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## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

Section 1

#### Textual Amendments

- F1** Sch. 1 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 2, Sch. 25 Pt. 20; S.I. 2012/628, art. 7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

- I1** 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

- I2** 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

- I3** 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**

**I4** 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**

**I5** 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**

**I6** 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**

**I7** 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**

**I8** 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**

**I9** 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**

**I10** 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**

**I11** 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**

**I12** 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**

**I13** 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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**Commencement Information**

**I14** 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)*

<sup>F2</sup>15 .....

**Textual Amendments**

**F2** 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**

**I15** 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**

**I16** 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**

**I17** 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**

**I18** 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—

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““development consent” means development consent under the Planning Act 2008;”.

**Commencement Information**

**I19** 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**

**I20** 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**

**I21** 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**

**I22** 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**

**I23** 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—

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“(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**

**I24** 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**

**I25** 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**

**I26** 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**

**I27** 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**

**I28** Sch. 2 para. 29 in force at 1.3.2010 by S.I. 2010/101, art. 2 (with art. 6)

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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**

**I29** 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**

**I30** 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**

**I31** 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—



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“(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**

**I32** 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**

**I33** 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**

**I34** 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**

**I35** 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;”.

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**Commencement Information**

**I36** 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**

**I37** 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**

**I38** 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**

**I39** 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**

**I40** 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.

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**Commencement Information**

**I41** 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**

**I42** 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**

**I43** 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**

**I44** 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 ”.

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**Commencement Information**

**I45** 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**

**I46** 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**

**I47** 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**

**I48** 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 <sup>[F3]</sup>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**

**F3** 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**

**I49** 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.

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**Commencement Information**

**I50** 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**

**I51** 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**

**I52** 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**

**I53** 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**

**I54** 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.”

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**Commencement Information**

**I55** 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**

**I56** 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**

**I57** 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**

**I58** 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**

**I59** 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**

**I60** 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 25/05/2020.*

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- 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**

**I61** 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**

**I62** 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**

**I63** 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**

**I64** 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 25/05/2020.*

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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**

**I65** Sch. 2 para. 66 in force at 1.3.2010 by S.I. 2010/101, art. 2 (with art. 6)

F<sup>4</sup>SCHEDULE 3

Section 113

**Textual Amendments**

**F4** 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 [F<sup>5</sup>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.



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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 [<sup>F6</sup>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 [<sup>F7</sup>Secretary of State] receives a written request to correct the error or omission from any person, or
  - (b) the [<sup>F7</sup>Secretary of State] sends a statement in writing to the applicant which explains the error or omission and states that the [<sup>F7</sup>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 [<sup>F8</sup>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.
- <sup>F9</sup>(9) .....
- (10) As soon as practicable after the instrument [<sup>F10</sup>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 [<sup>F11</sup>paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009).]

#### Textual Amendments

- F5** 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)
- F6** 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)
- F7** 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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- F8** 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)
- F9** 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
- F10** 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)
- F11** 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

- I66** 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 [<sup>F12</sup>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 [<sup>F12</sup>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 [<sup>F12</sup>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 [<sup>F13</sup>give the correction notice to persons other than those to whom sub-paragraph (3) requires it to be given.]

#### Textual Amendments

- F12** 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)
- F13** 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

- I67** 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**

**I68** 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;
- F14** .....
- “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**

**F14** 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**

**I69** 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**

**I70** 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**

**I71** 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**

**I72** 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**

**I73** 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**

**I74** 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**

**I75** 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**

**I76** 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**

**I77** 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**

**I78** 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**

**I79** 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**

**I80** 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**

**I81** 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**

**I82** 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**

**I83** 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**

**I84** 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**

**I85** 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**

**I86** 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 [<sup>F15</sup>(including penalty fares)] and other charges.

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**Textual Amendments**

**F15** 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**

**I87** 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**

**I88** 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**

**I89** 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**

**I90** 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**

**I91** 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**

**I92** 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**

**I93** 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**

**I94** 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**

**I95** Sch. 5 para. 26 in force at 1.3.2010 by S.I. 2010/101, art. 3(e) (with art. 6)

<sup>F16</sup>27 .....

**Textual Amendments**

**F16** 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)

<sup>F16</sup>28 .....

**Textual Amendments**

**F16** 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)

<sup>F16</sup>29 .....

**Textual Amendments**

**F16** 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)

<sup>F16</sup>30 .....

**Textual Amendments**

**F16** 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)

[<sup>F17</sup>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 [<sup>F18</sup>or the Welsh Ministers] for activities specified in the order and subject to such conditions as may be specified in the order.

**Textual Amendments**

**F17** 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)

**F18** Words in Sch. 5 paras. 30A, 30B inserted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 76** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(r)

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30B Deeming any such conditions to have been attached to the marine licence by the Secretary of State [<sup>F18</sup>or the Welsh Ministers] under that Part.]

**Textual Amendments**

**F17** 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)

**F18** Words in Sch. 5 paras. 30A, 30B inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 76** (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(r)

31 The creation of a harbour authority.

**Commencement Information**

**I96** 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**

**I97** Sch. 5 para. 32 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(e)** (with [art. 6](#))

[<sup>F19</sup>32A The making of byelaws by any person and their enforcement.

**Textual Amendments**

**F19** 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**

**F19** 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**

**I98** 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**

**I99** 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**

**I100** 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**

**I101** 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**

**I102** 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**

**I103** 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.

*Status: Point in time view as at 25/05/2020.*

*Changes to legislation: Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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)*

- (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**

**I104** 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)**

**C1** [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.
- <sup>F20</sup>(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**

**F20** [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**

**I105** [Sch. 6 para. 1](#) in force at 1.10.2011 by [S.I. 2011/2054](#), **art. 2(b)**

*Status: Point in time view as at 25/05/2020.*

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*Non-material changes*

- 2 (1) The [<sup>F21</sup>Secretary of State] may make a change to a development consent order if [<sup>F22</sup>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 [<sup>F21</sup>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 [<sup>F23</sup>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 [<sup>F21</sup>Secretary of State][<sup>F24</sup>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).

- [<sup>F25</sup>(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.

<sup>F26</sup>(10) . . . . .

- (11) As soon as practicable after the instrument [<sup>F27</sup>containing the order] is made, the [<sup>F21</sup>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,

*Status: Point in time view as at 25/05/2020.*

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- (b) the <sup>F21</sup>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 <sup>F28</sup>paragraph 30A or 30B of Schedule 5 (deemed marine licence under Marine and Coastal Access Act 2009). ]

#### Textual Amendments

- F21** 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\(a\)](#)
- F22** 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\(a\)](#)
- F23** 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\(a\)](#)
- F24** 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\(3\)\)](#)
- F25** 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\(3\)\)](#)
- F26** 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](#)
- F27** 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\(a\)](#)
- F28** 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

- I106** 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 <sup>F21</sup>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 <sup>F21</sup>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—

*Status: Point in time view as at 25/05/2020.*

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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 <sup>F21</sup>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.
- <sup>F29</sup>(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.]
- <sup>F30</sup>(6) .....
- (7) <sup>F31</sup>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 <sup>F32</sup>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—
- “<sup>F32</sup>EU] law” means—
- (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the <sup>F32</sup>EU] Treaties, and
  - (b) all the remedies and procedures from time to time provided for by or under the <sup>F32</sup>EU] Treaties;
- “the Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42).

#### Textual Amendments

- F21** 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\(a\)](#)
- F29** 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\(3\)\)](#)
- F30** 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](#)
- F31** 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\(a\)](#)
- F32** 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

- I107** 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 25/05/2020.*

*Changes to legislation: Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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)*

*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 [<sup>F21</sup>Secretary of State] under paragraph 3(3) or (7).
- [<sup>F33</sup>(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 [<sup>F21</sup>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.
- <sup>F34</sup>(8) .....
- (9) As soon as practicable after the instrument [<sup>F35</sup>containing the order] is made, the [<sup>F21</sup>Secretary of State] must deposit a copy of it in the office of the Clerk of the Parliaments.

**Textual Amendments**

- F21** 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\(a\)](#)
- F33** 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\(3\)\)](#)
- F34** 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](#)

*Status: Point in time view as at 25/05/2020.*

*Changes to legislation: Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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)*

**F35** 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

**I108** 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 [<sup>F36</sup>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

**F36** 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

**I109** 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 [<sup>F21</sup>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)<sup>F37</sup>... or (7) of that paragraph,

*Status: Point in time view as at 25/05/2020.*

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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 [<sup>F21</sup>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 [<sup>F38</sup>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 <sup>F39</sup>... 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

- F21** 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\(a\)](#)
- F37** 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\(b\)](#)
- F38** 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\(a\)](#)
- F39** 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

- I110** Sch. 6 para. 6 in force at 1.10.2011 by [S.I. 2011/2054, art. 2\(b\)](#)



*Status:* Point in time view as at 25/05/2020.

*Changes to legislation:* Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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)

- 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, <sup>F40</sup>... 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

**F40** 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

**I111** 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

**I112** [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 ”.

*Status: Point in time view as at 25/05/2020.*

*Changes to legislation: Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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)*

(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

**I113** Sch. 7 para. 2(1)(2) in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(b)

**I114** 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.”

*Status: Point in time view as at 25/05/2020.*

*Changes to legislation: Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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**

**I115** Sch. 7 para. 3(1)(2)(4) in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(b)

**I116** 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**

**I117** 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**

**I118** 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**

**I119** 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.”

*Status: Point in time view as at 25/05/2020.*

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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**

**I120** 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 [<sup>F41</sup>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 [<sup>F42</sup>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**

**F41** 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)

**F42** 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**

**I121** 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.”

*Status: Point in time view as at 25/05/2020.*

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#### Commencement Information

**I122** 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

**I123** 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

**I124** 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**

**I125** 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**

**I126** 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**

**I127** 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**

**I128** 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**

**I129** 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**

**I130** 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**

**I131** 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**

**I132** 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**

**I133** 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**

**I134** 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**

**I135** 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**

**I136** 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**

**I137** 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**

**I138** 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**

**I139** Sch. 8 para. 20 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)



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<sup>F43</sup>SCHEDULE 9

Section 194

USE OF LAND: POWER TO OVERRIDE EASEMENTS AND OTHER RIGHTS

**Textual Amendments**

**F43** 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)*  
.....

*New Towns Act 1981 (c. 64)*  
.....

*Housing Act 1988 (c. 50)*  
.....

*Town and Country Planning Act 1990 (c. 8)*  
.....

PROSPECTIVE

<sup>F43</sup>*Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)*  
.....

<sup>F43</sup>5

*Regional Development Agencies Act 1998 (c. 45)*  
.....

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**

**I140** Sch. 10 para. 1 in force at 6.4.2009 for specified purposes for E.W. by [S.I. 2009/400](#), [art. 3\(j\)](#)

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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**

**I141** 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**

**I142** 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**

**I143** 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**

**I144** 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 25/05/2020.*

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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

**I145** 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—
- arrangements are made for a local inquiry or a hearing to be held pursuant to a determination under section 319A;
  - the inquiry or hearing does not take place; and
  - 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.”

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**Commencement Information**

**I146** 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**

**I147** 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**

**I148** 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

**I149** 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—

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- 20 “(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**

**I150** Sch. 11 para. 1 in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(d)

**I151** 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**

**I152** Sch. 11 para. 2 in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(d)



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**I153** 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

**I154** Sch. 11 para. 3 in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(d)

**I155** 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.

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(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**

**I156** Sch. 11 para. 4 in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(d)

**I157** 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**

**I158** Sch. 11 para. 5 in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(d)

**I159** 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

- I160** Sch. 11 para. 6 in force at 6.4.2009 for E. by S.I. 2009/400, art. 5(d)  
**I161** 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

- I162** 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 [F44(q)] were omitted, and
  - (b) in subsection (2) for “sections 15 to [F4530A] ” there were substituted “section 21 ”.

#### Textual Amendments

- F44** 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)  
**F45** 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)—
    - [F46(i) for “none of the following is” there were substituted “the following are not”, and]
    - (ii) paragraphs (b) and (d) to (j) were omitted, F47...
  - (b) [F48] paragraphs (a) to (c) of subsection (2), and subsections (3) and (4),] were omitted[F49], and
  - (c) in subsection (7) “Act” includes an Act of the Scottish Parliament.]

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### Textual Amendments

- F46** 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)
- F47** 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
- F48** 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)
- F49** 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,<sup>F50</sup> ...
  - (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).
  - [<sup>F51</sup>(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

- F50** 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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**F51** 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—
- [<sup>F52</sup>(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 [<sup>F53</sup>Upper 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

**F52** 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)

**F53** 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).

- [<sup>F54</sup>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**  
**F54** 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).”

<sup>F55</sup>12 . . . . .

**Textual Amendments**  
**F55** 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)

<sup>F55</sup>13 . . . . .

**Textual Amendments**  
**F55** 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 [F56Section 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**

**F56** 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 [F57Upper 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**

**F57** 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<sup>F58</sup>Upper Tribunal were]a reference to the Lands Tribunal for Scotland, and
- (c) in subsection (6), the reference to <sup>F59</sup>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

- F58** 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)
- F59** 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 <sup>F60</sup>the county court] were references to the Court of Session and the sheriff.

#### Textual Amendments

- F60** 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 <sup>F61</sup>, 32B(1)(a), (b) and (d)] and 38 were omitted.

#### Textual Amendments

- F61** 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

- I163** [Sch. 13](#) partly in force; [Sch. 13](#) in force for certain purposes at 26.1.2009 see s. 241
- I164** [Sch. 13](#) in force at 6.4.2009 for specified purposes for E. by [S.I. 2009/400](#), art. 5(g)
- I165** [Sch. 13](#) in force at 6.4.2009 for specified purposes for E.W. by [S.I. 2009/400](#), art. 3(o)
- I166** [Sch. 13](#) in force at 23.6.2009 for specified purposes for E. by [S.I. 2009/1303](#), art. 2(b), [Sch.](#)
- I167** [Sch. 13](#) in force at 6.4.2010 for specified purposes for E.W. by [S.I. 2010/566](#), art. 3(d), [Sch.](#)
- I168** [Sch. 13](#) in force at 6.4.2012 for specified purposes for E. by [S.I. 2012/601](#), art. 2(e)
- I169** [Sch. 13](#) in force at 30.4.2012 for specified purposes for W. by [S.I. 2012/802](#), art. 2(c)

#### Reference

Forestry Act 1967 (c. 10)

Town and Country Planning Act 1990 (c. 8)

#### Extent of repeal

In paragraph 2 of Schedule 3—

(a) the words from “section 77” to “(for Scotland)”, and

(b) “the said section 77 or (for Scotland)”.

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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*Status: Point in time view as at 25/05/2020.*

*Changes to legislation: Planning Act 2008 is up to date with all changes known to be in force on or before 22 May 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)*

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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),”.
Greater London Authority Act 2007 (c. 24)	Section 36.

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