



# Planning Act 2008

## 2008 CHAPTER 29

### PART 9

#### CHANGES TO EXISTING PLANNING REGIMES

### CHAPTER 2

#### OTHER CHANGES TO EXISTING PLANNING REGIMES

#### *Determination of procedure*

### **196 Determination of procedure for certain proceedings**

(1) After section 319 of TCPA 1990 insert—

#### *“Determination of procedure*

#### **319A Determination of procedure for certain proceedings**

- (1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
  - (a) at a local inquiry;
  - (b) at a hearing;
  - (c) on the basis of representations in writing.
- (3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

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*Changes to legislation: Planning Act 2008, Section 196 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.
  - (5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).
  - (6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).
  - (7) This section applies to—
    - (a) an application referred to the Secretary of State under section 77 instead of being dealt with by a local planning authority in England;
    - (b) an appeal under section 78 against a decision of a local planning authority in England;
    - (c) an appeal under section 174 against an enforcement notice issued by a local planning authority in England;
    - (d) an appeal under section 195 against a decision of a local planning authority in England; and
    - (e) an appeal under section 208 against a notice under section 207(1) issued by a local planning authority in England.
  - (8) But this section does not apply to proceedings if they are referred to a Planning Inquiry Commission under section 101; and on proceedings being so referred, any determination made in relation to the proceedings under subsection (1) of this section ceases to have effect.
  - (9) The Secretary of State may by order amend subsection (7) to—
    - (a) add proceedings to, or remove proceedings from, the list of proceedings to which this section applies, or
    - (b) otherwise modify the descriptions of proceedings to which this section applies.
  - (10) An order under subsection (9) may—
    - (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
    - (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.”
- (2) After section 88C of the Listed Buildings Act insert—

**“88D Determination of procedure for certain proceedings**

- (1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
  - (a) at a local inquiry;
  - (b) at a hearing;
  - (c) on the basis of representations in writing.

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- (3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.
  - (4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.
  - (5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).
  - (6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).
  - (7) This section applies to—
    - (a) an application referred to the Secretary of State under section 12 instead of being dealt with by a local planning authority in England;
    - (b) an appeal under section 20 against a decision of a local planning authority in England; and
    - (c) an appeal under section 39 against a listed building enforcement notice issued by a local planning authority in England.
  - (8) The Secretary of State may by order amend subsection (7) to—
    - (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies, or
    - (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.
  - (9) An order under subsection (8) may—
    - (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
    - (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.”
- (3) After section 21 of the Hazardous Substances Act insert—

**“21A Determination by Secretary of State of procedure for certain proceedings**

- (1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
  - (a) at a local inquiry;
  - (b) at a hearing;
  - (c) on the basis of representations in writing.
- (3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

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- (4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.
  - (5) The Secretary of State must notify the appellant or applicant (as the case may be) and the hazardous substances authority of any determination made under subsection (1).
  - (6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).
  - (7) This section applies to—
    - (a) an application referred to the Secretary of State under section 20 instead of being dealt with by a hazardous substances authority in England;
    - (b) an appeal under section 21 against a decision of a hazardous substances authority in England.
  - (8) The Secretary of State may by order amend subsection (7) to—
    - (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies, or
    - (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.
  - (9) An order under subsection (8) may—
    - (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
    - (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.
  - (10) The power to make an order under subsection (8) is exercisable by statutory instrument.
  - (11) No order may be made under subsection (8) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.”
- (4) Schedule 10 (further provisions as to the procedure for certain proceedings) has effect.

**Commencement Information**

**II** S. 196 in force at 6.4.2009 for specified purposes for E.W. by [S.I. 2009/400](#), [art. 3\(j\)](#) (with [art. 6\(2\)](#))

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 196 coming into force by [S.I. 2024/452 reg. 2\(a\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 10A inserted by [2023 c. 55 Sch. 12 para. 1](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 223(1)(za) inserted by [2023 c. 55 s. 139\(6\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)