to be planted by conditions within paragraph (a), including conditions about how, where or when planting is to be done;
(c) conditions requiring things to be done, or installed, for the protection of any trees planted in pursuance of conditions within paragraph (a).

(5) In relation to any tree planted in pursuance of a condition within subsection (4)(a), tree preservation regulations may make provision —
(a) for the tree preservation order concerned to apply to the tree;
(b) authorising the person imposing the condition to specify that the tree preservation order concerned is not to apply to the tree.

(6) "The tree preservation order concerned" is the order in force in relation to the tree in respect of which consent is given under tree preservation regulations.

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(7) The provision that may be made under subsection (2)(c) includes provision about applications for consent, including provision as to—
  (a) the form or manner in which an application is to be made;
  (b) what is to be in, or is to accompany, an application.

(8) Tree preservation regulations may make provision for appeals—
  (a) against refusal of consent;
  (b) where there is a failure to decide an application for consent;
  (c) against conditions subject to which consent is given;
  (d) against refusal of an approval required by a condition;
  (e) where there is a failure to decide an application for such an approval.

(9) Tree preservation regulations may make provision in connection with appeals under provision made under subsection (8), including—
  (a) provision imposing time limits;
  (b) provision for further appeals;
  (c) provision in connection with the procedure to be followed on an appeal (or further appeal);
  (d) provision about who is to decide an appeal (or further appeal);
  (e) provision imposing duties, or conferring powers, on a person deciding an appeal (or further appeal).

202E Tree preservation regulations: compensation

(1) Tree preservation regulations may make provision for the payment of compensation—
  (a) where any consent required under tree preservation regulations is refused;
  (b) where any such consent is given subject to conditions;
  (c) where any approval required under such a condition is refused.

(2) Tree preservation regulations may provide for entitlement conferred under subsection (1) to apply only in, or to apply except in, cases specified in tree preservation regulations.

(3) Tree preservation regulations may provide for entitlement conferred by provision under subsection (1) to be subject to conditions, including conditions as to time limits.

(4) Tree preservation regulations may, in relation to compensation under provision under subsection (1), make provision about—
  (a) who is to pay the compensation;
  (b) who is entitled to the compensation;
  (c) what the compensation is to be paid in respect of;
  (d) the amount, or calculation of, the compensation.

(5) Tree preservation regulations may make provision about the procedure to be followed in connection with claiming any entitlement conferred by provision under subsection (1).

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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(6) Tree preservation regulations may make provision for the determination of disputes about entitlement conferred by provision under subsection (1), including provision for and in connection with the referral of any such disputes to, and their determination by, [F352]...the First-tier Tribunal or the Upper Tribunal.

202F Tree preservation regulations: registers

Tree preservation regulations may make provision for the keeping of, and public access to, registers containing information related to tree preservation orders.

202G Tree preservation regulations: supplementary

(1) Tree preservation regulations may provide for the application (with or without modifications) of, or make provision comparable to, any provision of this Act mentioned in subsection (2).

(2) The provisions are any provision of Part 3 relating to planning permission or applications for planning permission, except sections 56, 62, 65, 69(3) and (4), 71, 91 to 96, 100 and 101 and Schedule 8.

(3) Tree preservation regulations may make provision comparable to—
   (a) any provision made by the Town and Country Planning (Tree Preservation Order) Regulations 1969 or the Town and Country Planning (Trees) Regulations 1999;
   (b) any provision that could have been made under section 199(2) and (3).

(4) Tree preservation regulations may contain incidental, supplementary, consequential, transitional and transitory provision and savings."

(8) Schedule 8 makes further amendments in connection with tree preservation orders.

Textual Amendments

F352 Words in s. 192(7) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 295** (with Sch. 5)

Commencement Information

I201 S. 192 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

193 Existing tree preservation orders: transitional provision

(1) This section applies to a tree preservation order made before the appointed day.

(2) With effect from the beginning of the appointed day, a tree preservation order to which this section applies shall have effect with the omission of all of its provisions other than any that have effect for the purpose of identifying the order or for the purpose of identifying the trees, groups of trees or woodlands in respect of which the order—
   (a) is in force, or
   (b) may at any later time be in force.

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(3) In this section—

"the appointed day"—

(a) in relation to England means the day on which subsection (1) comes fully into force in relation to England, and

(b) in relation to Wales means the day on which subsection (1) comes fully into force in relation to Wales;

"tree preservation order" means an order made under, or an order having effect as if made under, section 198(1) of TCPA 1990.

Commencement Information

I202 S. 193 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(b)**

Use of land

194 Use of land: power to override easements and other rights

F353(1) . . . . . .

(2) The Welsh Ministers may by order amend Schedule 4 to the Welsh Development Agency Act 1975 (c. 70) for the purpose of authorising the use in accordance with planning permission of land acquired under section 21A of that Act, even if the use involves—

(a) interference with an interest or right to which paragraph 6 of that Schedule applies, or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(3) The power to make an order under subsection (2) is exercisable by statutory instrument.

(4) The power includes—

(a) power to make different provision for different purposes (including different areas);

(b) power to make incidental, consequential, supplementary, transitional or transitory provision or savings.

(5) No order may be made under subsection (2) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, the National Assembly for Wales.

Textual Amendments

F353 S. 194(1) omitted (13.7.2016) by virtue of Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 19 para. 14**; S.I. 2016/733, reg. 3(m)

Commencement Information

I203 S. 194 partly in force; s. 194(2)-(5) in force at 26.1.2009 see s. 241

I204 S. 194(1) in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(h)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Statutory undertakers

195 Applications and appeals by statutory undertakers

In section 266 of TCPA 1990 (applications for planning permission by statutory undertakers), after subsection (1) insert—

"(1A) Subsection (1) has effect in relation to an application or appeal relating to land in England only if the Secretary of State or the appropriate Minister has given a direction for it to have effect in relation to the application or appeal (and the direction has not been revoked)."

Commencement Information
I205 S. 195 in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(i)**

Determination of procedure

196 Determination of procedure for certain proceedings

(1) After section 319 of TCPA 1990 insert—

"Determination of procedure

319A Determination of procedure for certain proceedings

(1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
  (a) at a local inquiry;
  (b) at a hearing;
  (c) on the basis of representations in writing.

(3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).

(6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).

(7) This section applies to—

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Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(a) an application referred to the Secretary of State under section 77 instead of being dealt with by a local planning authority in England;
(b) an appeal under section 78 against a decision of a local planning authority in England;
(c) an appeal under section 174 against an enforcement notice issued by a local planning authority in England;
(d) an appeal under section 195 against a decision of a local planning authority in England; and
(e) an appeal under section 208 against a notice under section 207(1) issued by a local planning authority in England.

(8) But this section does not apply to proceedings if they are referred to a Planning Inquiry Commission under section 101; and on proceedings being so referred, any determination made in relation to the proceedings under subsection (1) of this section ceases to have effect.

(9) The Secretary of State may by order amend subsection (7) to—
(a) add proceedings to, or remove proceedings from, the list of proceedings to which this section applies, or
(b) otherwise modify the descriptions of proceedings to which this section applies.

(10) An order under subsection (9) may—
(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
(b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act."

(2) After section 88C of the Listed Buildings Act insert—

"**88D Determination of procedure for certain proceedings**

(1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
(a) at a local inquiry;
(b) at a hearing;
(c) on the basis of representations in writing.

(3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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(6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).

(7) This section applies to—
- (a) an application referred to the Secretary of State under section 12 instead of being dealt with by a local planning authority in England;
- (b) an appeal under section 20 against a decision of a local planning authority in England; and
- (c) an appeal under section 39 against a listed building enforcement notice issued by a local planning authority in England.

(8) The Secretary of State may by order amend subsection (7) to—
- (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies, or
- (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.

(9) An order under subsection (8) may—
- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
- (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act."

(3) After section 21 of the Hazardous Substances Act insert—

"**21A Determination by Secretary of State of procedure for certain proceedings**

(1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
- (a) at a local inquiry;
- (b) at a hearing;
- (c) on the basis of representations in writing.

(3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Secretary of State must notify the appellant or applicant (as the case may be) and the hazardous substances authority of any determination made under subsection (1).

(6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).

(7) This section applies to—

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(a) an application referred to the Secretary of State under section 20 instead of being dealt with by a hazardous substances authority in England;

(b) an appeal under section 21 against a decision of a hazardous substances authority in England.

(8) The Secretary of State may by order amend subsection (7) to—

(a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies, or

(b) otherwise modify the descriptions of proceedings under this Act to which this section applies.

(9) An order under subsection (8) may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(10) The power to make an order under subsection (8) is exercisable by statutory instrument.

(11) No order may be made under subsection (8) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament."

(4) Schedule 10 (further provisions as to the procedure for certain proceedings) has effect.

Commencement Information

I206 S. 196 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)** (with art. 6(2))

Appeals

197 Appeals: miscellaneous amendments

Schedule 11 (appeals: miscellaneous amendments) has effect.

Commencement Information

I207 S. 197 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**

I208 S. 197 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

198 Appeals relating to old mining permissions

(1) Schedule 6 to TCPA 1990 (determination of certain appeals by person appointed by Secretary of State) is amended as set out in subsections (2) and (3).

(2) In paragraph 1—

(a) in sub-paragraph (1) after "208" insert " of this Act, paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991 ", and

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(b) in sub-paragraph (4) for "any instrument made under it" substitute " any other Act or any instrument made under this Act or any other Act ".

(3) In paragraph 2—

(a) after sub-paragraph (1)(d) insert—

"(e) in relation to an appeal under paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991, as the Secretary of State has under paragraph 6(1) and (3) of that Schedule.", and

(b) in sub-paragraph (2) after "208(5)" insert " of this Act and paragraph 6(2) of Schedule 2 to the Planning and Compensation Act 1991 ".

(4) In paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991 (c. 34) (registration of old mining permissions: right of appeal) after sub-paragraph (8) insert—

"(9) Schedule 6 to the principal Act (determination of appeals by persons appointed by Secretary of State) applies to appeals under this paragraph."

Commencement Information

I209 S. 198 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(e)**

I210 S. 198 in force at 28.11.2014 for W. by S.I. 2014/2780, **art. 2**

Fees

199 Fees for planning applications

For section 303 of TCPA 1990 substitute—

"**303 Fees for planning applications etc.**

(1) The appropriate authority may by regulations make provision for the payment of a fee or charge to a local planning authority in respect of—

(a) the performance by the local planning authority of any function they have;

(b) anything done by them which is calculated to facilitate or is conducive or incidental to the performance of any such function.

(2) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority or the local planning authority (or of fees to both the appropriate authority and the local planning authority) in respect of any application for planning permission deemed to be made under section 177(5).

(3) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of any application for planning permission which is deemed to be made to the appropriate authority under—

(a) any provision of this Act other than section 177(5), or

(b) any order or regulations made under this Act.

(4) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of an application for planning permission made under section 293A (urgent Crown development).

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(5) Regulations under this section may in particular—

(a) make provision as to when a fee or charge payable under the regulations is to be paid;

(b) make provision as to who is to pay a fee or charge payable under the regulations;

(c) make provision as to how a fee or charge payable under the regulations is to be calculated (including who is to make the calculation);

(d) prescribe circumstances in which a fee or charge payable under the regulations is to be remitted or refunded (wholly or in part);

(e) prescribe circumstances in which no fee or charge is to be paid;

(f) make provision as to the effect of paying or failing to pay a fee or charge in accordance with the regulations;

(g) prescribe circumstances in which a fee or charge payable under the regulations to one local planning authority is to be transferred to another local planning authority.

(6) Regulations under this section may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) in the case of regulations made by virtue of subsection (5)(f) or paragraph (a) of this subsection, amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(7) In this section "the appropriate authority" means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales.

(8) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by resolution of—

(a) each House of Parliament, in the case of regulations made by the Secretary of State;

(b) the National Assembly for Wales, in the case of regulations made by the Welsh Ministers.

(9) Section 333(3) does not apply in relation to regulations made under this section by the Welsh Ministers.

(10) If a local planning authority calculate the amount of fees or charges in pursuance of provision made by regulations under subsection (1) the authority must secure that, taking one financial year with another, the income from the fees or charges does not exceed the cost of performing the function or doing the thing (as the case may be).

(11) A financial year is the period of 12 months beginning with 1 April."

Commencement Information

I211 S. 199 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(e)**

I212 S. 199 in force at 8.8.2014 for W. by S.I. 2014/1769, **art. 2(b)**

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200 Fees for appeals

In TCPA 1990 after section 303 insert—

"303ZA Fees for appeals

(1) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of an appeal to the appropriate authority under any provision made by or under—
- (a) this Act;
- (b) the Planning (Listed Buildings and Conservation Areas) Act 1990.

(2) The regulations may in particular—
- (a) make provision as to when a fee payable under the regulations is to be paid;
- (b) make provision as to how such a fee is to be calculated (including who is to make the calculation);
- (c) prescribe circumstances in which such a fee is to be remitted or refunded (wholly or in part);
- (d) prescribe circumstances in which no fee is to be paid;
- (e) make provision as to the effect of paying or failing to pay a fee in accordance with the regulations.

(3) A fee payable to the appropriate authority under regulations made under this section is payable—
- (a) by the appellant;
- (b) in addition to any fee payable to the appropriate authority under regulations made under section 303.

(4) Regulations under this section may—
- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
- (b) in the case of regulations made by virtue of subsection (2)(e) or paragraph (a) of this subsection, amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(5) In this section "the appropriate authority" means—
- (a) the Secretary of State in relation to England;
- (b) the Welsh Ministers in relation to Wales.

(6) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by resolution of—
- (a) each House of Parliament, in the case of regulations made by the Secretary of State;
- (b) the National Assembly for Wales, in the case of regulations made by the Welsh Ministers.

(7) Section 333(3) does not apply in relation to regulations made under this section by the Welsh Ministers."

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Commencement Information

I213 S. 200 in force at 1.10.2009 for E. by S.I. 2009/2260, **art. 4**

Meaning of "local authority"

201 Meaning of "local authority" in planning Acts

In section 336(1) of TCPA 1990 (interpretation) in the definition of "local authority" after paragraph (aa) insert—

"(ab) the London Fire and Emergency Planning Authority;".

PART 10

WALES

202 Powers of National Assembly for Wales

In Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32) (Assembly measures: matters within Assembly's legislative competence), after the heading "*Field 18: town and country planning*" insert—

"Matter 18.1 Provision for and in connection with—

(a) plans of the Welsh Ministers in relation to the development and use of land in Wales, and

(b) removing requirements for any such plans.

This does not include provision about the status to be given to any such plans in connection with the decision on an application for an order granting development consent under the Planning Act 2008. *Matter 18.2* Provision for and in connection with the review by local planning authorities of matters which may be expected to affect—

(a) the development of the authorities' areas, or

(b) the planning of the development of the authorities' areas.

Matter 18.3 Provision for and in connection with—

(a) plans of local planning authorities in relation to the development and use of land in their areas, and

(b) removing requirements for any such plans.

This does not include provision about the status to be given to any such plans in connection with the decision on an application for an order granting development consent under the Planning Act 2008. *Interpretation of this field* In this field—

"local planning authority" in relation to an area means—

(a) a National Park authority, in relation to a National Park in Wales;

(b) a county council in Wales or a county borough council, in any other case;

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"Wales" has the meaning given by Schedule 1 to the Interpretation Act 1978."

203 Power to make provision in relation to Wales

(1) The Welsh Ministers may by order make provision—

(a) which has an effect in relation to Wales that corresponds to the effect an England-only provision has in relation to England;

(b) conferring power on the Welsh Ministers to do anything in relation to Wales that corresponds to anything the Secretary of State has power to do by virtue of an England-only provision.

(2) The England-only provisions are—

section 184 (correction of errors in decisions);

section 189 (compensation where development order or local development order withdrawn);

section 190 (power to make non-material changes to planning permission);

section 194(1) and Schedule 9 (use of land: power to override easements and other rights);

section 195 (applications and appeals by statutory undertakers);

section 196 and Schedule 10 (determination of procedure for certain proceedings);

paragraphs 2(3) and (4) and 3(3) of Schedule 7.

(3) Before an England-only provision is brought into force—

(a) the reference in subsection (1)(a) to the effect an England-only provision has is to be read as a reference to the effect the provision would have, if it were in force;

(b) the reference in subsection (1)(b) to anything the Secretary of State has power to do by virtue of an England-only provision is to be read as a reference to anything the Secretary of State would have power to do by virtue of the provision, if it were in force.

(4) The Welsh Ministers may by order make provision for the purpose of reversing the effect of any provision made in exercise of the power conferred by subsection (1).

(5) The Secretary of State may make an order in consequence of an order under subsection (1) for the purpose of ensuring that an England-only provision continues to have (or will when brought into force have) the effect in relation to England that it would have had if the order under subsection (1) had not been made.

(6) An order under this section may amend, repeal, revoke or otherwise modify a provision of—

(a) an Act, or

(b) an instrument made under an Act.

(7) The powers of the Welsh Ministers to make orders under this section are exercisable by statutory instrument.

(8) Those powers include—

(a) power to make different provision for different purposes (including different areas);

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(b) power to make incidental, consequential, supplementary, transitional or transitory provision or savings.

(9) No order may be made by the Welsh Ministers under this section unless a draft of the instrument containing the order has been laid before, and approved by resolution of, the National Assembly for Wales.

204 Wales: transitional provision in relation to blighted land

(1) During the transitional period the repeal by PCPA 2004 of paragraphs 1 to 4 of Schedule 13to TCPA 1990 in relation to Wales is subject to subsection (2).

(2) That repeal does not affect anything which is required or permitted to be done for the purposes of Chapter 2 of Part 6 of TCPA 1990 (interests affected by planning proposals: blight) in relation to land falling within any of paragraphs 1, 2, 3 and 4 of Schedule 13 to TCPA 1990.

(3) The transitional period is the period during which—

(a) in the case of land falling within paragraph 1 of Schedule 13 to TCPA 1990, a structure plan continues to be or to be comprised in the development plan for an area in Wales by virtue of Part 3 of Schedule 5 to the Local Government (Wales) Act 1994 (c. 19) and Part 1A of Schedule 2 to TCPA 1990;

(b) in the case of land falling within paragraph 2 of Schedule 13 to TCPA 1990, a local plan continues to be or to be comprised in the development plan for an area in Wales by virtue of Part 3 of Schedule 5 to the Local Government (Wales) Act 1994 and Part 1A of Schedule 2 to TCPA 1990;

(c) in the case of land falling within paragraphs 3 or 4 of Schedule 13 to TCPA 1990, a unitary development plan continues to form part of the development plan for an area in Wales by virtue of article 3(1) and (2) of the PCPA No.6 Order 2005.

(4) In this section "PCPA No.6 Order 2005" means the Planning and Compulsory Purchase Act 2004 (Commencement No.6, Transitional Provisions and Savings) Order 2005 (S.I. 2005/2847).

(5) This section is deemed to have come into force on the same day as the repeal of paragraphs 1 to 4 of Schedule 13 to TCPA 1990 came into force in relation to Wales (see Article 2(e) and (g) of the PCPA No.6 Order 2005).

PART 11

COMMUNITY INFRASTRUCTURE LEVY

205 The levy

(1) The Secretary of State may with the consent of the Treasury make regulations providing for the imposition of a charge to be known as Community Infrastructure Levy (CIL).

(2) In making the regulations the Secretary of State shall aim to ensure that the overall purpose of CIL is to ensure that costs incurred in**[**[F354]supporting**]** the development of an area can be funded (wholly or partly) by owners or developers of land**[**[F355]in a way that does not make development of the area economically unviable **]**.

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(3) The Table describes the provisions of this Part.

Section	***Topic***
Section 206	The charge
Section 207	Joint committees
Sections 208 and 209	Liability
Section 210	Charities
Section 211	Amount
Sections 212 to 214	Charging schedule
Section 215	Appeals
[[F356]Sections 216 to 216B**]**	Application
Section 217	Collection
Section 218	Enforcement
Section 219	Compensation
Section 220	Procedure
Section 221	Secretary of State
Section 222	CIL regulations and orders: general
Section 223	Relationship with other powers
Section 224	Amendments
Section 225	Repeals

(4) In those sections regulations under this section are referred to as "CIL regulations".

Textual Amendments

F354 Words in s. 205(2) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(2)(a)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F355 Words in s. 205(2) inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(2)(b)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F356 Words in s. 205(3) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(3)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

206 The charge

(1) A charging authority may charge CIL in respect of development of land in its area.

(2) A local planning authority is the charging authority for its area.

(3) But—

(a) the Mayor of London is a charging authority for Greater London (in addition to the local planning authorities),

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(b) the Broads Authority is the only charging authority for the Broads (within the meaning given by section 2(3) of the Norfolk and Suffolk Broads Act 1988 (c. 4)), and

(c) the Council of the Isles of Scilly is the only charging authority for the Isles of Scilly.

(4) CIL regulations may provide for any of the following to be the charging authority for an area, or in the case of Greater London one of the charging authorities, in place of the charging authority under subsection (2), (3)(b) or (c)—

(a) a county council,

(b) a county borough council,

(c) a district council,

(d) a metropolitan district council, and

(e) a London borough council (within the meaning of TCPA 1990).

(5) In this section, "local planning authority" has the meaning given by—

(a) section 37 of PCPA 2004 in relation to England, **[**[F357]except that a Mayoral development corporation is a local planning authority for the purposes of this section only if it is the local planning authority for all purposes of Part 2 of PCPA 2004 in respect of the whole of its area and all kinds of development, **]**and

(b) section 78 of PCPA 2004 in relation to Wales.

[[F358](6) CIL regulations may make transitional provision in connection with, or in anticipation of, a Mayoral development corporation—

(a) becoming a charging authority as a result of the operation of subsection (2), or

(b) ceasing to be a charging authority as a result of the operation of that subsection.**]**

Textual Amendments

F357 Words in s. 206(5)(a) inserted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 61(2)**

F358 S. 206(6) inserted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 61(3)**

Commencement Information

I214 S. 206 in force at 6.4.2009 for specified purposes by S.I. 2009/400, **art. 3(k)**

I215 S. 206 in force at 6.4.2010 for E.W. in so far as not already in force by S.I. 2010/566, **art. 3(c)**

207 Joint committees

(1) This section applies if a joint committee that includes a charging authority is established under section 29 of PCPA 2004.

(2) CIL regulations may provide that the joint committee is to exercise specified functions, in respect of the area specified in the agreement under section 29(1) of PCPA 2004, on behalf of the charging authority.

(3) The regulations may make provision corresponding to provisions relating to joint committees in Part 6 of the Local Government Act 1972 (c. 70) in respect of the discharge of the specified functions.

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208 Liability

(1) Where liability to CIL would arise in respect of proposed development (in accordance with provision made by a charging authority under and by virtue of section 206 and CIL regulations) a person may assume liability to pay the levy.

(2) An assumption of liability—
- (a) may be made before development commences, and
- (b) must be made in accordance with any provision of CIL regulations about the procedure for assuming liability.

(3) A person who assumes liability for CIL before the commencement of development becomes liable when development is commenced in reliance on planning permission.

(4) CIL regulations must make provision for an owner or developer of land to be liable for CIL where development is commenced in reliance on planning permission if—
- (a) nobody has assumed liability in accordance with the regulations, or
- (b) other specified circumstances arise (such as the insolvency or withdrawal of a person who has assumed liability).

(5) CIL regulations may make provision about—
- (a) joint liability (with or without several liability);
- (b) liability of partnerships;
- (c) assumption of partial liability (and subsection (4)(a) applies where liability has not been wholly assumed);
- (d) apportionment of liability (which may—
  - (i) include provision for referral to a specified person or body for determination, and
  - (ii) include provision for appeals);
- (e) withdrawal of assumption of liability;
- (f) cancellation of assumption of liability by a charging authority (in which case subsection (4)(a) applies);
- (g) transfer of liability (whether before or after development commences and whether or not liability has been assumed).

(6) The amount of any liability for CIL is to be calculated by reference to the time when planning permission first permits the development as a result of which the levy becomes payable.

(7) CIL regulations may make provision for liability for CIL to arise where development which requires planning permission is commenced without it (and subsection (6) is subject to this subsection).

(8) CIL regulations may provide for liability to CIL to arise in respect of a development where—
- (a) the development was exempt from CIL, or subject to a reduced rate of CIL charge, and
- (b) the description or purpose of the development changes.

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Modifications etc. (not altering text)

C22 S. 208 excluded (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), art. 1, **Sch. 19 Pt. 1 para. 7**

209 Liability: interpretation of key terms

(1) In section 208 "development" means—

(a) anything done by way of or for the purpose of the creation of a new building, or

(b) anything done to or in respect of an existing building.

(2) CIL regulations may provide for—

(a) works or changes in use of a specified kind not to be treated as development;

(b) the creation of, or anything done to or in respect of, a structure of a specified kind to be treated as development.

(3) CIL regulations must include provision for determining when development is treated as commencing.

(4) Regulations under subsection (3) may, in particular, provide for development to be treated as commencing when some specified activity or event is undertaken or occurs, where the activity or event—

(a) is not development within the meaning of subsection (1), but

(b) has a specified kind of connection with a development within the meaning of that subsection.

(5) CIL regulations must define planning permission (which may include planning permission within the meaning of TCPA 1990 and any other kind of permission or consent (however called, and whether general or specific)).

(6) CIL regulations must include provision for determining the time at which planning permission is treated as first permitting development; and the regulations may, in particular, make provision—

(a) about outline planning permission;

(b) for permission to be treated as having been given at a particular time in the case of general consents.

(7) For the purposes of section 208—

(a) "owner" of land means a person who owns an interest in the land, and

(b) "developer" means a person who is wholly or partly responsible for carrying out a development.

(8) CIL regulations may make provision for a person to be or not to be treated as an owner or developer of land in specified circumstances.

210 Charities

(1) CIL regulations must provide for an exemption from liability to pay CIL in respect of a development where—

(a) the person who would otherwise be liable to pay CIL in respect of the development is a relevant charity in England and Wales, and

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(b) the building or structure in respect of which CIL liability would otherwise arise is to be used wholly or mainly for a charitable purpose of the charity within the meaning of **[**[F359]section 2 of the Charities Act 2011**]**.

(2) CIL regulations may—

(a) provide for an exemption from liability to pay CIL where the person who would otherwise be liable to pay CIL in respect of the development is an institution established for a charitable purpose;

(b) require charging authorities to make arrangements for an exemption from, or reduction in, liability to pay CIL where the person who would otherwise be liable to pay CIL in respect of the development is an institution established for a charitable purpose.

(3) Regulations under subsection (1) or (2) may provide that an exemption or reduction does not apply if specified conditions are satisfied.

(4) For the purposes of subsection (1), a relevant charity in England and Wales is an institution which—

(a) is registered in the register of charities kept by the Charity Commission under **[**[F360] section 29 of the Charities Act 2011,**]** or

(b) is a charity within the meaning of **[**[F361]section 1(1) of the Charities Act 2011 but is not required to be registered in the register kept under section 29 of that Act **]**.

(5) In subsection (2), a charitable purpose is a purpose falling within **[**[F362]section 3(1) of the Charities Act 2011; **]** but CIL regulations may provide for an institution of a specified kind to be, or not to be, treated as an institution established for a charitable purpose.

Textual Amendments

F359 Words in s. 210(1)(b) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 136(2)** (with s. 20(2), Sch. 8)

F360 Words in s. 210(4)(a) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 136(3)(a)** (with s. 20(2), Sch. 8)

F361 Words in s. 210(4)(b) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 136(3)(b)** (with s. 20(2), Sch. 8)

F362 Words in s. 210(5) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 136(4)** (with s. 20(2), Sch. 8)

211 Amount

(1) A charging authority which proposes to charge CIL must issue a document (a "charging schedule") setting rates, or other criteria, by reference to which the amount of CIL chargeable in respect of development in its area is to be determined.

(2) A charging authority, in setting rates or other criteria, must have regard, to the extent and in the manner specified by CIL regulations, to—

(a) actual and expected costs of infrastructure (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);

(b) matters specified by CIL regulations relating to the economic viability of development (which may include, in particular, actual or potential economic effects of planning permission or of the imposition of CIL);

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(c) other actual and expected sources of funding for infrastructure.

(3) CIL regulations may make other provision about setting rates or other criteria.

(4) The regulations may, in particular, permit or require charging authorities in setting rates or other criteria—

(a) to have regard, to the extent and in the manner specified by the regulations, to actual or expected administrative expenses in connection with CIL;

[F363(aa) to have regard, to the extent and in the manner specified by the regulations, to actual and expected costs of anything other than infrastructure that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);

(ab) to have regard, to the extent and in the manner specified by the regulations, to other actual and expected sources of funding for anything other than infrastructure that is concerned with addressing demands that development places on an area;]

(b) to have regard, to the extent and in the manner specified by the regulations, to values used or documents produced for other statutory purposes;

(c) to integrate the process, to the extent and in the manner specified by the regulations, with processes undertaken for other statutory purposes;

(d) to produce charging schedules having effect in relation to specified periods (subject to revision).

(5) The regulations may permit or require charging schedules to adopt specified methods of calculation.

(6) In particular, the regulations may—

(a) permit or require charging schedules to operate by reference to descriptions or purposes of development;

(b) permit or require charging schedules to operate by reference to any measurement of the amount or nature of development (whether by reference to measurements of floor space, to numbers or intended uses of buildings, to numbers or intended uses of units within buildings, to allocation of space within buildings or units, to values or expected values or in any other way);

(c) permit or require charging schedules to operate by reference to the nature or existing use of the place where development is undertaken;

(d) permit or require charging schedules to operate by reference to an index used for determining a rate of inflation;

(e) permit or require charging schedules to operate by reference to values used or documents produced for other statutory purposes;

(f) provide, or permit or require provision, for differential rates, which may include provision for supplementary charges, a nil rate, increased rates or reductions.

(7) A charging authority may consult, or take other steps, in connection with the preparation of a charging schedule (subject to CIL regulations).

[F364(7A) A charging authority must use appropriate available evidence to inform the charging authority's preparation of a charging schedule.

(7B) CIL regulations may make provision about the application of subsection (7A) including, in particular—

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(a) provision as to evidence that is to be taken to be appropriate,
(b) provision as to evidence that is to be taken to be not appropriate,
(c) provision as to evidence that is to be taken to be available,
(d) provision as to evidence that is to be taken to be not available,
(e) provision as to how evidence is, and as to how evidence is not, to be used,
(f) provision as to evidence that is, and as to evidence that is not, to be used,
(g) provision as to evidence that may, and as to evidence that need not, be used, and
(h) provision as to how the use of evidence is to inform the preparation of a charging schedule.**]**

(8) The regulations may require a charging authority to provide in specified circumstances an estimate of the amount of CIL chargeable in respect of development of land.

(9) A charging authority may revise a charging schedule.

(10) This section and sections 212, 213 and 214(1) and (2) apply to the revision of a charging schedule as they apply to the preparation of a charging schedule.

Textual Amendments

F363 S. 211(4)(aa)(ab) inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(4)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F364 S. 211(7A)(7B) inserted (16.11.2011) by Localism Act 2011 (c. 20), **ss. 114(2)**, 240(6) (with ss. 114(8), 144)

Modifications etc. (not altering text)

C23 S. 211(7A) modified by S.I. 2010/948, reg. 14(5) (as inserted (24.2.2014) by The Community Infrastructure Levy (Amendment) Regulations 2014 (S.I. 2014/385), regs. 1, **5(3)(b)** (with reg. 14(2)(7)))

Commencement Information

I216 S. 211 partly in force; s. 211(1)-(6)(8) in force at Royal Assent see s. 241

I217 S. 211(7) in force at 6.4.2009 by S.I. 2009/400, **art. 3(l)**

212 Charging schedule: examination

(1) Before approving a charging schedule a charging authority must appoint a person ("the examiner") to examine a draft.

(2) The charging authority must appoint someone who, in the opinion of the authority—
(a) is independent of the charging authority, and
(b) has appropriate qualifications and experience.

(3) The charging authority may, with the agreement of the examiner, appoint persons to assist the examiner.

[[F365](4) In this section and sections 212A and 213 " the drafting requirements " means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule.

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(7) The examiner must consider whether the drafting requirements have been complied with and—
  (a) make recommendations in accordance with section 212A, and
  (b) give reasons for the recommendations.**]**

(8) The charging authority must publish the recommendations and reasons.

(9) CIL regulations must require a charging authority to allow anyone who makes representations about a draft charging schedule to be heard by the examiner; and the regulations may make provision about timing and procedure.

(10) CIL regulations may make provision for examiners to reconsider their decisions with a view to correcting errors (before or after the approval of a charging schedule).

(11) The charging authority may withdraw a draft.

Textual Amendments

F365 S. 212(4)(7) substituted for s. 212(4)-(7) (16.11.2011) by Localism Act 2011 (c. 20), **ss. 114(3)**, 240(6) (with ss. 114(8), 144)

[F366 212A Charging schedule: examiner's recommendations

(1) This section applies in relation to the examination, under section 212, of a draft charging schedule.

(2) If the examiner considers—
  (a) that there is any respect in which the drafting requirements have not been complied with, and
  (b) that the non-compliance with the drafting requirements cannot be remedied by the making of modifications to the draft,

  the examiner must recommend that the draft be rejected.

(3) Subsection (4) applies if the examiner considers—
  (a) that there is any respect in which the drafting requirements have not been complied with, and
  (b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.

(4) The examiner must—
  (a) specify the respects in which the drafting requirements have not been complied with,
  (b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and
  (c) recommend that the draft be approved with—
    (i) those modifications, or
    (ii) other modifications sufficient and necessary to remedy that non-compliance.

(5) Subject to subsections (2) to (4), the examiner must recommend that the draft be approved.

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(6) If the examiner makes recommendations under subsection (4), the examiner may recommend other modifications with which the draft should be approved in the event that it is approved.

(7) If the examiner makes recommendations under subsection (5), the examiner may recommend modifications with which the draft should be approved in the event that it is approved.**]**

Textual Amendments

F366 S. 212A inserted (16.11.2011) by Localism Act 2011 (c. 20), **ss. 114(4)**, 240(6) (with ss. 114(8), 144)

213 Charging schedule: approval

[[F367](1) A charging authority may approve a charging schedule only if—

(a) the examiner makes recommendations under section 212A(4) or (5), and

(b) the charging authority has had regard to those recommendations and the examiner's reasons for them.

(1A) Accordingly, a charging authority may not approve a charging schedule if, under section 212A(2), the examiner recommends rejection.

(1B) If the examiner makes recommendations under section 212A(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified under section 212A(4)(a) (although those modifications need not be the ones recommended under section 212A(4)(b)).

(1C) If a charging authority approves a charging schedule, it may do so with all or none, or some one or more, of the modifications (if any) recommended under section 212A(6) or (7).

(1D) The modifications with which a charging schedule may be approved include only—

(a) modifications required by subsection (1B), and

(b) modifications allowed by subsection (1C).**]**

(2) A charging authority (other than the Mayor of London) must approve a charging schedule—

(a) at a meeting of the authority, and

(b) by a majority of votes of members present.

(3) The Mayor of London must approve a charging schedule personally.

[[F368](3A) Subsection (3B) applies if—

(a) the examiner makes recommendations under section 212A(4), and

(b) the charging schedule is approved by the charging authority.

(3B) The charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under section 212A(4)(a).

(3C) CIL regulations may make provision about the form or contents of a report under subsection (3B).**]**

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(4) CIL regulations may make provision for the correction of errors in a charging schedule after approval.

[[F369](5) In this section " examiner " means examiner under section 212. **]**

Textual Amendments

F367 S. 213(1)-(1D) substituted for s. 213(1) (16.11.2011) by Localism Act 2011 (c. 20), **ss. 114(5)**, 240(6) (with ss. 114(8), 144)

F368 S. 213(3A)-(3C) inserted (16.11.2011) by Localism Act 2011 (c. 20), **ss. 114(6)**, 240(6) (with ss. 114(8), 144)

F369 S. 213(5) inserted (16.11.2011) by Localism Act 2011 (c. 20), **ss. 114(7)**, 240(6) (with ss. 114(8), 144)

214 Charging schedule: effect

(1) A charging schedule approved under section 213 may not take effect before it is published by the charging authority.

(2) CIL regulations may make provision about publication of a charging schedule after approval.

(3) A charging authority may determine that a charging schedule is to cease to have effect.

(4) CIL regulations may provide that a charging authority may only make a determination under subsection (3) in circumstances specified by the regulations.

(5) A charging authority (other than the Mayor of London) must make a determination under subsection (3)—
   (a) at a meeting of the authority, and
   (b) by a majority of votes of members present.

(6) The Mayor of London must make a determination under subsection (3) personally.

215 Appeals

(1) CIL regulations must provide for a right of appeal on a question of fact in relation to the application of methods for calculating CIL to a person appointed by the Commissioners for Her Majesty's Revenue and Customs.

(2) The regulations must require that the person appointed under subsection (1) is—
   (a) a valuation officer appointed under section 61 of the Local Government Finance Act 1988 (c. 41), or
   (b) a district valuer within the meaning of section 622 of the Housing Act 1985 (c. 68).

(3) Regulations under this section or section 208(5)(d)(ii) may, in particular, make provision about—
   (a) the period within which the right of appeal may be exercised,
   (b) the procedure on an appeal, and
   (c) the payment of fees, and award of costs, in relation to an appeal.

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(4) In any proceedings for judicial review of a decision on an appeal, the defendant shall be the Commissioners for Her Majesty's Revenue and Customs and not the person appointed under subsection (1).

216 Application

(1) Subject to **[**[F370]sections 216A(1), 216B(2) and**]** 219(5), CIL regulations must require the authority that charges CIL to apply it, or cause it to be applied, to **[**[F371]supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure**]**.

(2) In **[**[F372]this section (except subsection (3)) and sections 216A(2) and 216B(2)**]** "infrastructure" includes—

(a) roads and other transport facilities,

(b) flood defences,

(c) schools and other educational facilities,

(d) medical facilities,

(e) sporting and recreational facilities,**[**[F373]and**]**

(f) open spaces**[**[F374].**]**

[F375](g) . . . . . .

(3) The regulations may amend subsection (2) so as to—

(a) add, remove or vary an entry in the list of matters included within the meaning of "infrastructure";

(b) list matters excluded from the meaning of "infrastructure".

(4) The regulations may specify—

(a) works, installations and other facilities **[**[F376]whose provision, improvement or replacement may or is to be, or may not**]** be, funded by CIL,

[[F377](aa) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may or are to be, or may not be, funded by CIL,

(ab) things within section 216A(2)(b) that may or are to be, or may not be, funded by CIL passed to a person in discharge of a duty under section 216A(1),

(ac) things within section 216B(2)(b) that may or are to be, or may not be, funded by CIL to which provision under section 216B(2) relates,**]**

(b) criteria for determining the areas **[**[F378]that may benefit from funding **]** by CIL in respect of land, and

(c) what is to be, or not to be, treated as funding.

(5) The regulations may—

(a) require charging authorities to prepare and publish a list of **[**[F379]what is **]** to be, or may be, wholly or partly funded by CIL;

(b) include provision about the procedure to be followed in preparing a list (which may include provision for consultation, for the appointment of an independent person or a combination);

(c) include provision about the circumstances in which a charging authority may and may not apply CIL to**[**[F380]anything **]** not included on the list.

(6) In making provision about funding the regulations may, in particular—

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(a) permit CIL to be used to reimburse expenditure already incurred;

(b) permit CIL to be reserved for expenditure that may be incurred **[**[F381]in the future**]**;

(c) permit CIL to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative expenses in connection with infrastructure**[**[F382]or anything within section 216A(2)(b) or 216B(2)(b) **]** or in connection with CIL;

(d) include provision for the giving of loans, guarantees or indemnities;

(e) make provision about the application of CIL where **[**[F383]anything **]** to which it was to be applied no longer**[**[F384]requires **]** funding.

(7) The regulations may—

(a) require a charging authority to account separately, and in accordance with the regulations, for CIL received or due;

(b) require a charging authority to monitor the use made and to be made of CIL in its area;

(c) require a charging authority to report on actual or expected charging, collection and application of CIL;

(d) permit a charging authority to cause money to be applied in respect of things done outside its area;

(e) permit a charging authority or other body to spend money;

(f) permit a charging authority to pass money to another body (and in paragraphs (a) to (e) a reference to a charging authority includes a reference to a body to which a charging authority passes money in reliance on this paragraph).

Textual Amendments

F370 Words in s. 216(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(a)(i)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F371 Words in s. 216(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(a)(ii)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F372 Words in s. 216(2) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(b)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F373 Word in s. 216(2)(e) inserted (6.4.2010) by The Community Infrastructure Levy Regulations 2010 (S.I. 2010/948), regs. 1, **63(2)**

F374 Word in s. 216(2)(f) substituted (6.4.2010) by The Community Infrastructure Levy Regulations 2010 (S.I. 2010/948), regs. 1, **63(3)**

F375 S. 216(2)(g) omitted (6.4.2010) by virtue of The Community Infrastructure Levy Regulations 2010 (S.I. 2010/948), regs. 1, **63(4)**

F376 Words in s. 216(4)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(c)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F377 S. 216(4)(aa)-(ac) inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(d)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F378 Words in s. 216(4)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(e)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F379 Words in s. 216(5)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(f)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F380 Word in s. 216(5)(c) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(g)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F381 Words in s. 216(6)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(h)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

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F382 Words in s. 216(6)(c) inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(i)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F383 Word in s. 216(6)(e) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(j)(i)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

F384 Word in s. 216(6)(e) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(5)(j)(ii)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

[F385 216A Duty to pass receipts to other persons

(1) CIL regulations may require that CIL received in respect of development of land in an area is to be passed by the charging authority that charged the CIL to a person other than that authority.

(2) CIL regulations must contain provision to secure that money passed to a person in discharge of a duty under subsection (1) is used to support the development of the area to which the duty relates, or of any part of that area, by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure, or

(b) anything else that is concerned with addressing demands that development places on an area.

(3) A duty under subsection (1) may relate to—

(a) the whole of a charging authority's area or the whole of the combined area of two or more charging authorities, or

(b) part only of such an area or combined area.

(4) CIL regulations may make provision about the persons to whom CIL may or must, or may not, be passed in discharge of a duty under subsection (1).

(5) A duty under subsection (1) may relate—

(a) to all CIL (if any) received in respect of the area to which the duty relates, or

(b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.

(6) CIL regulations may make provision in connection with the timing of payments in discharge of a duty under subsection (1).

(7) CIL regulations may, in relation to CIL passed to a person in discharge of a duty under subsection (1), make provision about—

(a) accounting for the CIL,

(b) monitoring its use,

(c) reporting on its use,

(d) responsibilities of charging authorities for things done by the person in connection with the CIL,

(e) recovery of the CIL, and any income or profits accruing in respect of it or from its application, in cases where—

(i) anything to be funded by it has not been provided, or

(ii) it has been misapplied,

including recovery of sums or other assets representing it or any such income or profits, and

(f) use of anything recovered in cases where—

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(i) anything to be funded by the CIL has not been provided, or
(ii) the CIL has been misapplied.

(8) This section does not limit section 216(7)(f).

Textual Amendments

F385 S. 216A - S. 216B inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(6)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

216B Use of CIL in an area to which section 216A(1) duty does not relate

(1) Subsection (2) applies where—
(a) there is an area to which a particular duty under section 216A(1) relates, and
(b) there is also an area to which that duty does not relate ("the uncovered area").

(2) CIL regulations may provide that the charging authority that charges CIL received in respect of development of land in the uncovered area may apply the CIL, or cause it to be applied, to—
(a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or
(b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area.

(3) Provision under subsection (2) may relate to the whole, or part only, of the uncovered area.

(4) Provision under subsection (2) may relate—
(a) to all CIL (if any) received in respect of the area to which the provision relates, or
(b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.**]**

Textual Amendments

F385 S. 216A - S. 216B inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 115(6)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

217 Collection

(1) CIL regulations must include provision about the collection of CIL.

(2) The regulations may make provision for payment—
(a) on account;
(b) by instalments.

(3) The regulations may make provision about repayment (with or without interest) in cases of overpayment.

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(4) The regulations may make provision about payment in forms other than money (such as making land available, carrying out works or providing services).

(5) The regulations may permit or require a charging authority or other public authority to collect CIL charged by another authority; and section 216(7)(a) and (c) apply to a collecting authority in respect of collection as to a charging authority.

(6) Regulations under this section may replicate or apply (with or without modifications) any enactment relating to the collection of a tax.

(7) Regulations under this section may make provision about the source of payments in respect of Crown interests.

218 Enforcement

(1) CIL regulations must include provision about enforcement of CIL.

(2) The regulations must make provision about the consequences of late payment and failure to pay.

(3) The regulations may make provision about the consequences of failure to assume liability, to give a notice or to comply with another procedure under CIL regulations in connection with CIL.

(4) The regulations may, in particular, include provision—
- (a) for the payment of interest;
- (b) for the imposition of a penalty or surcharge;
- (c) for the suspension or cancellation of a decision relating to planning permission;
- (d) enabling an authority to prohibit development pending assumption of liability for CIL or pending payment of CIL;
- (e) conferring a power of entry onto land;
- (f) requiring the provision of information;
- (g) creating a criminal offence (including, in particular, offences relating to evasion or attempted evasion or to the provision of false or misleading information or failure to provide information, and offences relating to the prevention or investigation of other offences created by the regulations);
- (h) conferring power to prosecute an offence;
- (i) for enforcement of sums owed (whether by action on a debt, by distraint against goods or in any other way);
- (j) conferring jurisdiction on a court to grant injunctive or other relief to enforce a provision of the regulations (including a provision included in reliance on this section);
- (k) for enforcement in the case of death or insolvency of a person liable for CIL.

(5) CIL regulations may include provision (whether or not in the context of late payment or failure to pay) about registration or notification of actual or potential liability to CIL; and the regulations may include provision—
- (a) for the creation of local land charges;
- (b) for the registration of local land charges;
- (c) for enforcement of local land charges (including, in particular, for enforcement—

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(i) against successive owners, and

(ii) by way of sale or other disposal with consent of a court);

(d) for making entries in statutory registers;

(e) for the cancellation of charges and entries.

(6) Regulations under this section may—

(a) replicate or apply (with or without modifications) any enactment relating to the enforcement of a tax;

(b) provide for appeals.

(7) Regulations under this section may provide that any interest, penalty or surcharge payable by virtue of the regulations is to be treated for the purposes of sections 216 to 220 as if it were CIL.

(8) The regulations providing for a surcharge or penalty must ensure that no surcharge or penalty in respect of an amount of CIL exceeds the higher of—

(a) 30% of that amount, and

(b) £20,000.

(9) But the regulations may provide for more than one surcharge or penalty to be imposed in relation to a CIL charge.

(10) The regulations may not authorise entry to a private dwelling without a warrant issued by a justice of the peace.

(11) Regulations under this section creating a criminal offence may not provide for—

F386 (a) . . . . . .

(b) a maximum term of imprisonment exceeding 6 months on summary conviction, or

(c) a maximum term of imprisonment exceeding 2 years on conviction on indictment.

(12) The Secretary of State may by order amend subsection (11) to reflect commencement of section 283 of the Criminal Justice Act 2003 (c. 44).

(13) In this Part a reference to administrative expenses in connection with CIL includes a reference to enforcement expenses.

Textual Amendments

F386 S. 218(11)(a) omitted (12.3.2015) by virtue of The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 92** (with reg. 5(2))

219 Compensation

(1) CIL regulations may require a charging authority or other public authority to pay compensation in respect of loss or damage suffered as a result of enforcement action.

(2) In this section, "enforcement action" means action taken under regulations under section 218, including—

(a) the suspension or cancellation of a decision relating to planning permission, and

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(b) the prohibition of development pending assumption of liability for CIL or pending payment of CIL.

(3) The regulations shall not require payment of compensation—
(a) to a person who has failed to satisfy a liability to pay CIL, or
(b) in other circumstances specified by the regulations.

(4) Regulations under this section may make provision about—
(a) the time and manner in which a claim for compensation is to be made, and
(b) the sums, or the method of determining the sums, payable by way of compensation.

(5) CIL regulations may permit or require a charging authority to apply CIL (either generally or subject to limits set by or determined in accordance with the regulations) for expenditure incurred under this section.

(6) A dispute about compensation may be referred to and determined by the **[**[F387]Upper Tribunal**]**.

(7) In relation to the determination of any such question, the provisions of **[**[F388]section**]** 4 of the Land Compensation Act 1961 (c. 33) apply subject to any necessary modifications and to the provisions of CIL regulations.

Textual Amendments

F387 Words in s. 219(6) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 296(a)** (with Sch. 5)

F388 Word in s. 219(7) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 296(b)** (with Sch. 5)

220 Community Infrastructure Levy: procedure

(1) CIL regulations may include provision about procedures to be followed in connection with CIL.

(2) In particular, the regulations may make provision about—
(a) procedures to be followed by a charging authority proposing to begin charging CIL;
(b) procedures to be followed by a charging authority in relation to charging CIL;
(c) procedures to be followed by a charging authority proposing to stop charging CIL;
(d) consultation;
(e) the publication or other treatment of reports;
(f) timing and methods of publication;
(g) making documents available for inspection;
(h) providing copies of documents (with or without charge);
(i) the form and content of documents;
(j) giving notice;
(k) serving notices or other documents;
(l) examinations to be held in public in the course of setting or revising rates or other criteria or of preparing lists;

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(m) the terms and conditions of appointment of independent persons;

(n) remuneration and expenses of independent persons (which may be required to be paid by the Secretary of State or by a charging authority);

(o) other costs in connection with examinations;

(p) reimbursement of expenditure incurred by the Secretary of State (including provision for enforcement);

(q) apportionment of costs;

(r) combining procedures in connection with CIL with procedures for another purpose of a charging authority (including a purpose of that authority in another capacity);

(s) procedures to be followed in connection with actual or potential liability for CIL.

(3) CIL regulations may make provision about the procedure to be followed in respect of an exemption from CIL or a reduction of CIL; in particular, the regulations may include provision—

(a) about the procedure for determining whether any conditions are satisfied;

(b) requiring a charging authority or other person to notify specified persons of any exemption or reduction;

(c) requiring a charging authority or other person to keep a record of any exemption or reduction.

(4) A provision of this Part conferring express power to make procedural provision in a specified context includes, in particular, power to make provision about the matters specified in subsection (2).

(5) A power in this Part to make provision about publishing something includes a power to make provision about making it available for inspection.

(6) Sections 229 to 231 do not apply to this Part (but CIL regulations may make similar provision).

221 Secretary of State

The Secretary of State may give guidance to a charging authority or other public authority (including an examiner appointed under section 212) about any matter connected with CIL; and the authority must have regard to the guidance.

222 Regulations and orders: general

(1) CIL regulations—

(a) may make provision that applies generally or only to specified cases, circumstances or areas,

(b) may make different provision for different cases, circumstances or areas,

(c) may provide, or allow a charging schedule to provide, for exceptions,

(d) may confer, or allow a charging schedule to confer, a discretionary power on the Secretary of State, a local authority or another specified person,

(e) may apply an enactment, with or without modifications, and

(f) may include provision of a kind permitted by section 232(3)(b) (and incidental, supplemental or consequential provision may include provision disapplying, modifying the effect of or amending an enactment).

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(2) CIL regulations—
  (a) shall be made by statutory instrument, and
  (b) shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(3) An order under section 218(12) or 225(2)—
  (a) shall be made by statutory instrument, and
  (b) may include provision of a kind permitted by subsection (1)(a), (b) or (f) above, but may not amend an Act of Parliament in reliance on subsection (1)(f).

(4) An order under section 218(12) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) An order under section 225(2) shall be subject to annulment in pursuance of a resolution of the House of Commons.

223 Relationship with other powers

(1) CIL regulations may include provision about how the following powers are to be used, or are not to be used—
  (a) section 106 of TCPA 1990 (planning obligations), and
  (b) section 278 of the Highways Act 1980 (c. 66) (execution of works).

(2) CIL regulations may include provision about the exercise of any other power relating to planning or development.

(3) The Secretary of State may give guidance to a charging or other authority about how a power relating to planning or development is to be exercised; and authorities must have regard to the guidance.

(4) Provision may be made under subsection (1) or (2), and guidance may be given under subsection (3), only if the Secretary of State thinks it necessary or expedient for—
  (a) complementing the main purpose of CIL regulations,
  (b) enhancing the effectiveness, or increasing the use, of CIL regulations,
  (c) preventing agreements, undertakings or other transactions from being used to undermine or circumvent CIL regulations,
  (d) preventing agreements, undertakings or other transactions from being used to achieve a purpose that the Secretary of State thinks would better be achieved through the application of CIL regulations, or
  (e) preventing or restricting the imposition of burdens, the making of agreements or the giving of undertakings, in addition to CIL.

(5) CIL regulations may provide that a power to give guidance or directions may not be exercised—
  (a) in relation to matters specified in the regulations,
  (b) in cases or circumstances specified in the regulations,
  (c) for a purpose specified in the regulations, or
  (d) to an extent specified in the regulations.

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224 Community Infrastructure Levy: amendments

(1) In section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities) after subsection (6) insert—

"(6A) Community Infrastructure Levy under Part 11 of the Planning Act 2008 is not a rate for the purposes of subsection (6)."

(2) In section 9 of the Norfolk and Suffolk Broads Act 1988 (c. 4) (the Navigation Committee)—

(a) in subsection (8), after "Subject" insert " to subsection (8A) and ";

(b) after subsection (8) insert—

"(8A) Subsection (8) does not apply in relation to functions under Part 11 of the Planning Act 2008 (Community Infrastructure Levy)."

(3) In section 71(3) of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out: functions of local authorities) omit the word "and" at the end of paragraph (g) and after paragraph (h) insert "; and

(i) sections 217 and 218 of the Planning Act 2008 (Community Infrastructure Levy: collection and enforcement)."

(4) In section 38 of the Greater London Authority Act 1999 (c. 29) (delegation), after subsection (2) insert—

"(2A) In relation to functions exercisable by the Mayor under Part 11 of the Planning Act 2008 (Community Infrastructure Levy) subsection (2) has effect with the omission of paragraphs (c) to (f)."

Commencement Information

I218 S. 224(1)(4) in force at 6.4.2009 by S.I. 2009/400, **art. 3(m)**

I219 S. 224(3) in force at 6.4.2010 by S.I. 2010/566, **art. 2**

225 Community Infrastructure Levy: repeals

(1) The following provisions of PCPA 2004 shall cease to have effect—

(a) sections 46 to 48 (planning contribution), and

(b) paragraph 5 of Schedule 6 (repeal of sections 106 to 106B of TCPA 1990 (planning obligations)).

(2) The Treasury may by order repeal the Planning-gain Supplement (Preparations) Act 2007 (c. 2).

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PART 12

FINAL PROVISIONS

The Crown and Parliament

226 The Crown

(1) This Act binds the Crown, subject to subsections (2) and (3).

(2) Sections 40, 54, 135, 166, 228 and 231 make special provision in relation to the application of some provisions of this Act to the Crown.

(3) The amendments made by this Act bind the Crown only to the extent that the provisions amended bind the Crown.

227 "Crown land" and "the appropriate Crown authority"

(1) In this Act, "Crown land" and "the appropriate Crown authority" must be read in accordance with this section.

(2) "Crown land" is land in which there is a Crown interest or a Duchy interest.

(3) For the purposes of this section, a Crown interest is any of the following—
- (a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;
- (b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
- (c) an interest belonging to an office-holder in the Scottish Administration or held in trust for Her Majesty for the purposes of the Scottish Administration by such an office-holder;
- (d) the interest of the Speaker of the House of Lords in those parts of the Palace of Westminster and its precincts occupied on 23 March 1965 by or on behalf of the House of Lords;
- (e) the interest of the Speaker of the House of Commons in those parts of the Palace of Westminster and its precincts occupied on 23 March 1965 by or on behalf of the House of Commons;
- (f) the interest in any land of—
  - (i) the Corporate Officer of the House of Lords;
  - (ii) the Corporate Officer of the House of Commons;
  - (iii) those two Corporate Officers acting jointly;
- (g) such other interest as the Secretary of State specifies by order.

(4) For the purposes of this section, a Duchy interest is—
- (a) an interest belonging to Her Majesty in right of the Duchy of Lancaster, or
- (b) an interest belonging to the Duchy of Cornwall.

(5) "The appropriate Crown authority" in relation to any land is—
- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
- (b) in relation to any other land belonging to Her Majesty in right of the Crown, the government department or, as the case may be, office-holder in

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the Scottish Administration, having the management of the land **[**[F389]or the relevant person**]**;

(c) in relation to land belonging to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;

(d) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(e) in relation to land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy, appoints;

(f) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, the department;

(g) in the case of land belonging to an office-holder in the Scottish Administration or held in trust for Her Majesty for the purposes of such an office-holder, the office-holder;

(h) in relation to Westminster Hall and the Chapel of St Mary Undercroft, the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;

(i) in relation to Her Majesty's Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, the Lord Great Chamberlain.

(j) in relation to land in which there is a Crown interest by virtue of subsection (3)(d) or (f)(i), the Corporate Officer of the House of Lords;

(k) in relation to land in which there is a Crown interest by virtue of subsection (3)(e) or (f)(ii), the Corporate Officer of the House of Commons;

(l) in relation to land in which there is a Crown interest by virtue of subsection (3)(f)(iii), those two Corporate Officers acting jointly.

[[F390](5A) In subsection (5), "relevant person", in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.**]**

(6) If any question arises as to what authority is the appropriate Crown authority in relation to any land it must be referred to the Treasury, whose decision is final.

(7) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

(8) References to an office-holder in the Scottish Administration are to be construed in accordance with section 126(7) of the Scotland Act 1998 (c. 46).

Textual Amendments

F389 Words in s. 227(5)(b) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), art. 1(2), **Sch. 5 para. 40(a)**

F390 S. 227(5A) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), art. 1(2), **Sch. 5 para. 40(b)**

228 Enforcement in relation to the Crown and Parliament

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.

(2) For the purposes of this section "the Crown" includes—

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(a) the Duchy of Lancaster;
(b) the Duchy of Cornwall;
(c) the Speaker of the House of Lords;
(d) the Speaker of the House of Commons;
(e) the Corporate Officer of the House of Lords;
(f) the Corporate Officer of the House of Commons.

Service of notices and other documents

229 Service of notices: general

(1) A notice or other document required or authorised to be served, given or supplied under this Act may be served, given or supplied in any of these ways—
(a) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied,
(b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address,
(c) by sending it by post, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address,
(d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address,
(e) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in subsection (2), to that person at that address,
(f) in the case of an incorporated company or body—
(i) by delivering it to the secretary or clerk of the company or body at their registered or principal office,
(ii) by sending it by post, addressed to the secretary or clerk of the company or body at that office,
(iii) by sending it in a prepaid registered letter or, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) The condition mentioned in subsection (1)(e) is that the notice or other document must be—
(a) capable of being accessed by the person mentioned in that provision,
(b) legible in all material respects, and
(c) in a form sufficiently permanent to be used for subsequent reference.

(3) For the purposes of subsection (2), "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

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(4) Subsection (1)(c), (e) and (f)(ii) do not apply to the service, giving or supply of any of the following—
  (a) notice under section 53(4)(b);
  (b) a compulsory acquisition notice under section 134;
  (c) notice under section 163(3);
  (d) an information notice under section 167;
  (e) a notice of unauthorised development under section 169.

(5) This section is without prejudice to section 233 of the Local Government Act 1972 (c. 70) (general provisions as to service of notices by local authorities).

(6) This section is subject to any contrary provision made by or under this Act.

230 Service of documents to persons interested in or occupying premises

(1) Subsection (2) applies if—
  (a) a notice or document is required or authorised to be served on or given or supplied to any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or
  (b) a notice or document is required or authorised to be served on or given or supplied to any person as an occupier of premises.

(2) The notice or document is to be taken to be duly served, given or supplied if either the condition in subsection (3) or the condition in subsection (4) is met.

(3) The condition is that the notice or document—
  (a) is addressed to the person either by name or by the description of "the owner" or, as the case may be, "the occupier" of the premises (describing them), and
  (b) is delivered or sent—
    (i) in the case of a notice mentioned in section 229(4), in the manner specified in section 229(1)(a), (b) or (d), and
    (ii) in any other case, in the manner specified in section 229(1)(a), (b), (c) or (d).

(4) The condition is that the notice or document is so addressed and is marked in such a manner as may be prescribed for securing that it is plainly identifiable as an important communication and—
  (a) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or
  (b) it is delivered to a person on those premises, or is affixed conspicuously to an object on those premises.

(5) Subsection (6) applies if—
  (a) a notice or other document is required to be served on or given or supplied to all persons who have interests in or are occupiers of premises comprised in any land, and
  (b) it appears to the authority required or authorised to serve, give or supply the notice or other document that any part of that land is unoccupied.

(6) The notice or other document is to be taken to be duly served on or given or supplied to all persons having interests in, and on any occupiers of, premises comprised in that

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part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if—

(a) it is addressed to "the owners and any occupiers" of that part of the land (describing it), and

(b) it is affixed conspicuously to an object on the land.

(7) This section is subject to any contrary provision made by or under this Act.

231 Service of notices on the Crown and Parliament

(1) Any notice or other document required under this Act to be served on or given or supplied to the Crown must be served on or given or supplied to the appropriate Crown authority.

(2) Sections 229 and 230 do not apply for the purposes of the service, giving or supply of such a notice or document.

(3) For the purposes of this section "the Crown" includes—

(a) the Duchy of Lancaster;

(b) the Duchy of Cornwall;

(c) the Speaker of the House of Lords;

(d) the Speaker of the House of Commons;

(e) the Corporate Officer of the House of Lords;

(f) the Corporate Officer of the House of Commons.

General

232 Orders and regulations

(1) Subsections (2) and (3) apply to a power to make an order or regulations conferred on the Secretary of State by this Act, except—

(a) power to make an order granting development consent;

(b) a power conferred by paragraph 1(4) of Schedule 4;

(c) a power to make changes to, or revoke, an order granting development consent;

(d) a power conferred by Part 11 or section 237 or 241.

(2) The power is exercisable by statutory instrument.

(3) The power includes—

(a) power to make different provision for different purposes (including different areas);

(b) power to make incidental, consequential, supplementary, transitional or transitory provision or savings.

(4) A statutory instrument containing an order or regulations under this Act is subject to annulment pursuant to a resolution of either House of Parliament.

This is subject to subsection (5) (and section 222(5)).

(5) Subsection (4) does not apply to a statutory instrument containing—

(a) an order granting development consent;

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(b) an order made by virtue of paragraph 1(8) of Schedule 4;

(c) an order changing or revoking an order granting development consent;

(d) an order under section 14(3), **[**[F391]33(5),**]** 111, 160(3), 161(5), 172(1), 203(5) or 227(3)(g);

(e) regulations under section **[**[F392]35(2)(a)(ii),**]** 104(2)(c) or 105(2)(b).

(6) No order may be made under section 14(3), **[**[F393]33(5),**]** 111, 160(3), 161(5), 203(5) or 227(3)(g) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.

(7) No regulations may be made under section **[**[F394]35(2)(a)(ii),**]** 104(2)(c) or 105(2)(b) unless a draft of the instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.

Textual Amendments

F391 Word in s. 232(5)(d) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 131(3)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F392 Words in s. 232(5)(e) inserted (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 26(4)(a)**, 35(2)

F393 Word in s. 232(6) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 131(3)(b)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F394 Words in s. 232(7) inserted (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 26(4)(b)**, 35(2)

233 Directions

(1) A direction given under this Act must be in writing.

(2) A power conferred by this Act to give a direction includes power to vary or revoke the direction.

234 Abbreviated references to Acts

In this Act—

"the Hazardous Substances Act" means the Planning (Hazardous Substances) Act 1990 (c. 10);

"the Listed Buildings Act" means the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

"PCPA 2004" means the Planning and Compulsory Purchase Act 2004 (c. 5);

"TCPA 1990" means the Town and Country Planning Act 1990 (c. 8).

235 Interpretation

(1) In this Act (except in Part 11)—

"airport" has the meaning given by section 82(1) of the Airports Act 1986 (c. 31);

"alteration", in relation to an airport, must be read in accordance with section 23(6);

"alteration", in relation to a highway, includes stopping up the highway or diverting, improving, raising or lowering it;

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"appropriate Crown authority" has the meaning given by section 227;

"building" has the meaning given by section 336(1) of TCPA 1990;

F395 . . . . . .

F395 . . . . . .

"construction", in relation to so much of a generating station as comprises or is to comprise renewable energy installations, has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (c. 20) (see section 104 of that Act) (and related expressions must be read accordingly);

"construction", in relation to a pipe-line, includes placing (and related expressions must be read accordingly);

F395 . . . . . .

"cross-country pipe-line" has the same meaning as in the Pipe-lines Act 1962 (c. 58) (see section 66 of that Act);

"Crown land" has the meaning given by section 227;

F395 . . . . . .

"development" has the meaning given by section 32;

"development consent" has the meaning given by section 31;

"electric line" has the same meaning as in Part 1 of the Electricity Act 1989 (c. 29) (see section 64(1) of that Act);

"extension", in relation to a generating station, has the meaning given by section 36(9) of the Electricity Act 1989 (and "extend" must be read accordingly);

"gas" includes natural gas;

"gas reception facility" must be read in accordance with section 19(3);

"gas transporter" has the same meaning as in Part 1 of the Gas Act 1986 (c. 44) (see section 7(1) of that Act);

"generating station" has the same meaning as in Part 1 of the Electricity Act 1989 (see section 64(1) of that Act);

"goods" has the meaning given by section 83(1) of the Railways Act 1993 (c. 43);

"Green Belt land" has the meaning given by section 2(1) of the Green Belt (London and Home Counties) Act 1938 (c. xciii);

"harbour" and "harbour authority" have the meanings given by section 57(1) of the Harbours Act 1964 (c. 40);

"highway" has the meaning given by section 328 of the Highways Act 1980 (c. 66);

"highway authority" has the same meaning as in the Highways Act 1980 (c. 66) (see sections 1 to 3 of that Act);

"improvement", in relation to a highway, has the meaning given by section 329(1) of the Highways Act 1980;

"inland waters" has the same meaning as in the Water Resources Act 1991 (c. 57) (see section 221(1) of that Act);

"land" includes buildings and monuments, and land covered with water, and in relation to Part 7 must be read in accordance with section 159;

"LNG facility" must be read in accordance with section 18(3);

"local planning authority" has the same meaning as in TCPA 1990 (see section 336(1) of that Act);

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"monument" has the same meaning as in the Ancient Monuments and Archaeological Areas Act 1979 (c. 46) (see section 61 of that Act);

"nationally significant infrastructure project" has the meaning given by Part 3;

"national policy statement" has the meaning given by section 5(2);

"natural gas" means any gas derived from natural strata (including gas originating outside the United Kingdom);

"navigable watercourse" has the same meaning as in Part 6 of the Highways Act 1980 (see section 111(1) of that Act);

"non-navigable watercourse" means a watercourse that is not a navigable watercourse;

"pipe-line" has the meaning given by section 65 of the Pipe-lines Act 1962 (c. 58);

"planning permission" means permission under Part 3 of TCPA 1990;

"prescribed" means prescribed by regulations made by the Secretary of State (except in relation to matters authorised or required by this Act to be prescribed in another way);

"rail freight interchange" means a facility for the transfer of goods between railway and road, or between railway and another form of transport;

"railway" has the meaning given by section 67(1) of the Transport and Works Act 1992 (c. 42);

"renewable energy installation" has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (c. 20) (see section 104 of that Act);

"Renewable Energy Zone" has the meaning given by section 84(4) of the Energy Act 2004;

"special road" means a highway which is a special road in accordance with section 16 of the Highways Act 1980 or by virtue of an order granting development consent;

"standard", in relation to a volume of gas, means the volume of gas at a pressure of 101.325 kiloPascals and a temperature of 273 Kelvin;

"trunk road" means a highway which is a trunk road by virtue of—

(a) section 10(1) or 19 of the Highways Act 1980,

(b) an order or direction under section 10 of that Act, or

(c) an order granting development consent,

or under any other enactment;

"underground gas storage facilities" must be read in accordance with section 17(6);

"use" has the meaning given by section 336(1) of TCPA 1990.

(2) A reference in this Act to a right over land includes a reference to a right to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) Subsection (4) applies to the question of which parts of waters up to the seaward limits of the territorial sea—

(a) are adjacent to Wales (and, in consequence, are not adjacent to England), or

(b) are not adjacent to Wales (and, in consequence, are adjacent to England).

(4) The question is to be determined by reference to an order or Order in Council made under or by virtue of section 158(3) or (4) of the Government of Wales Act 2006 (c. 32)

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(apportionment of sea areas) if, or to the extent that, the order or Order in Council is expressed to apply—

(a) by virtue of this subsection, for the purposes of this Act, or

(b) if no provision has been made by virtue of paragraph (a), for the general or residual purposes of that Act.

(5) Subsection (6) applies to the question of which parts of waters up to the seaward limits of the territorial sea—

(a) are adjacent to Scotland (and, in consequence, are not adjacent to England), or

(b) are not adjacent to Scotland (and, in consequence, are adjacent to England).

(6) The question is to be determined by reference to an Order in Council made under section 126(2) of the Scotland Act 1998 (c. 46) if, or to the extent that, the Order in Council is expressed to apply—

(a) by virtue of this subsection, for the purposes of this Act, or

(b) if no provision has been made by virtue of paragraph (a), for the general or residual purposes of that Act.

Textual Amendments

F395 Words in s. 235(1) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 69, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

236 Application of Act to Scotland: modifications

The modifications set out in Schedule 12 have effect in the application of this Act to Scotland for the purpose mentioned in section 240(4).

Commencement Information

I220 S. 236 in force at 6.4.2009 for S. by S.I. 2009/400, **art. 4(c)**

237 Supplementary and consequential provision

(1) The Secretary of State may by order made by statutory instrument make—

(a) such supplementary, incidental or consequential provision, or

(b) such transitory, transitional or saving provision,

as the Secretary of State thinks appropriate for the general purposes, or any particular purpose, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.

(2) The power conferred by subsection (1) includes power to make different provision for different purposes (including different areas).

(3) An order under subsection (1) may amend, repeal, revoke or otherwise modify—

(a) an Act passed on or before the last day of the Session in which this Act is passed, or

(b) an instrument made under an Act before the passing of this Act.

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(4) An order under this section which amends or repeals any provision of an Act may not be made unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.

(5) A statutory instrument containing an order under this section which does not amend or repeal any provision of an Act is subject to annulment pursuant to a resolution of either House of Parliament.

(6) In this section any reference to an Act (other than this Act) includes a reference to an Act of the Scottish Parliament.

[F396 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).]

Textual Amendments

F396 S. 237A inserted (1.3.2010 retrospectively) by Growth and Infrastructure Act 2013 (c. 27), **s. 22(1)**(2), 35(1); S.I. 2013/1124, art. 4(a) (see S.I. 2010/101, arts. 2, 3)

238 Repeals

Schedule 13 contains repeals (including repeals of spent provisions).

Commencement Information

I221 S. 238 in force at 6.4.2009 for specified purposes for E. by S.I. 2009/400, **art. 5(g)**
I222 S. 238 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(o)**
I223 S. 238 in force at 23.6.2009 for specified purposes for E. by S.I. 2009/1303, art. 2(b), **Sch.**
I224 S. 238 in force at 6.4.2010 for specified purposes for E.W. by S.I. 2010/566, art. 3(d), **Sch.**
I225 S. 238 in force at 6.4.2012 for specified purposes for E. by S.I. 2012/601, **art. 2(c)**
I226 S. 238 in force at 30.4.2012 for specified purposes for W. by S.I. 2012/802, **art. 2(c)**

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239 Financial provisions

There is to be paid out of money provided by Parliament—

(a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and

(b) any increase attributable to this Act in the sums payable under or by virtue of any other Act out of money so provided.

240 Extent

(1) The following provisions of this Act extend to England and Wales only—

(a) in Part 2, section 13;

(b) in Part 3, sections 15 to 20 and 22 to **[**[F397]30A**]** ;

(c) in Part 6, section 118;

(d) in Part 7, sections 133 and 139 to 149;

(e) in Part 9, sections 193 and 194;

(f) in Part 10, sections 203 and 204;

(g) Part 11.

(2) Section 178 extends to Scotland only.

(3) The following provisions of this Act extend to England and Wales and (subject to subsection (4)) to Scotland—

(a) Parts 1 to 8 (except the sections listed in paragraphs (a) to (d) of subsection (1));

(b) this Part.

(4) Those provisions extend to Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—

(a) one end of which is in England or Wales, and

(b) the other end of which is in Scotland.

(5) Subsections (3) and (4) are subject to subsection (6).

(6) So far as it amends or repeals an enactment, this Act has the same extent as the enactment amended or repealed.

(7) An order under section 225(2) extends to each part of the United Kingdom.

Textual Amendments

F397 Word in s. 240(1)(b) substituted (27.3.2015) by The Infrastructure Planning (Radioactive Waste Geological Disposal Facilities) Order 2015 (S.I. 2015/949), arts. 1(1), **2(4)**

241 Commencement

(1) The following provisions of this Act come into force on the day on which this Act is passed—

(a) the provisions of Parts 1 to 9 (except section 194(2) to (5) and paragraph 7 of Schedule 7) which—

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(i) confer power to make orders (other than orders granting, or making changes to orders granting, development consent), regulations or rules, or

(ii) make provision about what is (or is not) permitted to be done, or what is required to be done, in the exercise of any such power;

(b) Part 11, except sections 206, 211(7), 224 and 225;

(c) this Part, except section 238.

(2) Nothing in subsection (1)(a) affects the operation of section 13 of the Interpretation Act 1978 (c. 30) in relation to this Act.

(3) Except as provided by subsection (1)(a), the provisions listed in subsection (4) come into force on such day as may be appointed by order made by—

(a) the Welsh Ministers, in relation to Wales;

(b) the Secretary of State, in relation to England.

(4) The provisions are—

(a) sections 183, 185, 187, 188, 191(1) and (3), 192, 193 and 197 to 200;

(b) paragraphs 1, 2(1) and (2), 3(1), (2) and (4) and 4 to 6 of Schedule 7;

(c) Schedules 8 and 11;

(d) the repeals in—

(i) TCPA 1990 (except those in Schedules 1 and 1A to that Act);

(ii) the Environmental Protection Act 1990 (c. 43);

(iii) the Planning and Compensation Act 1991 (c. 34);

(iv) sections 42(3) and 53 of PCPA 2004.

(5) Section 186 and the repeal in Schedule 1A to TCPA 1990 come into force on such day as the Welsh Ministers may by order appoint.

(6) Sections 194(2) to (5), 201, 202, 203 and 225 (together with related entries in Schedule 13), and paragraph 7 of Schedule 7, come into force at the end of two months beginning with the day on which this Act is passed.

(7) Section 204 comes into force in accordance with subsection (5) of that section.

(8) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint.

(9) The powers conferred by this section are exercisable by statutory instrument.

(10) An order under this section may—

(a) appoint different days for different purposes (including different areas);

(b) contain transitional, transitory or saving provision in connection with the coming into force of this Act.

242 Short title

This Act may be cited as the Planning Act 2008.

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SCHEDULES

[F398]SCHEDULE 1

Section 1

. . . . . .

Textual Amendments

F398 Sch. 1 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 2, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

SCHEDULE 2

Section 36

AMENDMENTS CONSEQUENTIAL ON DEVELOPMENT CONSENT REGIME

Green Belt (London and Home Counties) Act 1938 (c. xciii)

1 The Green Belt (London and Home Counties) Act 1938 is amended as follows.

Commencement Information

I227 Sch. 2 para. 1 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

2 In section 10 (restriction on erection of buildings) after subsection (1) insert—

"(1A) Subsection (1) of this section is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required)."

Commencement Information

I228 Sch. 2 para. 2 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

3 In section 11 (saving for lines, pipes, sewers etc.) after subsection (1) insert—

"(1A) The proviso to subsection (1) of this section is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required)."

Commencement Information

I229 Sch. 2 para. 3 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

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4 In section 12 (erection of buildings for certain statutory purposes) after subsection (1) insert—

"(1A) Subsection (1) of this section is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required)."

Commencement Information
I230 Sch. 2 para. 4 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Pipe-lines Act 1962 (c. 58)

5 The Pipe-lines Act 1962 is amended as follows.

Commencement Information
I231 Sch. 2 para. 5 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

6 (1) Section 1 (cross-country pipe-lines not to be constructed without authorisation) is amended as follows.

(2) After subsection (1) insert—

"(1ZA) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required)."

(3) In subsection (1A)(b) for "pipe-line which is the subject of a pipe-line construction authorisation" substitute " nationally significant pipe-line ".

(4) After subsection (1A) insert—

"(1B) For the purposes of subsection (1A), a pipe-line is a nationally significant pipe-line if—

(a) its construction has been authorised by a pipe-line construction authorisation, or

(b) development consent under the Planning Act 2008 is required for its construction by virtue of section 14(1)(g) of that Act, and has been granted."

Commencement Information
I232 Sch. 2 para. 6 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

7 In section 66(1) (general interpretation provisions) in the definition of "diversion"—

(a) after paragraph (a) insert—

"(aa) if no such authorisation is required, beyond the limits of lateral diversion permitted by development consent under the Planning Act 2008 relating to that pipe-line, or";

(b) in paragraph (b) after "no such authorisation" insert " or consent ".

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Commencement Information
I233 Sch. 2 para. 7 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Harbours Act 1964 (c. 40)

8 The Harbours Act 1964 is amended as follows.

Commencement Information
I234 Sch. 2 para. 8 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

9 In section 14 (harbour revision orders) after subsection (1) insert—

"(1A) Subsection (1) is subject to—

(a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);

(b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders)."

Commencement Information
I235 Sch. 2 para. 9 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

10 In section 16 (harbour empowerment orders) after subsection (3) insert—

"(3A) Subsections (1) to (3) are subject to—

(a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);

(b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders)."

Commencement Information
I236 Sch. 2 para. 10 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Gas Act 1965 (c. 36)

11 The Gas Act 1965 is amended as follows.

Commencement Information
I237 Sch. 2 para. 11 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

12 In section 4 (storage authorisation orders) after subsection (2) insert—

"(2A) So far as relating to development within section 17(2), (3) or (5) of the Planning Act 2008—

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(a) subsection (1) is subject to section 33(2) of that Act (exclusion of powers to authorise development for which development consent required), and

(b) subsection (2) is subject to section 33(1) of that Act (exclusion of requirement for other consents for development for which development consent required).

(2B) So far as relating to the use of strata for the storage of gas, subsections (1) and (2) are subject to section 120(9) of the Planning Act 2008 (exclusion of power to include ancillary provision in orders).”

Commencement Information

I238 Sch. 2 para. 12 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

13 In section 5 (control of mining and other operations in gas storage area and protective area) after subsection (2) insert—

“(2A) Subsection (2) does not apply so far as the controlled operations are authorised by an order granting development consent under the Planning Act 2008.”

Commencement Information

I239 Sch. 2 para. 13 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

14 (1) Section 6 (controlled operations: carrying out of works to remedy a default) is amended as follows.

(2) In subsection (1)—

(a) for “without the consent of the Minister” substitute “ in breach of section 5(2) ”,

(b) for “failure to comply with any conditions subject to which the Minister's consent to the carrying out of any controlled operations has been granted” substitute “ relevant failure to comply ”, and

(c) after “foregoing section” insert “ or in circumstances involving a relevant failure to comply ”.

(3) In subsection (5) for the words from “failed” to the end substitute “ was responsible for the relevant failure to comply. ”

(4) After subsection (8) insert—

“(9) In this section “relevant failure to comply” means—

(a) in a case where the Minister's consent to the carrying out of controlled operations has been obtained under section 5, a failure to comply with any conditions subject to which the Minister's consent was granted;

(b) in a case where the carrying out of controlled operations has been authorised by an order granting development consent under the Planning Act 2008, a breach of the terms of the order or other failure to comply with the terms of the order.”

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Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Commencement Information
I240 Sch. 2 para. 14 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Energy Act 1976 (c. 76)

[F399]15 . . . . . .

Textual Amendments
F399 Sch. 2 para. 15 omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 18(3)(b)**, 35(3)

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

16 The Ancient Monuments and Archaeological Areas Act 1979 is amended as follows.

Commencement Information
I241 Sch. 2 para. 16 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

17 In section 2(1) (offence of executing works affecting scheduled monuments without authorisation) after "authorised under this Part of this Act" insert " or by development consent ".

Commencement Information
I242 Sch. 2 para. 17 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

18 In section 28(2) (offence of damaging ancient monuments: exception for authorised works) after "order under section 3)" insert " or for which development consent has been granted ".

Commencement Information
I243 Sch. 2 para. 18 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

19 In section 37 (exemptions from offence under section 35) after subsection (1) insert—

"(1A) Section 35 does not apply to the carrying out of any operations for which development consent has been granted."

Commencement Information
I244 Sch. 2 para. 19 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

20 In section 61(1) (interpretation of Act) at the appropriate place insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

""development consent" means development consent under the Planning Act 2008;".

Commencement Information
I245 Sch. 2 para. 20 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Highways Act 1980 (c. 66)

21 The Highways Act 1980 is amended as follows.

Commencement Information
I246 Sch. 2 para. 21 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

22 In section 10 (general provision as to trunk roads) after subsection (2) insert—

"(2A) Subsection (2) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required)."

Commencement Information
I247 Sch. 2 para. 22 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

23 In section 14 (powers as respects roads that cross or join trunk roads etc.) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required)."

Commencement Information
I248 Sch. 2 para. 23 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

24 In section 16 (general provision as to special roads) after subsection (3) insert—

"(3A) Subsection (3) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm schemes in relation to highways for which development consent required)."

Commencement Information
I249 Sch. 2 para. 24 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

25 In section 18 (supplementary orders relating to special roads) after subsection (1) insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

"(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required)."

Commencement Information
I250 Sch. 2 para. 25 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

26 In section 106 (orders and schemes providing for construction of bridges over or tunnels under navigable waters) after subsection (4) insert—

"(4A) Subsections (1) and (3) are subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders or schemes in relation to highways for which development consent required)."

Commencement Information
I251 Sch. 2 para. 26 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

27 In section 108 (power to divert navigable watercourses) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required)."

Commencement Information
I252 Sch. 2 para. 27 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

28 In section 110 (power to divert non-navigable watercourses and to carry out other works) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required)."

Commencement Information
I253 Sch. 2 para. 28 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

29 (1) Section 329(1) (further provision as to interpretation of Act) is amended as follows.

(2) In the definition of "special road" after "section 16 above" insert " or by virtue of an order granting development consent under the Planning Act 2008 ".

(3) In the definition of "trunk road" after "section 10 above" insert " or an order granting development consent under the Planning Act 2008, ".

Commencement Information
I254 Sch. 2 para. 29 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

30 For section 337 (saving for obligation to obtain planning permission) substitute—

"337 Saving for obligation to obtain planning permission or development consent

Nothing in this Act authorises—

(a) the carrying out of any development of land for which permission is required by virtue of section 57 of the Town and Country Planning Act 1990 and which is not authorised by permission granted or deemed to be granted under or for the purposes of Part 3 of that Act; or

(b) the carrying out of any development for which development consent is required under the Planning Act 2008 and for which development consent has not been granted under that Act."

Commencement Information
I255 Sch. 2 para. 30 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Electricity Act 1989 (c. 29)

31 The Electricity Act 1989 is amended as follows.

Commencement Information
I256 Sch. 2 para. 31 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

32 (1) Section 36 (consent for construction etc. of generating stations) is amended as follows.

(2) In subsection (1) after "subsections" insert " (1A) to ".

(3) After subsection (1) insert—

"(1A) So far as relating to the construction or extension of a generating station, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).

(1B) So far as relating to the operation of a generating station, subsection (1) does not apply if the operation is authorised by an order granting development consent under the Planning Act 2008."

Commencement Information
I257 Sch. 2 para. 32 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

33 (1) Section 37 (consent for overhead lines) is amended as follows.

(2) In subsection (1) for "subsection (2)" substitute " subsections (1A) to (2) ".

(3) After subsection (1) insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

"(1A) So far as relating to the installation of an electric line, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).

(1B) So far as relating to keeping an electric line installed, subsection (1) does not apply if keeping the line installed is authorised by an order granting development consent under the Planning Act 2008."

Commencement Information
I258 Sch. 2 para. 33 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Town and Country Planning Act 1990 (c. 8)

34 TCPA 1990 is amended as follows.

Commencement Information
I259 Sch. 2 para. 34 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

35 In section 57 (planning permission required for development) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for planning permission etc. for development for which development consent required)."

Commencement Information
I260 Sch. 2 para. 35 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

36 (1) Section 211 (preservation of trees in conservation areas) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent."

(3) After subsection (5) insert—

"(5A) Subsection (5) does not apply so far as the act in question is authorised by an order granting development consent."

Commencement Information
I261 Sch. 2 para. 36 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

37 In section 336(1) (interpretation) at the appropriate place insert—

""development consent" means development consent under the Planning Act 2008;".

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Commencement Information
I262 Sch. 2 para. 37 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

38 The Listed Buildings Act is amended as follows.

Commencement Information
I263 Sch. 2 para. 38 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

39 (1) Section 7 (restriction on works affecting listed buildings) is amended as follows.

(2) At the beginning insert " (1) ".

(3) After "authorised" insert " under section 8 ".

(4) At the end insert—

"(2) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required)."

Commencement Information
I264 Sch. 2 para. 39 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

40 In section 59(3) (offence relating to acts causing or likely to result in damage to listed building: exceptions) after paragraph (b) insert "; or

(c) of works for which development consent has been granted under the Planning Act 2008."

Commencement Information
I265 Sch. 2 para. 40 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

41 In section 74 (control of demolition in conservation areas) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required)."

Commencement Information
I266 Sch. 2 para. 41 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Planning (Hazardous Substances) Act 1990 (c. 10)

42 The Hazardous Substances Act is amended as follows.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Commencement Information
I267 Sch. 2 para. 42 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

43 In section 9(2)(c) (determination of applications for hazardous substances consent: material considerations) after "planning permission" insert " or development consent ".

Commencement Information
I268 Sch. 2 para. 43 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

44 In section 10(1) (conditions on grant of hazardous substances consent) after "planning permission" insert " or development consent ".

Commencement Information
I269 Sch. 2 para. 44 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

45 (1) Section 12 (deemed hazardous substances consent: government authorisation) is amended as follows.

(2) After subsection (2A) insert—

"(2B) On making an order granting development consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction."

(3) For subsection (3) substitute—

"(3) Before giving a direction under any of subsections (1) to (2B), the person having power to give the direction must consult the Health and Safety Commission."

(4) In subsection (6)—

(a) for "government department or the Secretary of State" substitute " person ", and

(b) after "directions" insert " given by the person ".

Commencement Information
I270 Sch. 2 para. 45 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

46 In section 14(2)(b) (power to revoke or modify hazardous substances consent)—

(a) after "planning permission" insert " or development consent ";

(b) after "the permission" insert " or development consent ".

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Commencement Information
I271 Sch. 2 para. 46 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

47 In section 39(1) (interpretation) at the appropriate place insert—

""development consent" means development consent under the Planning Act 2008;".

Commencement Information
I272 Sch. 2 para. 47 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

New Roads and Street Works Act 1991 (c. 22)

48 The New Roads and Street Works Act 1991 is amended as follows.

Commencement Information
I273 Sch. 2 para. 48 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

49 In section 6 (toll orders) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required)."

Commencement Information
I274 Sch. 2 para. 49 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Water Industry Act 1991 (c. 56)

50 **[**[F400]In section 167(1) of the Water Industry Act 1991 (compulsory works orders)—

(a) after "water undertaker" insert " whose area is wholly or partly in Wales ", and

(b) after "functions" insert " in relation to an area in Wales ".**]**

Textual Amendments
F400 Sch. 2 para. 50 ceases to have effect (1.10.2010) by virtue of Flood and Water Management Act 2010 (c. 29), **ss. 41(1)**, 49(3) (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.

Commencement Information
I275 Sch. 2 para. 50 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Transport and Works Act 1992 (c. 42)

51 The Transport and Works Act 1992 is amended as follows.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I276 Sch. 2 para. 51 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

52 In section 1 (orders as to railways, tramways etc.) after subsection (1) insert—

"(1A) Subsection (1) is subject to—

(a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);

(b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders)."

Commencement Information
I277 Sch. 2 para. 52 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

53 In section 3 (orders as to inland waterways etc.) after subsection (1) insert—

"(1A) Subsection (1) is subject to—

(a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);

(b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders)."

Commencement Information
I278 Sch. 2 para. 53 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Town and Country Planning (Scotland) Act 1997 (c. 8)

54 The Town and Country Planning (Scotland) Act 1997 is amended as follows.

Commencement Information
I279 Sch. 2 para. 54 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

55 In section 28 (planning permission required for development) after subsection (1) insert—

"(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for planning permission etc. for development for which development consent required)."

Commencement Information
I280 Sch. 2 para. 55 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

56 In section 160(6) (tree preservation orders: exemptions) after paragraph (b) insert—

"(ba) it is authorised by an order granting development consent,".

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I281 Sch. 2 para. 56 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

57 (1) Section 172 (preservation of trees in conservation areas) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent."

(3) After subsection (5) insert—

"(5A) Subsection (5) does not apply so far as the act in question is authorised by an order granting development consent."

Commencement Information
I282 Sch. 2 para. 57 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

58 In section 277(1) (interpretation) at the appropriate place insert—

""development consent" means development consent under the Planning Act 2008;".

Commencement Information
I283 Sch. 2 para. 58 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Planning (Hazardous Substances) (Scotland) Act 1997 (c. 10)

59 The Planning (Hazardous Substances) (Scotland) Act 1997 is amended as follows.

Commencement Information
I284 Sch. 2 para. 59 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

60 In section 7(2)(c) (determination of applications for hazardous substances consent: material considerations) after "planning permission" insert " or development consent ".

Commencement Information
I285 Sch. 2 para. 60 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

61 In section 8(1) (conditions on grant of hazardous substances consent) after "planning permission" insert " or development consent ".

Commencement Information
I286 Sch. 2 para. 61 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

62 (1) Section 10 (deemed hazardous substances consent: government authorisation) is amended as follows.

(2) After subsection (2A) insert—

"(2B) On making an order granting development consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction."

(3) For subsection (3) substitute—

"(3) Before giving a direction under any of subsections (1) to (2B), the person having power to give the direction must consult the Health and Safety Commission."

(4) In subsection (6)—

(a) for the words from "government" to "Ministers" substitute " person ", and

(b) after "directions" insert " given by the person ".

Commencement Information

I287 Sch. 2 para. 62 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

63 In section 12(2)(b) (power to revoke or modify hazardous substances consent)—

(a) after "planning permission" insert " or development consent ", and

(b) after "the permission" insert " or development consent ".

Commencement Information

I288 Sch. 2 para. 63 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

64 In section 38(1) (interpretation) at the appropriate place insert—

""development consent" means development consent under the Planning Act 2008,".

Commencement Information

I289 Sch. 2 para. 64 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Housing and Regeneration Act 2008 (c. 17)

65 In section 13(5) of the Housing and Regeneration Act 2008 (power of Secretary of State to make designation orders) in the definition of "permitted purposes" at the end insert ", and

(d) Part 8 of the Planning Act 2008,".

Commencement Information

I290 Sch. 2 para. 65 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Crossrail Act 2008 (c. 18)

66 (1) Section 48 of the Crossrail Act 2008 (application of Act to extensions) is amended as follows.

(2) Before subsection (1) insert—

"(A1) Development consent under the Planning Act 2008 is not required for—

(a) an extension of Crossrail, or

(b) the provision, otherwise than as part of an extension of Crossrail, of a railway facility for use for the purposes of or in connection with Crossrail."

(3) In subsection (1) for paragraphs (a) and (b) substitute " a matter mentioned in subsection (A1)(a) or (b). "

(4) In subsection (2) for "(1)" substitute " (A1) ".

(5) In subsection (5) for "(1)" substitute " (A1) ".

Commencement Information

I291 Sch. 2 para. 66 in force at 1.3.2010 by S.I. 2010/101, **art. 2** (with art. 6)

[F401]SCHEDULE 3

Section 113

. . . . . .

Textual Amendments

F401 Sch. 3 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 54, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

SCHEDULE 4

Section 119

CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

Correction of errors

1 (1) This paragraph applies if—

(a) the **[**[F402]Secretary of State**]** makes an order granting development consent, or refuses development consent, and

(b) the decision document contains a correctable error.

(2) The decision document is—

(a) in the case of an order granting development consent, the order;

(b) in the case of a refusal of development consent, the document recording the refusal.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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(3) A correctable error is an error or omission which—

(a) is in a part of the decision document which records the decision, and

(b) is not part of the statement of reasons for the decision.

(4) The **[**[F403]Secretary of State**]** may correct the error or omission if (but only if) the conditions in sub-paragraphs (5) and (7) are met.

This is subject to sub-paragraph (11).

(5) The condition is that, before the end of the relevant period—

(a) the **[**[F404]Secretary of State**]** receives a written request to correct the error or omission from any person, or

(b) the **[**[F404]Secretary of State**]** sends a statement in writing to the applicant which explains the error or omission and states that the **[**[F404]Secretary of State**]** is considering making the correction.

(6) The relevant period is—

(a) if the decision document is an order granting development consent, the period specified in section 118(1)(b);

(b) if the decision document is the document recording a refusal of development consent, the period specified in section 118(2)(b).

(7) The condition is that the **[**[F405]Secretary of State**]** informs each relevant local planning authority that the request mentioned in sub-paragraph (5)(a) has been received or the statement mentioned in sub-paragraph (5)(b) has been sent (as the case may be).

(8) If—

(a) the decision document is an order granting development consent, and

(b) the order was required to be contained in a statutory instrument,

the power conferred by sub-paragraph (4) may be exercised only by order contained in a statutory instrument.

[F406](9) . . . . . .

(10) As soon as practicable after the instrument **[**[F407]containing the order is made, the Secretary of State**]** must deposit a copy of it in the office of the Clerk of the Parliaments.

(11) The power conferred by sub-paragraph (4) may not be exercised in relation to provision included in an order granting development consent by virtue of **[**[F408]paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009).**]**

Textual Amendments

F402 Words in Sch. 4 para. 1(1)(a) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(2)**; S.I. 2012/628, art. 7(a)

F403 Words in Sch. 4 para. 1(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(3)**; S.I. 2012/628, art. 7(a)

F404 Words in Sch. 4 para. 1(5) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(3)**; S.I. 2012/628, art. 7(a)

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F405 Words in Sch. 4 para. 1(7) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(3)**; S.I. 2012/628, art. 7(a)
F406 Sch. 4 para. 1(9) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 70(4), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7
F407 Words in Sch. 4 para. 1(10) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(5)**; S.I. 2012/628, art. 7(a)
F408 Words in Sch. 4 para. 1(11) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 4(4)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

Commencement Information
I292 Sch. 4 para. 1 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Correction notice

2 (1) If paragraph 1(5)(a) or (b) applies the **[**[F409]Secretary of State**]** must issue a notice in writing (a "correction notice") which—
(a) specifies the correction of the error or omission, or
(b) gives notice of the decision not to correct the error or omission.

(2) The **[**[F409]Secretary of State**]** must issue the correction notice as soon as practicable after making the correction or deciding not to make the correction.

(3) The **[**[F409]Secretary of State**]** must give the correction notice to—
(a) the applicant,
(b) each relevant local planning authority, and
(c) if the correction was requested by any other person, that person.

(4) The Secretary of State may **[**[F410]give the correction notice to persons other than those to whom sub-paragraph (3) requires it to be given.**]**

Textual Amendments
F409 Words in Sch. 4 para. 2 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(6)**; S.I. 2012/628, art. 7(a)
F410 Words in Sch. 4 para. 2(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 70(7)**; S.I. 2012/628, art. 7(a)

Commencement Information
I293 Sch. 4 para. 2 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Effect of a correction

3 (1) If a correction is made in pursuance of paragraph 1—
(a) the original decision and the decision document containing it continue in force, and
(b) the decision document is treated as corrected as specified in the correction notice issued under paragraph 2 with effect from the date the correction notice is issued, or, if the correction is required to be made by order contained in a statutory instrument, the date specified in the order.

(2) If a correction is not made—

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(a) the original decision continues to have full force and effect, and
(b) nothing in this Schedule affects anything done in pursuance of or in respect of the original decision.

(3) "The original decision" means the decision to—
(a) make an order granting development consent, or
(b) refuse development consent.

Commencement Information
I294 Sch. 4 para. 3 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Interpretation

4 In this Schedule—

"the applicant" means the person who made the application to which the decision relates;

F411 . . . . . .

"a relevant local planning authority" means a local planning authority for all or any part of the area in which the land to which the decision relates is situated.

Textual Amendments
F411 Words in Sch. 4 para. 4 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 70(8), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information
I295 Sch. 4 para. 4 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

SCHEDULE 5

Section 120

PROVISION RELATING TO, OR TO MATTERS ANCILLARY TO, DEVELOPMENT

PART 1

THE MATTERS

1 The acquisition of land, compulsorily or by agreement.

Commencement Information
I296 Sch. 5 para. 1 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

2 The creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement.

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Commencement Information
I297 Sch. 5 para. 2 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

3 The abrogation or modification of agreements relating to land.

Commencement Information
I298 Sch. 5 para. 3 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

4 Carrying out specified excavation, mining, quarrying or boring operations in a specified area.

Commencement Information
I299 Sch. 5 para. 4 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

5 The operation of a generating station.

Commencement Information
I300 Sch. 5 para. 5 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

6 Keeping electric lines installed above ground.

Commencement Information
I301 Sch. 5 para. 6 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

7 The use of underground gas storage facilities.

Commencement Information
I302 Sch. 5 para. 7 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

8 The sale, exchange or appropriation of Green Belt land.

Commencement Information
I303 Sch. 5 para. 8 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

9 Freeing land from any restriction imposed on it by or under the Green Belt (London and Home Counties) Act 1938 (c. xciii), or by a covenant or other agreement entered into for the purposes of that Act.

Commencement Information
I304 Sch. 5 para. 9 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

10 The protection of the property or interests of any person.

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Commencement Information
I305 Sch. 5 para. 10 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

11 The imposition or exclusion of obligations or liability in respect of acts or omissions.

Commencement Information
I306 Sch. 5 para. 11 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

12 Carrying out surveys or taking soil samples.

Commencement Information
I307 Sch. 5 para. 12 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

13 Cutting down, uprooting, topping or lopping trees or shrubs or cutting back their roots.

Commencement Information
I308 Sch. 5 para. 13 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

14 The removal, disposal or re-siting of apparatus.

Commencement Information
I309 Sch. 5 para. 14 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

15 Carrying out civil engineering or other works.

Commencement Information
I310 Sch. 5 para. 15 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

16 The diversion of navigable or non-navigable watercourses.

Commencement Information
I311 Sch. 5 para. 16 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

17 The stopping up or diversion of highways.

Commencement Information
I312 Sch. 5 para. 17 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

18 Charging tolls, fares **[**[F412](including penalty fares)**]** and other charges.

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Textual Amendments

F412 Words in Sch. 5 para. 18 inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 71(2)**; S.I. 2012/628, art. 7(a)

Commencement Information

I313 Sch. 5 para. 18 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

19 The designation of a highway as a trunk road or special road.

Commencement Information

I314 Sch. 5 para. 19 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

20 The specification of the classes of traffic authorised to use a highway.

Commencement Information

I315 Sch. 5 para. 20 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

21 The appropriation of a highway for which the person proposing to construct or improve a highway is the highway authority.

Commencement Information

I316 Sch. 5 para. 21 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

22 The transfer to the person proposing to construct or improve a highway of a highway for which that person is not the highway authority.

Commencement Information

I317 Sch. 5 para. 22 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

23 The specification of the highway authority for a highway.

Commencement Information

I318 Sch. 5 para. 23 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

24 The operation and maintenance of a transport system.

Commencement Information

I319 Sch. 5 para. 24 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

25 Entering into an agreement for the provision of police services.

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Commencement Information
I320 Sch. 5 para. 25 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

26 The discharge of water into inland waters or underground strata.

Commencement Information
I321 Sch. 5 para. 26 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

[F413]27 . . . . . .

Textual Amendments
F413 Sch. 5 paras. 27-30 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7)(c), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

[F413]28 . . . . . .

Textual Amendments
F413 Sch. 5 paras. 27-30 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7)(c), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

[F413]29 . . . . . .

Textual Amendments
F413 Sch. 5 paras. 27-30 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7)(c), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

[F413]30 . . . . . .

Textual Amendments
F413 Sch. 5 paras. 27-30 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7)(c), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

[[F414]30A Deeming a marine licence under Part 4 of the Marine and Coastal Access Act 2009 to have been given by the Secretary of State for activities specified in the order and subject to such conditions as may be specified in the order.

Textual Amendments
F414 Sch. 5 paras. 30A, 30B inserted (12.11.2009 for specified purposes, 6.4.2011 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), s. 324(1)(c)(d), **Sch. 8 para. 4(5)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

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30B Deeming any such conditions to have been attached to the marine licence by the Secretary of State under that Part.**]**

Textual Amendments

F414 Sch. 5 paras. 30A, 30B inserted (12.11.2009 for specified purposes, 6.4.2011 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), s. 324(1)(c)(d), **Sch. 8 para. 4(5)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

31 The creation of a harbour authority.

Commencement Information

I322 Sch. 5 para. 31 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

32 Changing the powers and duties of a harbour authority.

Commencement Information

I323 Sch. 5 para. 32 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

[[F415]32A The making of byelaws by any person and their enforcement.

Textual Amendments

F415 Sch. 5 paras. 32A, 32B inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 71(3)**; S.I. 2012/628, art. 7(a)

32B (1) The creation of offences within sub-paragraph (2) in connection with—

(a) non-payment of tolls, fares or other charges,

(b) a person's failure to give the person's name or address in accordance with provision relating to penalty fares,

(c) enforcement of byelaws, or

(d) construction, improvement, maintenance or management of a harbour.

(2) An offence is within this sub-paragraph if—

(a) it is triable only summarily,

(b) a person guilty of the offence is not liable to imprisonment, and

(c) any fine to which a person guilty of the offence may be liable cannot be higher than level 3 on the standard scale.**]**

Textual Amendments

F415 Sch. 5 paras. 32A, 32B inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 71(3)**; S.I. 2012/628, art. 7(a)

33 The transfer of property, rights, liabilities, or functions.

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Commencement Information
I324 Sch. 5 para. 33 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

34 The transfer, leasing, suspension, discontinuance and revival of undertakings.

Commencement Information
I325 Sch. 5 para. 34 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

35 The payment of contributions.

Commencement Information
I326 Sch. 5 para. 35 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

36 The payment of compensation.

Commencement Information
I327 Sch. 5 para. 36 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

37 The submission of disputes to arbitration.

Commencement Information
I328 Sch. 5 para. 37 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

38 The alteration of borrowing limits.

Commencement Information
I329 Sch. 5 para. 38 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

PART 2

INTERPRETATION

39 (1) This paragraph applies for the purposes of this Schedule.

(2) "Transport system" means any of the following—

(a) a railway,

(b) a tramway,

(c) a trolley vehicle system,

(d) a system using a mode of guided transport prescribed by order under section 2 of the Transport and Works Act 1992 (c. 42).

(3) "Maintenance", in relation to a transport system, includes the inspection, repair, adjustment, alteration, removal, reconstruction or replacement of the system.

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(4) The following terms have the meanings given by section 67(1) (interpretation) of the Transport and Works Act 1992 (c. 42)—

"guided transport",

"tramway",

"trolley vehicle system".

Commencement Information

I330 Sch. 5 para. 39 in force at 1.3.2010 by S.I. 2010/101, **art. 3(e)** (with art. 6)

SCHEDULE 6

Section 153

CHANGES TO, AND REVOCATION OF, ORDERS GRANTING DEVELOPMENT CONSENT

Modifications etc. (not altering text)

C24 Sch. 6 modified (31.1.2017) by Wales Act 2017 (c. 4), s. 71(1)(b), **Sch. 7 para. 8(3)** (with Sch. 7 paras. 1, 6)

Preliminary

1 (1) This paragraph applies for the purposes of this Schedule.

(2) "The applicant", in relation to a development consent order, means the person who applied for the order.

(3) "A successor in title of the applicant" means a person who—

(a) derives title to the land from the applicant (whether directly or indirectly), and

(b) has an interest in the land.

F416(4) . . . . . .

(5) "Development consent order" means an order granting development consent.

(6) "The land", in relation to a development consent order, means the land to which the order relates or any part of that land.

Textual Amendments

F416 Sch. 6 para. 1(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 72(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I331 Sch. 6 para. 1 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

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Non-material changes

2 (1) The **[**[F417]Secretary of State**]** may make a change to a development consent order if **[**[F418]the Secretary of State**]** is satisfied that the change is not material.

This is subject to sub-paragraph (13).

(2) In deciding whether a change is material, the **[**[F417]Secretary of State**]** must have regard to the effect of the change, together with any previous changes made under this paragraph, on the development consent order as originally made.

(3) The power conferred by sub-paragraph (1) includes power—

(a) to impose new requirements in connection with the development for which consent is granted by the development consent order;

(b) to remove or alter existing requirements.

(4) The power conferred by sub-paragraph (1) may be exercised only on an application made to the **[**[F419]Secretary of State**]** by or on behalf of—

(a) the applicant or a successor in title of the applicant,

(b) a person with an interest in the land, or

(c) any other person for whose benefit the development consent order has effect.

(5) An application under sub-paragraph (4) must be made in the prescribed form and manner.

(6) Sub-paragraph (7) applies in relation to an application under sub-paragraph (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the development consent order relates.

(7) The application may be made only in respect of so much of the order as affects the land in which the person has an interest.

(8) The **[**[F417]Secretary of State**][**[F420]and the person who has made the application under sub-paragraph (4) **]** must comply with such requirements as may be prescribed as to consultation and publicity in relation to the exercise of the power conferred by sub-paragraph (1).

This is subject to sub-paragraphs (9) to (11).

[[F421](8A) The power to make regulations under sub-paragraph (8) includes power to allow the Secretary of State or the person who has made the application under sub-paragraph (4) to exercise a discretion.**]**

(9) If the development consent order was required to be contained in a statutory instrument, the power conferred by sub-paragraph (1) may be exercised only by order contained in a statutory instrument.

[F422](10) . . . . . .

(11) As soon as practicable after the instrument **[**[F423]containing the order**]** is made, the **[**[F417]Secretary of State**]** must deposit a copy of it in the office of the Clerk of the Parliaments.

(12) If a change is made to a development consent order under the power conferred by sub-paragraph (1)—

(a) the order continues in force,

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(b) the **[**[F417]Secretary of State**]** must give notice of the change to the order to such persons as may be prescribed, and

(c) the change to the order takes effect from the date on which the notice is issued, or, if the change to the order is required to be made by order contained in a statutory instrument, the date specified in the order making the change.

(13) The power conferred by sub-paragraph (1) may not be exercised in relation to provision included in an order granting development consent by virtue of **[**[F424]paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009). **]**

Textual Amendments

F417 Words in Sch. 6 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(3)**; S.I. 2012/628, art. 7(a)

F418 Words in Sch. 6 para. 2(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(4)**; S.I. 2012/628, art. 7(a)

F419 Words in Sch. 6 para. 2(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(5)**; S.I. 2012/628, art. 7(a)

F420 Words in Sch. 6 para. 2(8) inserted (12.2.2015 for specified purposes, 14.7.2015 in so far as not already in force) by Infrastructure Act 2015 (c. 7), **ss. 28(2)(a)**, 57(5)(b); S.I. 2015/758, reg. 3 (with reg 4(3))

F421 Sch. 6 para. 2(8A) inserted (12.2.2015 for specified purposes, 14.7.2015 in so far as not already in force) by Infrastructure Act 2015 (c. 7), **ss. 28(2)(b)**, 57(5)(b); S.I. 2015/758, reg. 3 (with reg 4(3))

F422 Sch. 6 para. 2(10) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 72(6), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F423 Words in Sch. 6 para. 2(11) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(7)**; S.I. 2012/628, art. 7(a)

F424 Words in Sch. 6 para. 2(13) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 4(6)(a)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

Commencement Information

I332 Sch. 6 para. 2 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

Changes to, and revocation of, orders granting development consent

3 (1) The **[**[F417]Secretary of State**]** may by order make a change to, or revoke, a development consent order.

(2) The power conferred by sub-paragraph (1) may be exercised only in accordance with—

(a) the following provisions of this paragraph, and

(b) paragraphs 4 and 5.

(3) The power may be exercised without an application being made if the **[**[F417]Secretary of State**]** is satisfied that—

(a) the development consent order contains a significant error, and

(b) it would not be appropriate for the error to be corrected by means of the power conferred by paragraph 1 of Schedule 4 or paragraph 2 of this Schedule.

(4) The power may be exercised on an application made by or on behalf of—

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(a) the applicant or a successor in title of the applicant,
(b) a person with an interest in the land, or
(c) any other person for whose benefit the development consent order has effect.

(5) The power may be exercised on an application made by a local planning authority if the **[**[F417]Secretary of State**]** is satisfied that—
(a) the development consent order grants development consent for development on land all or part of which is in the local planning authority's area,
(b) the development has begun but has been abandoned, and
(c) the amenity of other land in the local planning authority's area or an adjoining area is adversely affected by the condition of the land.

[[F425](5A) The Secretary of State may refuse to exercise the power on an application made under sub-paragraph (4) or (5) if, in particular, the Secretary of State considers that the development that would be authorised as a result of the change should properly be the subject of an application under section 37 for a development consent order.**]**

[F426](6) . . . . . .

(7) **[**[F427]The**]** power may be exercised without an application being made if the Secretary of State is satisfied that—
(a) if the development were carried out in accordance with the development consent order, there would be a contravention of **[**[F428]EU**]** law or any of the Convention rights, or
(b) there are other exceptional circumstances that make it appropriate to exercise the power.

(8) In this paragraph—
"**[**[F428]EU**]** law" means—
(a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the **[**[F428]EU**]** Treaties, and
(b) all the remedies and procedures from time to time provided for by or under the **[**[F428]EU**]** Treaties;
"the Convention rights" has the same meaning as in the Human Rights Act 1998 (c. 42).

Textual Amendments

F417 Words in Sch. 6 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(3)**; S.I. 2012/628, art. 7(a)

F425 Sch. 6 para. 3(5A) inserted (14.7.2015) by Infrastructure Act 2015 (c. 7), **ss. 28(3)**, 57(5)(b); S.I. 2015/758, reg. 3 (with reg. 4(3))

F426 Sch. 6 para. 3(6) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 72(8), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F427 Word in Sch. 6 para. 3(7) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(9)**; S.I. 2012/628, art. 7(a)

F428 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with art. 3(2)(3)4(2)6(4)(5))

Commencement Information

I333 Sch. 6 para. 3 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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Changes to, and revocation of, orders: supplementary

4 (1) An application under paragraph 3 must be—
(a) made in the prescribed form and manner, and
(b) accompanied by information of a prescribed description.

(2) Sub-paragraph (3) applies in relation to an application under paragraph 3(4) made by or on behalf of a person with an interest in some, but not all, of the land to which the development consent order relates.

(3) The application may be made only in respect of so much of the order as affects the land in which the person has an interest.

(4) The Secretary of State may by regulations make provision about—
(a) the procedure to be followed before an application under paragraph 3 is made;
(b) the making of such an application;
(c) the decision-making process in relation to the exercise of the power conferred by paragraph 3(1);
(d) the making of the decision as to whether to exercise that power;
(e) the effect of a decision to exercise that power.

(5) Paragraphs (c) to (e) of sub-paragraph (4) apply in relation to the exercise of the power conferred by paragraph 3(1)—
(a) on an application under paragraph 3, or
(b) on the initiative of the **[**[F417]Secretary of State**]** under paragraph 3(3) or (7).

[[F429](5A) The power to make regulations under sub-paragraph (4) includes power to allow a person to exercise a discretion.**]**

(6) If a development consent order is changed or revoked in the exercise of the power conferred by paragraph 3(1), the **[**[F417]Secretary of State**]** must give notice of the change or revocation to such persons as may be prescribed.

(7) If a development consent order was required to be contained in a statutory instrument, an order changing or revoking the development consent order made in the exercise of the power conferred by paragraph 3(1) must also be contained in a statutory instrument.

[F430](8) . . . . . .

(9) As soon as practicable after the instrument **[**[F431]containing the order**]** is made, the **[**[F417]Secretary of State**]** must deposit a copy of it in the office of the Clerk of the Parliaments.

Textual Amendments

F417 Words in Sch. 6 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(3)**; S.I. 2012/628, art. 7(a)

F429 Sch. 6 para. 4(5A) inserted (12.2.2015 for specified purposes, 14.7.2015 in so far as not already in force) by Infrastructure Act 2015 (c. 7), **ss. 28(4)**, 57(5)(b); S.I. 2015/758, reg. 3 (with reg. 4(3))

F430 Sch. 6 para. 4(8) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 72(10), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

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F431 Words in Sch. 6 para. 4(9) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(11)**; S.I. 2012/628, art. 7(a)

Commencement Information

I334 Sch. 6 para. 4 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

5 (1) This paragraph applies in relation to the power conferred by paragraph 3(1) to make a change to, or revoke, a development consent order.

(2) The power may not be exercised after the end of the period of 4 years beginning with the date on which the relevant development was substantially completed.

(3) Sub-paragraph (2) does not prevent the exercise of the power—

(a) in relation to requirements imposed by the development consent order in connection with the relevant development, or

(b) to revoke the development consent order.

(4) The power includes power—

(a) to require the removal or alteration of buildings or works;

(b) to require the discontinuance of a use of land;

(c) to impose specified requirements in connection with the continuance of a use of land;

(d) to impose new requirements in connection with the relevant development;

(e) to remove or alter existing requirements.

(5) Subject to sub-paragraph (4)(a), the exercise of the power does not affect any building or other operations carried out in pursuance of the development consent order before the power is exercised.

(6) The power may not be exercised in relation to provision included in an order granting development consent by virtue of **[**[F432]paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009). **]**

(7) "The relevant development" is the development for which consent is granted by the development consent order.

Textual Amendments

F432 Words in Sch. 6 para. 5(6) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 4(6)(b)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

Commencement Information

I335 Sch. 6 para. 5 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

Compensation

6 (1) This paragraph applies if—

(a) in exercise of the power conferred by paragraph 3, the **[**[F417]Secretary of State**]** makes a change to, or revokes, a development consent order,

(b) the case in which the power is exercised is one falling within sub-paragraph (3)[F433]... or (7) of that paragraph,

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(c) on a claim for compensation under this paragraph it is shown that a person with an interest in the land, or for whose benefit the development consent order has effect—

(i) has incurred expenditure in carrying out work which is rendered abortive by the change or revocation, or

(ii) has otherwise sustained loss or damage which is directly attributable to the change or revocation, and

(d) the claim is made to the **[**[F417]Secretary of State**]** in the prescribed manner and before the end of the prescribed period.

(2) Compensation in respect of the expenditure, loss or damage is payable to the person **[**[F434]by the Secretary of State.**]**

(3) The reference in sub-paragraph (1)(c)(i) to expenditure incurred in carrying out any work includes a reference to expenditure incurred —

(a) in the preparation of plans for the purposes of the work, or

(b) on other similar matters preparatory to carrying out the work.

(4) Subject to sub-paragraph (3), no compensation is to be paid under this paragraph—

(a) in respect of any work carried out before the development consent order was made, or

(b) in respect of any other loss or damage arising out of anything done or omitted to be done before the development consent order was made (other than loss or damage consisting of depreciation of the value of an interest in land).

(5) The Secretary of State may by regulations make provision about the assessment of compensation payable under this paragraph.

(6) The regulations may in particular include provision—

(a) for the reference of disputes about compensation for depreciation to, and the determination of such disputes by [F435]... the Lands Tribunal for Scotland, the First-tier Tribunal or the Upper Tribunal;

(b) applying, with or without modifications, a provision of or made under an Act.

Textual Amendments

F417 Words in Sch. 6 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(3)**; S.I. 2012/628, art. 7(a)

F433 Words in Sch. 6 para. 6(1)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7(b)

F434 Words in Sch. 6 para. 6(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 72(12)**; S.I. 2012/628, art. 7(a)

F435 Words in Sch. 6 para. 6(6)(a) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 297** (with Sch. 5)

Commencement Information

I336 Sch. 6 para. 6 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

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7 (1) In this paragraph "compensation for depreciation" means compensation payable under paragraph 6 in respect of loss or damage consisting of depreciation of the value of an interest in land.

(2) The Secretary of State may by regulations make provision about the apportionment of compensation for depreciation between different parts of the land to which the claim for the compensation relates.

(3) The regulations may in particular include provision about—

(a) who is to make an apportionment;

(b) the persons to whom notice of an apportionment is to be given;

(c) how an apportionment is to be made;

(d) the reference of disputes about an apportionment to, and the determination of such disputes by, [F436]... the Lands Tribunal for Scotland, the First-tier Tribunal or the Upper Tribunal.

(4) The Secretary of State may by regulations make provision for, and in connection with, the giving of notice of compensation for depreciation.

(5) The regulations may in particular include provision about—

(a) the persons to whom notice of compensation for depreciation is to be given;

(b) the status of such a notice;

(c) the registration of such a notice.

Textual Amendments

F436 Words in Sch. 6 para. 7(3)(d) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 297** (with Sch. 5)

Commencement Information

I337 Sch. 6 para. 7 in force at 1.10.2011 by S.I. 2011/2054, **art. 2(b)**

SCHEDULE 7

Section 187

POWER TO DECLINE TO DETERMINE APPLICATIONS: AMENDMENTS

Town and Country Planning Act 1990 (c. 8)

1 TCPA 1990 is amended as follows.

Commencement Information

I338 Sch. 7 para. 1 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**

2 (1) Section 70A (power of local planning authority to decline to determine subsequent application) is amended as follows.

(2) At the end of subsection (4)(b) insert " or, if there has been such an appeal, it has been withdrawn ".

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(3) After subsection (4) insert—

"(4A) A local planning authority in England may also decline to determine a relevant application if—

(a) the condition in subsection (4B) is satisfied, and

(b) the authority think there has been no significant change in the relevant considerations since the relevant event.

(4B) The condition is that—

(a) in the period of two years ending with the date on which the application mentioned in subsection (4A) is received the Secretary of State has refused a similar application,

(b) the similar application was an application deemed to have been made by section 177(5), and

(c) the land to which the application mentioned in subsection (4A) and the similar application relate is in England."

(4) In subsection (7)(a) for "and (4)" substitute " , (4) and (4B) ".

Commencement Information

I339 Sch. 7 para. 2(1)(2) in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**

I340 Sch. 7 para. 2(3)(4) in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(n)**

3 (1) Section 70B (power of local planning authority to decline to determine overlapping application) is amended as follows.

(2) In subsection (1) after "which is" insert "—

(a) made on the same day as a similar application, or

(b)".

(3) After subsection (4) insert—

"(4A) A local planning authority in England may also decline to determine an application for planning permission for the development of any land in England which is made at a time when the condition in subsection (4B) applies in relation to a similar application.

(4B) The condition is that—

(a) a similar application is under consideration by the Secretary of State,

(b) the similar application is an application deemed to have been made by section 177(5), and

(c) the Secretary of State has not issued his decision."

(4) After subsection (6) insert—

"(7) If a local planning authority exercise their power under subsection (1)(a) to decline to determine an application made on the same day as a similar application, they may not also exercise that power to decline to determine the similar application."

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Commencement Information
I341 Sch. 7 para. 3(1)(2)(4) in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**
I342 Sch. 7 para. 3(3) in force at 6.4.2009 for E.W. by S.I. 2009/400, **art. 3(n)**

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

4 The Listed Buildings Act is amended as follows.

Commencement Information
I343 Sch. 7 para. 4 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**

5 In section 81A (power of local planning authority to decline to determine subsequent application) at the end of subsection (4)(b) insert " or, if there has been such an appeal, it has been withdrawn ".

Commencement Information
I344 Sch. 7 para. 5 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**

6 (1) Section 81B (power of local planning authority to decline to determine overlapping application) is amended as follows.

(2) In subsection (1) after "which is" insert "—

(a) made on the same day as a similar application, or

(b)".

(3) After subsection (4) insert—

"(4A) If a local planning authority exercise their power under subsection (1)(a) to decline to determine an application made on the same day as a similar application, they may not also exercise that power to decline to determine the similar application."

Commencement Information
I345 Sch. 7 para. 6 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(b)**

Planning and Compulsory Purchase Act 2004 (c. 5)

7 In section 121 of PCPA 2004 (commencement) after subsection (3) insert—

"(3A) Subsections (1) and (2) are subject to subsection (3B).

(3B) Section 43 (power to decline to determine applications) (so far as not in force on the day on which paragraph 7 of Schedule 7 of the Planning Act 2008 comes into force) comes into force on such day as may be appointed by order made by—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales."

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SCHEDULE 8

Section 192

TREE PRESERVATION ORDERS: FURTHER AMENDMENTS

Forestry Act 1967 (c. 10)

1 The Forestry Act 1967 is amended as follows.

Commencement Information

I346 Sch. 8 para. 1 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

2 (1) Section 15 (trees subject to preservation orders under Planning Acts) is amended as follows.

(2) In subsection (1) for "consent under the order" substitute " relevant consent ".

(3) After subsection (1) insert—

"(1A) In subsection (1) "relevant consent" means—

(a) in the case of trees in **[**[F437]England or Wales**]**, consent under tree preservation regulations;

(b) in the case of trees in Scotland, consent under the tree preservation order."

(4) In subsection (5) for the words from "application" to "thereunder" substitute " relevant application shall be entertained ".

(5) After subsection (5) insert—

"(5A) In subsection (5) "relevant application" means—

(a) in the case of trees in **[**[F438]England or Wales**]**, an application under tree preservation regulations for consent under the regulations;

(b) in the case of trees in Scotland, an application under a tree preservation order for consent under the order."

Textual Amendments

F437 Words in Sch. 8 para. 2(1A)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 440** (with Sch. 7)

F438 Words in Sch. 8 para. 2(5A)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 440** (with Sch. 7)

Commencement Information

I347 Sch. 8 para. 2 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

3 In section 18 (felling directions), in subsection (5) for the words from "shall" to the end substitute "shall be sufficient authority for the felling, notwithstanding anything in—

(a) tree preservation regulations, in the case of trees in England or Wales;

(b) the tree preservation order, in the case of trees in Scotland."

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Commencement Information
I348 Sch. 8 para. 3 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

4 In section 21 (courses open to person adversely affected by felling direction), in subsection (7), after "a tree preservation order" insert " , or under tree preservation regulations, ".

Commencement Information
I349 Sch. 8 para. 4 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

5 In section 35 (interpretation of Part 2) at the appropriate place insert—

""tree preservation regulations" means regulations made under section 202A(1) of the Town and Country Planning Act 1990;".

Commencement Information
I350 Sch. 8 para. 5 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

6 (1) Schedule 3 (proceedings under Town and Country Planning Acts in relation to tree preservation orders) is amended as follows.

(2) In paragraph 2—

(a) for "under the said Acts" substitute " under the Town and Country Planning (Scotland) Act 1997 ",

(b) omit the words from "section 77" to "(for Scotland)",

(c) for "provisions of the said Acts" substitute " provisions of that Act ", and

(d) omit "the said section 77 or (for Scotland)".

(3) After paragraph 2 insert—

"2A (1) Where under section 15(2)(a) an application, on being referred to the appropriate national authority, falls to be dealt with under the Town and Country Planning Act 1990, the appropriate national authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.

(2) In this paragraph, "the appropriate national authority" means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales.".

(4) In paragraph 3—

(a) for "the Town and Country Planning Acts" substitute " the Town and Country Planning (Scotland) Act 1997 ", and

(b) for "the Town and Country Planning Act 1990 or (for Scotland) the Town and Country Planning (Scotland) Act 1997" substitute " that Act ".

(5) After paragraph 3 insert—

"3A Where under section 15(3)(a) an application, on being referred to an authority who have made a tree preservation order, falls to be dealt with

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under the Town and Country Planning Act 1990, the authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.”.

Commencement Information
I351 Sch. 8 para. 6 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

Town and Country Planning Act 1990 (c. 8)

7 TCPA 1990 is amended as follows.

Commencement Information
I352 Sch. 8 para. 7 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

8 In section 198(7) (provisions subject to which section has effect), for “This section” substitute “ Tree preservation regulations ”.

Commencement Information
I353 Sch. 8 para. 8 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

9 In section 200(1) (tree preservation orders do not affect things done or approved by Forestry Commissioners), for “A tree preservation order does not” substitute “ Tree preservation regulations do not ”.

Commencement Information
I354 Sch. 8 para. 9 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

10 In section 202(2) (effect of order made by Secretary of State or Welsh Ministers), for the words from “have the same effect” to the end substitute “ , once it has taken effect in accordance with tree preservation regulations, have the same effect as if it had been made by the local planning authority under section 198(1). ”

Commencement Information
I355 Sch. 8 para. 10 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

11 In section 206(1) (duty to plant replacement tree)—

(a) in paragraph (a), for “the order” substitute “ tree preservation regulations ”, and

(b) in paragraph (b), for the words from “at a time” to the end of the paragraph substitute “ at a prescribed time, ”.

Commencement Information
I356 Sch. 8 para. 11 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

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12 In section 207(1) (enforcement of duties to replace trees), in paragraph (b), for "a tree preservation order" substitute " tree preservation regulations ".

Commencement Information
I357 Sch. 8 para. 12 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

13 (1) Section 210 (penalties for non-compliance with tree preservation order) is amended as follows.

(2) In subsection (1)—
(a) for "a tree preservation order" substitute " tree preservation regulations ",
(b) in paragraph (a) omit the "or" at the end, and
(c) after paragraph (b) insert—

"or
(c) causes or permits the carrying out of any of the activities in paragraph (a) or (b),".

(3) In subsection (4), for "a tree preservation order" substitute " tree preservation regulations ".

(4) In the side-note, for "order" substitute " regulations ".

Commencement Information
I358 Sch. 8 para. 13 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

14 In section 211 (preservation of trees in conservation areas)—
(a) in subsection (1), for "which might by virtue of section 198(3)(a) be prohibited by a tree preservation order" substitute " which might by virtue of section 202C be prohibited by tree preservation regulations ", and
(b) in subsection (4), for "a tree preservation order" substitute " tree preservation regulations ".

Commencement Information
I359 Sch. 8 para. 14 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

15 In section 212 (power to disapply section 211) omit subsection (4).

Commencement Information
I360 Sch. 8 para. 15 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

16 In section 213(1)(b) (duty to plant replacement tree in conservation area), for the words from "at a time" to the end of the paragraph substitute " at a prescribed time, ".

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Commencement Information
I361 Sch. 8 para. 16 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

17 In section 284(3)(h)(i) (decision relating to an application for consent under a tree preservation order is an action to which the section applies), for "a tree preservation order" substitute " tree preservation regulations ".

Commencement Information
I362 Sch. 8 para. 17 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

18 In section 329(3B)(i) (section 329(1)(cc) does not apply to things done in connection with tree preservation orders), for "regulations under section 199" substitute " tree preservation regulations ".

Commencement Information
I363 Sch. 8 para. 18 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

19 In section 336(1) (interpretation) at the appropriate place insert—

""tree preservation regulations" means regulations under section 202A(1);".

Commencement Information
I364 Sch. 8 para. 19 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

Planning and Compensation Act 1991 (c. 34)

20 (1) Part 1 of Schedule 18 to the Planning and Compensation Act 1991 (compensation provisions that do not provide for interest) is amended as follows.

(2) After the entry for section 186 of the Town and Country Planning Act 1990 (c. 8) insert—

"Section 202E of that Act	Date— (a) any consent required by tree preservation regulations is refused, (b) any such consent is granted subject to conditions, or (c) any approval required under such a condition is refused."

(3) Omit the entries for sections 203 and 204 of the Town and Country Planning Act 1990.

Commencement Information
I365 Sch. 8 para. 20 in force at 6.4.2012 for E. by S.I. 2012/601, **art. 2(a)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

[F439]SCHEDULE 9

Section 194

USE OF LAND: POWER TO OVERRIDE EASEMENTS AND OTHER RIGHTS

Textual Amendments

F439 Sch. 9 omitted (13.7.2016) by virtue of Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 19 para. 15**; S.I. 2016/733, reg. 3(m)

Local Government, Planning and Land Act 1980 (c. 65)

1 . . . . . .

New Towns Act 1981 (c. 64)

2 . . . . . .

Housing Act 1988 (c. 50)

3 . . . . . .

Town and Country Planning Act 1990 (c. 8)

4 . . . . . .

PROSPECTIVE

[F439]Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

[F439]5 . . . . . .

Regional Development Agencies Act 1998 (c. 45)

6 . . . . . .

SCHEDULE 10

Section 196

FURTHER PROVISIONS AS TO THE PROCEDURE FOR CERTAIN PROCEEDINGS

Town and Country Planning Act 1990 (c. 8)

1 TCPA 1990 is amended as follows.

Commencement Information

I366 Sch. 10 para. 1 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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PROSPECTIVE

2 In section 77 (reference of applications to Secretary of State) for subsection (6) substitute—

"(6) Subsection (5) does not apply to—

(a) an application for planning permission referred to a Planning Inquiry Commission under section 101; or

(b) an application referred to the Secretary of State under this section instead of being dealt with by a local planning authority in England."

3 In section 78(5) (appeals against failure to take planning decisions)—

(a) for "79(1)" substitute " 79(1) and (3) ", and

(b) for "and 288(10)(b)" substitute " , 288(10)(b) and 319A(7)(b) ".

Commencement Information

I367 Sch. 10 para. 3 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

4 In section 79 (determination of appeals under section 78) for subsection (3) substitute—

"(3) Subsection (2) does not apply to—

(a) an appeal referred to a Planning Inquiry Commission under section 101; or

(b) an appeal against a decision of a local planning authority in England."

Commencement Information

I368 Sch. 10 para. 4 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

5 In section 175 (supplementary provisions about appeals against enforcement notices) after subsection (3) insert—

"(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England."

Commencement Information

I369 Sch. 10 para. 5 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

6 In section 176(4) (determination of appeals: disapplication of section 175(3))—

(a) after "If" insert " section 175(3) would otherwise apply and ", and

(b) after "subsection (3)" insert " of this section ".

Commencement Information

I370 Sch. 10 para. 6 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 25/04/2024

7 In section 195(5) (appeals against failure to give decision on application under section 191 or 192) for "section 288(10)(b)" substitute " sections 196(1A), 288(10)(b) and 319A(7)(d) ".

VALID FROM 25/04/2024

8 (1) Amend section 196 (further provision as to appeals to Secretary of State under section 195) as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1) does not apply to an appeal against a decision of a local planning authority in England."

(3) In subsection (2) for "such an appeal" substitute " an appeal under section 195(1) ".

PROSPECTIVE

9 (1) Amend section 208 (appeals against notices under section 207) as follows.

(2) After subsection (5) insert—

"(5A) Subsection (5) does not apply to an appeal against a notice issued by a local planning authority in England."

(3) In subsection (6) for "such an appeal is brought" substitute " an appeal is brought under subsection (1) ".

10 In section 322 (orders as to costs of parties where no local inquiry held) after subsection (1) insert—

"(1A) This section also applies to proceedings under this Act to which section 319A applies."

Commencement Information

I371 Sch. 10 para. 10 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

11 In section 322A (orders as to costs: supplementary) after subsection (1) insert—

"(1A) This section also applies where—

(a) arrangements are made for a local inquiry or a hearing to be held pursuant to a determination under section 319A;

(b) the inquiry or hearing does not take place; and

(c) if it had taken place, the Secretary of State or a person appointed by the Secretary of State would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay any costs of any other party."

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

Commencement Information
I372 Sch. 10 para. 11 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

12 (1) Amend section 323 (procedure on certain appeals and applications) as follows.

(2) After subsection (1) insert—

"(1A) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act which, pursuant to a determination under section 319A, are to be considered on the basis of representations in writing."

(3) In subsections (2) and (3) for "The regulations may" substitute " Regulations under this section may ".

(4) In subsection (2)(a) for "such an inquiry or hearing" substitute " an inquiry or hearing to which rules under section 9 of the Tribunals and Inquiries Act 1992 would apply ".

Commencement Information
I373 Sch. 10 para. 12 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

13 (1) Amend section 333 (regulations and orders) as follows.

(2) In subsection (4) for "and 319" substitute " , 319 and 319A(9) ".

(3) After subsection (5) insert—

"(5A) No order may be made under section 319A(9) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament."

Commencement Information
I374 Sch. 10 para. 13 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

14 (1) Amend Schedule 6 (determination of certain appeals by person appointed by Secretary of State) as follows.

(2) In paragraph 2 for sub-paragraph (5) substitute—

"(5) Sub-paragraph (2) does not apply—

(a) in the case of an appeal to which section 319A applies; or

(b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101."

(3) After sub-paragraph (9) of that paragraph insert—

"(10) Sub-paragraph (9) does not apply to references to the Secretary of State in section 319A (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings)."

(4) In paragraph 3 for sub-paragraph (5) substitute—

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"(5) Sub-paragraph (4) does not apply—

(a) in the case of an appeal to which section 319A applies; or

(b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101.

(5A) In the case of an appeal to which section 319A applies, the Secretary of State must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations."

(5) In sub-paragraph (6) of that paragraph after "(4)" insert " or (5A) ".

(6) In paragraph 6 after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) does not apply in the case of an appeal to which section 319A applies; but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section."

(7) In sub-paragraph (2)(a) of that paragraph after "2(4)" insert " or this paragraph ".

Commencement Information

I375 Sch. 10 para. 14 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(j)**

PROSPECTIVE

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

15 The Listed Buildings Act is amended as follows.

16 In section 12 (reference of applications to Secretary of State) after subsection (4) insert—

"(4A) Subsection (4) does not apply to an application referred to the Secretary of State under this section instead of being dealt with by a local planning authority in England."

17 In section 20(4) (right of appeal in case of failure to give notice of decision) for "22(1) and 63(7)(b)" substitute " 22(1) and (2A), 63(7)(b) and 88D(7)(b) ".

18 (1) Amend section 22 (determination of appeals under section 20) as follows.

(2) After subsection (2) insert—

"(2A) Subsection (2) does not apply to an appeal against a decision of a local planning authority in England."

(3) In subsection (3) for "the appeal" substitute " an appeal under section 20 ".

19 In section 40 (supplementary provisions about appeals against listed building enforcement notices) after subsection (2) insert—

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
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"(2A) Subsection (2) does not apply to an appeal against a listed building enforcement notice issued by a local planning authority in England."

20 In section 41(4) (determination of appeals: disapplication of section 40(2))—

(a) after "If" insert " section 40(2) would otherwise apply and ", and

(b) after "subsection (3)" insert " of this section ".

21 In section 74(3) (application of certain provisions in relation to buildings in conservation areas) after "82D" insert " , 88D ".

22 In section 89 (application of certain general provisions of TCPA 1990) after subsection (1) insert—

"(1ZA) In the application of sections 322, 322A and 323 of that Act by virtue of this section, references to section 319A of that Act shall have effect as references to section 88D of this Act."

23 (1) Amend section 93 (regulations and orders) as follows.

(2) In subsection (4) after "75(7)" insert " , 88D(8) ".

(3) After subsection (5) insert—

"(5A) No order may be made under section 88D(8) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament."

24 (1) Amend Schedule 3 (determination of certain appeals by person appointed by Secretary of State) as follows.

(2) In paragraph 2 after sub-paragraph (4) insert—

"(4A) Sub-paragraph (2) does not apply in the case of an appeal to which section 88D applies."

(3) After sub-paragraph (8) of that paragraph insert—

"(9) Sub-paragraph (8) does not apply to references to the Secretary of State in section 88D (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings)."

(4) In paragraph 3 after sub-paragraph (4) insert—

"(4A) Sub-paragraph (4) does not apply in the case of an appeal to which section 88D applies.

(4B) In the case of an appeal to which section 88D applies, the Secretary of State must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations."

(5) In sub-paragraph (5) of that paragraph after "(4)" insert " or (4B) ".

(6) In paragraph 6 after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) does not apply in the case of an appeal to which section 88D applies; but an appointed person may hold a hearing or local

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inquiry in connection with such an appeal pursuant to a determination under that section."

(7) In sub-paragraph (2)(a) of that paragraph after "2(4)" insert " or this paragraph ".

PROSPECTIVE

Planning (Hazardous Substances) Act 1990 (c. 10)

25 The Hazardous Substances Act is amended as follows.

26 In section 20 (reference of applications to Secretary of State) after subsection (4) insert—

"(4A) Subsection (4) does not apply to an application referred to the Secretary of State under this section instead of being dealt with by a hazardous substances authority in England."

27 In section 21 (appeals against decisions or failure to take decisions relating to hazardous substances) after subsection (5) insert—

"(5A) Subsection (5) does not apply to an appeal against a decision of a hazardous substances authority in England."

28 In section 25(1) (appeals against hazardous substances contravention notices)—

(a) in paragraph (b)(v) after "principal Act" insert " and section 21A of this Act ", and

(b) in paragraph (c) for "that Act" substitute " the principal Act ".

29 In section 37 (application of certain general provisions of TCPA 1990) after subsection (2) insert—

"(3) In the application of sections 322, 322A and 323 of that Act by virtue of this section, references to section 319A of that Act shall have effect as references to section 21A of this Act."

30 (1) Amend the Schedule (determination of appeals by person appointed by Secretary of State) as follows.

(2) In paragraph 2 after sub-paragraph (4) insert—

"(4A) Sub-paragraph (2) does not apply to an appeal against a decision of a hazardous substances authority in England."

(3) After sub-paragraph (8) of that paragraph insert—

"(9) Sub-paragraph (8) does not apply to references to the Secretary of State in section 21A (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings)."

(4) In paragraph 3 after sub-paragraph (4) insert—

"(4A) Sub-paragraph (4) does not apply in the case of an appeal against a decision of a hazardous substances authority in England.

(4B) In the case of an appeal to which section 21A applies, the Secretary of State must give the appellant, the hazardous substances authority and any

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person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations."

(5) In sub-paragraph (5) of that paragraph after "(4)" insert " or (4B) ".

(6) In paragraph 6 after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) does not apply in the case of an appeal against a decision of a hazardous substances authority in England; but an appointed person may hold a hearing or a local inquiry in connection with such an appeal pursuant to a determination under section 21A."

(7) In sub-paragraphs (2)(a) and (3)(a) of that paragraph after "2(4)" insert " or this paragraph ".

SCHEDULE 11

Section 197

APPEALS: MISCELLANEOUS AMENDMENTS

Town and Country Planning Act 1990 (c. 8)

1 TCPA 1990 is amended as follows.

Commencement Information
I376 Sch. 11 para. 1 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**
I377 Sch. 11 para. 1 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

2 In section 78 (appeals against planning decisions and failure to take planning decisions) after subsection (4) insert—

"(4A) A notice of appeal under this section must be accompanied by such information as may be prescribed by a development order.

(4B) The power to make a development order under subsection (4A) is exercisable by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.

(4C) Section 333(5) does not apply in relation to a development order under subsection (4A) made by the Welsh Ministers.

(4D) A development order under subsection (4A) made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

Commencement Information
I378 Sch. 11 para. 2 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

I379 Sch. 11 para. 2 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

3 In section 195 (appeals against refusal or failure to give decision on application under section 191 or 192) before subsection (2) insert—

"(1B) A notice of appeal under this section must be—

(a) served within such time and in such manner as may be prescribed by a development order;

(b) accompanied by such information as may be prescribed by such an order.

(1C) The time prescribed for the service of a notice of appeal under this section must not be less than—

(a) 28 days from the date of notification of the decision on the application; or

(b) in the case of an appeal under subsection (1)(b), 28 days from—

(i) the end of the period prescribed as mentioned in subsection (1)(b), or

(ii) as the case may be, the extended period mentioned in subsection (1)(b).

(1D) The power to make a development order under subsection (1B) is exercisable by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.

(1E) Section 333(5) does not apply in relation to a development order under subsection (1B) made by the Welsh Ministers.

(1F) A development order under subsection (1B) made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

Commencement Information

I380 Sch. 11 para. 3 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**

I381 Sch. 11 para. 3 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

4 (1) Section 208 (appeals against notices under section 207) is amended as follows.

(2) For subsection (4) substitute—

"(4) The notice shall—

(a) indicate the grounds of the appeal,

(b) state the facts on which the appeal is based, and

(c) be accompanied by such information as may be prescribed.

(4A) The power to make regulations under subsection (4)(c) is exercisable by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.

(4B) Section 333(3) does not apply in relation to regulations under subsection (4)(c) made by the Welsh Ministers.

Status: *Point in time view as at 28/12/2017. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning Act 2008 is up to date with all changes known to be in force on or before 15 September 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)*

(4C) Regulations under subsection (4)(c) made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales."

(3) In subsection (5) for "any such appeal" substitute " an appeal under subsection (1) ".

Commencement Information
I382 Sch. 11 para. 4 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**
I383 Sch. 11 para. 4 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

5 In section 21 of the Listed Buildings Act (appeals: supplementary provisions) after subsection (7) insert—

"(8) Regulations under this Act may provide for an appeal under section 20 to be accompanied by such other information as may be prescribed.

(9) The power to make regulations under subsection (8) is exercisable by—
(a) the Secretary of State, in relation to England;
(b) the Welsh Ministers, in relation to Wales.

(10) Section 93(3) does not apply in relation to regulations under subsection (8) made by the Welsh Ministers.

(11) Regulations under subsection (8) made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales."

Commencement Information
I384 Sch. 11 para. 5 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**
I385 Sch. 11 para. 5 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

Planning (Hazardous Substances) Act 1990 (c. 10)

6 In section 21 of the Hazardous Substances Act (appeals against decisions and failure to take decisions relating to hazardous substances) after subsection (3) insert—

"(3A) A notice of appeal under this section must be accompanied by such information as may be prescribed.

(3B) The power to make regulations under subsection (3A) is exercisable by—
(a) the Secretary of State, in relation to England;
(b) the Welsh Ministers, in relation to Wales.

(3C) Section 40(3) does not apply in relation to regulations under subsection (3A) made by the Welsh Ministers.

(3D) Regulations under subsection (3A) made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales."

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Commencement Information

I386 Sch. 11 para. 6 in force at 6.4.2009 for E. by S.I. 2009/400, **art. 5(d)**

I387 Sch. 11 para. 6 in force at 30.4.2012 for W. by S.I. 2012/802, **art. 2(b)**

SCHEDULE 12

Section 236

APPLICATION OF ACT TO SCOTLAND: MODIFICATIONS

1 Section 5(10) applies as if the reference to Part 11 of TCPA 1990 were a reference to Part 10 of the Town and Country Planning (Scotland) Act 1997 (c. 8).

Commencement Information

I388 Sch. 12 para. 1 in force at 6.4.2009 for S. by S.I. 2009/400, **art. 4(c)**

2 Section 14 applies as if—

(a) in subsection (1)—

(i) the words "any of the following" were omitted, and

(ii) paragraphs (a) to (f) and (h) to **[**[F440](q)**]** were omitted, and

(b) in subsection (2) for "sections 15 to **[**[F441]30A**]** " there were substituted " section 21 ".

Textual Amendments

F440 Word in Sch. 12 para. 2(a)(ii) substituted (27.3.2015) by The Infrastructure Planning (Radioactive Waste Geological Disposal Facilities) Order 2015 (S.I. 2015/949), arts. 1(1), **2(5)(a)**

F441 Word in Sch. 12 para. 2(b) substituted (27.3.2015) by The Infrastructure Planning (Radioactive Waste Geological Disposal Facilities) Order 2015 (S.I. 2015/949), arts. 1(1), **2(5)(b)**

3 Section 32 applies as if—

(a) in subsection (1)—

(i) the reference to TCPA 1990 were a reference to section 26 of the Town and Country Planning (Scotland) Act 1997, and

(ii) the words "This is subject to subsections (2) and (3)." were omitted, and

(b) subsections (2) to (4) were omitted.

4 Section 33 applies as if—

(a) in subsection (1)—

[[F442](i) for "none of the following is" there were substituted "the following are not", and**]**

(ii) paragraphs (b) and (d) to (j) were omitted, [F443]...

(b) **[**[F444]paragraphs (a) to (c) of subsection (2), and subsections (3) and (4),**]** were omitted**[**[F445], and

(c) in subsection (7) "Act" includes an Act of the Scottish Parliament.**]**

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Textual Amendments

F442 Sch. 12 para. 4(a)(i) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 131(4)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F443 Word in Sch. 12 para. 4(a) repealed (1.4.2012) by Localism Act 2011 (c. 20), ss. 131(4)(b), 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

F444 Words in Sch. 12 para. 4(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 131(4)(c)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F445 Sch. 12 para. 4(c) and preceding word inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 131(4)(d)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

5 Section 44 applies as if—

(a) in subsection (2)(b), the words from "or" to the end were omitted,

(b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 (c. 56) were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19), and

(c) in subsection (6)—

(i) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42)", and

(ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 (c. 26) were a reference to Part 1 of the Land Compensation (Scotland) Act 1973 (c. 56).

6 Section 52 applies as if—

(a) in subsection (2)(c), the words from "or" to the end were omitted,

(b) in subsection (3)(b)—

(i) the reference to a freeholder were a reference to an owner, and

(ii) the reference to a mortgagee were a reference to a heritable creditor, [F446]...

(c) in subsection (11), references to section 5(1) of the Compulsory Purchase Act 1965 (c. 56) were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19).

[[F447](d) in subsection (14) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42);", and

(e) in subsection (14)(b) the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973.**]**

Textual Amendments

F446 Word in Sch. 12 para. 6(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7(b)

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F447 Sch. 12 para. 6(d)(e) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 135(10)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

7 Section 53 applies as if—

[F448(za) in subsection (1A), the reference to an Act included an Act of the Scottish Parliament,]

(a) in subsection (7), the reference to chattels were a reference to moveable property,

(b) in subsection (8), the reference to the [F449Upper Tribunal were] a reference to the Lands Tribunal for Scotland, and

(c) in subsection (11), in the definition of "statutory undertakers", the reference to Part 11 of TCPA 1990 were a reference to Part 10 of the Town and Country Planning (Scotland) Act 1997 (c. 8).

Textual Amendments

F448 Sch. 12 para. 7(za) inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 136(7)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

F449 Words in Sch. 12 para. 7(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 298(a)** (with Sch. 5)

8 Section 57 applies as if—

(a) in subsection (2)(b), the words from "or" to the end were omitted,

(b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, and

(c) in subsection (6)—

(i) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42)", and

(ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 (c. 26) were a reference to Part 1 of the Land Compensation (Scotland) Act 1973 (c. 56).

9 Section 58 applies as if—

(a) for subsection (6) there were substituted—

"(6) Summary proceedings relating to an offence under this section may be commenced regardless of when the contravention occurred.", and

(b) in subsection (7), the reference to section 127 of the Magistrates' Courts Act 1980 (c. 43) were a reference to section 136 of the Criminal Procedure (Scotland) Act 1995 (c. 46).

[F450 9A Section 102B applies as if—

(a) in subsection (2)(b), the words from "or" to the end were omitted,

(b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, and

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(c) in subsection (5)—

(i) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947"; and

(ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973.**]**

Textual Amendments

F450 Sch. 12 para. 9A inserted (1.4.2012) by Localism Act 2011 (c. 20), **ss. 138(10)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

10 Section 120(6) applies as if the references to an Act included references to an Act of the Scottish Parliament.

11 Section 127(8) applies as if, for the definition of "statutory undertakers" there were substituted—

""statutory undertakers" has the meaning given by section 214 of the Town and Country Planning (Scotland) Act 1997 and also includes the undertakers—

(a) which are deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment;

(b) which are statutory undertakers for the purposes of paragraphs 9 and 10 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) (see paragraph 10A of that Schedule)."

F451 12 . . . . . .

Textual Amendments

F451 Sch. 12 paras. 12, 13 repealed (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(4)(a)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F451 13 . . . . . .

Textual Amendments

F451 Sch. 12 paras. 12, 13 repealed (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(4)(a)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

14 Section 130 applies as if—

(a) in subsection (4), the references to section 21 of the National Trust Act 1907 (c. cxxxvi) and section 8 of the National Trust Act 1939 (c. lxxxvi) were references to section 22 of the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935 (c. ii), and

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(b) in subsection (5), for the definition of "the National Trust" there were substituted—

""the National Trust" means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935 (c. ii)".

15 Section 131 applies as if—

(a) in subsection (1), for ", open space or fuel or field garden allotment" there were substituted " or open space ", and

(b) in subsection (12), for the words from "common" to "1981" there were substituted—

""common" includes any town or village green;

"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;"."

16 Section 132 applies as if—

(a) in subsection (1), for ", open space or fuel or field garden allotment" there were substituted " or open space ", and

(b) in subsection (12), for the words from "common" to "1981" there were substituted—

""common" and "open space" have the same meanings as in section 131 (as modified by paragraph 15 of Schedule 12);"."

17 Section 134 applies as if—

(a) for subsection (4) there were substituted—

"(4) This subsection applies to—

(a) an owner, lessee, tenant (whatever the tenancy period) or occupier of the order land,

(b) a person known by the prospective purchaser (after diligent inquiry)—

(i) to be interested in the order land, or

(ii) to have power to sell and convey the order land,

(c) a person who, if the order were fully implemented, the prospective purchaser thinks would or might be entitled—

(i) as a result of the implementing of the order,

(ii) as a result of the order's having been implemented, or

(iii) as a result of use of the order land once the order has been implemented,

to make a relevant claim.

(4A) In subsection (4)(c) "relevant claim" means a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42).

(4B) An expression that appears in subsection (4)(b) of this section and also in section 17 of the Lands Clauses Consolidation (Scotland)

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Act 1845 (c. 19) has in subsection (4)(b) the meaning that it has in section 17 of that Act.", and

(b) in subsection (7)(d) the words "only in accordance with section 118" were omitted.

18 **[**[F452]Section 138(4A)**]** applies as if the reference to Part 11 of TCPA 1990 were a reference to Part 10 of the Town and Country Planning (Scotland) Act 1997 (c. 8).

Textual Amendments

F452 Words in Sch. 12 para. 18 substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(5)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

19 Section 151 applies as if—

(a) for paragraph (c), there were substituted—

"(c) section 10 of the Water (Scotland) Act 1980 (compensation for damage resulting from exercise of statutory powers)", and

(b) paragraph (d) were omitted.

20 Section 152 applies as if—

(a) in subsection (4), the reference to the **[**[F453]Upper Tribunal were**]** a reference to the Lands Tribunal for Scotland,

(b) for subsections (5) and (6) there were substituted—

"(5) Section 6 of the Railway Clauses Consolidation (Scotland) Act 1845 (which makes the construction of the railway subject to that Act and the Lands Clauses Consolidation (Scotland) Act 1845) applies in relation to authorised works as it applies in relation to the construction of a railway.

(6) Any rule or principle applied to the construction of section 6 of the Railway Clauses Consolidation (Scotland) Act 1845 must be applied to the construction of subsection (3) of this section (with any necessary modifications).", and

(c) in subsection (7)—

(i) the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973, and

(ii) in paragraph (c), for "17" there were substituted " 15 ".

Textual Amendments

F453 Words in Sch. 12 para. 20(a) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 298(a)** (with Sch. 5)

21 Section 164 applies as if the references to a justice of the peace were references to a sheriff.

22 Section 165 applies as if—

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(a) in subsection (4), the reference to chattels were a reference to moveable property,

(b) in subsection (5), the reference to the **[**[F454]Upper Tribunal were**]**a reference to the Lands Tribunal for Scotland, and

(c) in subsection (6), the reference to **[**[F455]section**]** 4 of the Land Compensation Act 1961 (c. 33) were a reference to sections 9 and 11 of the Land Compensation (Scotland) Act 1963 (c. 51).

Textual Amendments

F454 Words in Sch. 12 para. 22(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 298(a)** (with Sch. 5)

F455 Word in Sch. 12 para. 22(c) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 298(b)** (with Sch. 5)

23 Section 170 applies as if—

(a) in subsection (3)—

(i) for the words from "the", where it first occurs, to "(c.49)" there were substituted " subsections (5) to (9) of section 135 of the Town and Country Planning (Scotland) Act 1997 (c. 8) (which relate to the execution and cost of certain works) ", and

(ii) the words from "section 276" to the end were omitted,

(b) in subsection (4), for "section 289" there were substituted " subsection (5) of section 135 ", and

(c) subsection (5) were omitted.

24 Section 171 applies as if—

(a) the references to an injunction were references to an interdict, and

(b) in subsection (4), the references to the High Court and **[**[F456]the county court**]** were references to the Court of Session and the sheriff.

Textual Amendments

F456 Words in Sch. 12 para. 24 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

25 Section 229(5) applies as if the reference to section 233 of the Local Government Act 1972 (c. 70) were a reference to section 192 of the Local Government (Scotland) Act 1973 (c. 65).

26 Section 235 applies as if—

(a) for the definition of "building" there were substituted—

""building" has the meaning given by section 277(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8);",

(b) for the definition of "land" there were substituted—

""land" includes land covered with water and any building (as defined in section 277(1) of the Town and Country Planning

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(Scotland) Act 1997) and in relation to Part 7 must be read in accordance with section 159;",

(c) for the definition of "local planning authority" there were substituted—

""local planning authority" means a planning authority within the meaning of section 1 of the Town and Country Planning (Scotland) Act 1997;",

(d) in the definition of "planning permission", the reference to Part 3 of TCPA 1990 were a reference to Part 3 of the Town and Country Planning (Scotland) Act 1997, and

(e) in the definition of "use", the reference to section 336(1) of TCPA 1990 were a reference to section 277(1) of the Town and Country Planning (Scotland) Act 1997.

27 Part 1 of Schedule 5 applies as if paragraphs 4 to 6, 8, 9, 16 to 32 **[**[F457], 32B(1)(a), (b) and (d)**]** and 38 were omitted.

Textual Amendments

F457 Words in Sch. 12 para. 27 inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 73**; S.I. 2012/628, art. 7(a)

SCHEDULE 13

Section 238

REPEALS

Commencement Information

I389 Sch. 13 partly in force; Sch. 13 in force for certain purposes at 26.1.2009 see s. 241
I390 Sch. 13 in force at 6.4.2009 for specified purposes for E. by S.I. 2009/400, **art. 5(g)**
I391 Sch. 13 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, **art. 3(o)**
I392 Sch. 13 in force at 23.6.2009 for specified purposes for E. by S.I. 2009/1303, art. 2(b), **Sch.**
I393 Sch. 13 in force at 6.4.2010 for specified purposes for E.W. by S.I. 2010/566, art. 3(d), **Sch.**
I394 Sch. 13 in force at 6.4.2012 for specified purposes for E. by S.I. 2012/601, **art. 2(c)**
I395 Sch. 13 in force at 30.4.2012 for specified purposes for W. by S.I. 2012/802, **art. 2(c)**

Reference	*Extent of repeal*
Forestry Act 1967 (c. 10)	In paragraph 2 of Schedule 3— (a) the words from "section 77" to "(for Scotland)", and (b) "the said section 77 or (for Scotland)".
Town and Country Planning Act 1990 (c. 8)	Section 61A(1). Section 198(3), (4), (6), (8) and (9). Section 199. Section 201. Section 202(3). Sections 203 to 205. Section 212(4).

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	In section 284(3)(a), "for planning permission". In Schedule 1, paragraph 17. In Schedule 1A, paragraph 9. In Schedule 4A, paragraph 2(4) and (5).
Environmental Protection Act 1990 (c. 43)	In Schedule 13, paragraph 10.
Planning and Compensation Act 1991 (c. 34)	Section 6(6). In Schedule 18, in Part 1, the entries for sections 203 and 204 of the Town and Country Planning Act 1990.
Planning and Compulsory Purchase Act 2004 (c. 5)	Section 15(2)(a) and (c). Section 17(1) and (2). Section 18(4) to (6). Section 42(3). Sections 46 to 48. Section 53. Section 122(5)(a). In section 122(6), "(a),". In Schedule 6, paragraph 5.
Greater London Authority Act 2007 (c. 24)	Section 36.

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