



# Planning Act 2008

## 2008 CHAPTER 29

### PART 12

#### FINAL PROVISIONS

##### *General*

#### **232 Orders and regulations**

- (1) Subsections (2) and (3) apply to a power to make an order or regulations conferred on the Secretary of State by this Act, except—
  - (a) power to make an order granting development consent;
  - (b) a power conferred by paragraph 1(4) of Schedule 4;
  - (c) a power to make changes to, or revoke, an order granting development consent;
  - (d) a power conferred by Part 11 or section 237 or 241.
- (2) The power is exercisable by statutory instrument.
- (3) The power includes—
  - (a) power to make different provision for different purposes (including different areas);
  - (b) power to make incidental, consequential, supplementary, transitional or transitory provision or savings.
- (4) A statutory instrument containing an order or regulations under this Act is subject to annulment pursuant to a resolution of either House of Parliament.

This is subject to subsection (5) (and section 222(5)).
- (5) Subsection (4) does not apply to a statutory instrument containing—
  - (a) an order granting development consent;
  - (b) an order made by virtue of paragraph 1(8) of Schedule 4;
  - (c) an order changing or revoking an order granting development consent;

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- (d) an order under section 14(3), [<sup>F1</sup>33(5),] 111, 160(3), 161(5), 172(1), 203(5) or 227(3)(g);
  - (e) regulations under section [<sup>F2</sup>35(2)(a)(ii),] 104(2)(c) or 105(2)(b).
- (6) No order may be made under section 14(3), [<sup>F3</sup>33(5),] 111, 160(3), 161(5), 203(5) or 227(3)(g) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.
- (7) No regulations may be made under section [<sup>F4</sup>35(2)(a)(ii),] 104(2)(c) or 105(2)(b) unless a draft of the instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.

#### Textual Amendments

- F1** Word in s. 232(5)(d) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 131(3)(a)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F2** Words in s. 232(5)(e) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 26(4)(a)**, 35(2)
- F3** Word in s. 232(6) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 131(3)(b)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F4** Words in s. 232(7) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 26(4)(b)**, 35(2)

### 233 Directions

- (1) A direction given under this Act must be in writing.
- (2) A power conferred by this Act to give a direction includes power to vary or revoke the direction.

### 234 Abbreviated references to Acts

In this Act—

“the Hazardous Substances Act” means the Planning (Hazardous Substances) Act 1990 (c. 10);

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

“PCPA 2004” means the Planning and Compulsory Purchase Act 2004 (c. 5);

“TCPA 1990” means the Town and Country Planning Act 1990 (c. 8).

### 235 Interpretation

- (1) In this Act (except in Part 11)—

“airport” has the meaning given by section 82(1) of the Airports Act 1986 (c. 31);

“alteration”, in relation to an airport, must be read in accordance with section 23(6);

“alteration”, in relation to a highway, includes stopping up the highway or diverting, improving, raising or lowering it;

“appropriate Crown authority” has the meaning given by section 227;

“building” has the meaning given by section 336(1) of TCPA 1990;

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F5 .....

F5 .....

“construction”, in relation to so much of a generating station as comprises or is to comprise renewable energy installations, has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (c. 20) (see section 104 of that Act) (and related expressions must be read accordingly);

“construction”, in relation to a pipe-line, includes placing (and related expressions must be read accordingly);

F5 .....

“cross-country pipe-line” has the same meaning as in the Pipe-lines Act 1962 (c. 58) (see section 66 of that Act);

“Crown land” has the meaning given by section 227;

F5 .....

[<sup>F6</sup>“deployable output” means, in relation to a given facility, the annual average volume of water that can be produced per day from that facility under drought conditions, having regard in particular (where applicable) to—

- (a) the hydrological yield of the facility;
- (b) the quantity of water licensed for abstraction;
- (c) the state of the local environment;
- (d) the properties of any—
  - (i) pumping plant;
  - (ii) well;
  - (iii) aquifer;
  - (iv) raw water main;
  - (v) aqueduct;
  - (vi) transfer main;
  - (vii) output main;

(e) any water treatment processes;

(f) any requirements relating to water quality;

“desalination plant” means a facility for the extraction of mineral components from saline water;]

“development” has the meaning given by section 32;

“development consent” has the meaning given by section 31;

[<sup>F6</sup>“drought conditions” means conditions resulting from a shortage of precipitation that has a 0.5% chance of occurring within a 12 month period;]

“electric line” has the same meaning as in Part 1 of the Electricity Act 1989 (c. 29) (see section 64(1) of that Act);

“extension”, in relation to a generating station, has the meaning given by section 36(9) of the Electricity Act 1989 (and “extend” must be read accordingly);

“gas” includes natural gas;

“gas reception facility” must be read in accordance with section 19(3);

“gas transporter” has the same meaning as in Part 1 of the Gas Act 1986 (c. 44) (see section 7(1) of that Act);

“generating station” has the same meaning as in Part 1 of the Electricity Act 1989 (see section 64(1) of that Act);

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“goods” has the meaning given by section 83(1) of the Railways Act 1993 (c. 43);

“Green Belt land” has the meaning given by section 2(1) of the Green Belt (London and Home Counties) Act 1938 (c. xciii);

“harbour” and “harbour authority” have the meanings given by section 57(1) of the Harbours Act 1964 (c. 40);

“highway” has the meaning given by section 328 of the Highways Act 1980 (c. 66);

“highway authority” has the same meaning as in the Highways Act 1980 (c. 66) (see sections 1 to 3 of that Act);

“improvement”, in relation to a highway, has the meaning given by section 329(1) of the Highways Act 1980;

“inland waters” has the same meaning as in the Water Resources Act 1991 (c. 57) (see section 221(1) of that Act);

“land” includes buildings and monuments, and land covered with water, and in relation to Part 7 must be read in accordance with section 159;

“LNG facility” must be read in accordance with section 18(3);

“local planning authority” has the same meaning as in TCPA 1990 (see section 336(1) of that Act);

“monument” has the same meaning as in the Ancient Monuments and Archaeological Areas Act 1979 (c. 46) (see section 61 of that Act);

“nationally significant infrastructure project” has the meaning given by Part 3;

“national policy statement” has the meaning given by section 5(2);

“natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“navigable watercourse” has the same meaning as in Part 6 of the Highways Act 1980 (see section 111(1) of that Act);

“non-navigable watercourse” means a watercourse that is not a navigable watercourse;

“pipe-line” has the meaning given by section 65 of the Pipe-lines Act 1962 (c. 58);

“planning permission” means permission under Part 3 of TCPA 1990;

“prescribed” means prescribed by regulations made by the Secretary of State (except in relation to matters authorised or required by this Act to be prescribed in another way);

“rail freight interchange” means a facility for the transfer of goods between railway and road, or between railway and another form of transport;

“railway” has the meaning given by section 67(1) of the Transport and Works Act 1992 (c. 42);

“renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (c. 20) (see section 104 of that Act);

“Renewable Energy Zone” has the meaning given by section 84(4) of the Energy Act 2004;

“special road” means a highway which is a special road in accordance with section 16 of the Highways Act 1980 or by virtue of an order granting development consent;

“standard”, in relation to a volume of gas, means the volume of gas at a pressure of 101.325 kiloPascals and a temperature of 273 Kelvin;

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- “trunk road” means a highway which is a trunk road by virtue of—
- (a) section 10(1) or 19 of the Highways Act 1980,
  - (b) an order or direction under section 10 of that Act, or
  - (c) an order granting development consent,
- or under any other enactment;
- “underground gas storage facilities” must be read in accordance with section 17(6);
- “use” has the meaning given by section 336(1) of TCPA 1990.
- (2) A reference in this Act to a right over land includes a reference to a right to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.
  - (3) Subsection (4) applies to the question of which parts of waters up to the seaward limits of the territorial sea—
    - (a) are adjacent to Wales (and, in consequence, are not adjacent to England), or
    - (b) are not adjacent to Wales (and, in consequence, are adjacent to England).
  - (4) The question is to be determined by reference to an order or Order in Council made under or by virtue of section 158(3) or (4) of the Government of Wales Act 2006 (c. 32) (apportionment of sea areas) if, or to the extent that, the order or Order in Council is expressed to apply—
    - (a) by virtue of this subsection, for the purposes of this Act, or
    - (b) if no provision has been made by virtue of paragraph (a), for the general or residual purposes of that Act.
  - (5) Subsection (6) applies to the question of which parts of waters up to the seaward limits of the territorial sea—
    - (a) are adjacent to Scotland (and, in consequence, are not adjacent to England), or
    - (b) are not adjacent to Scotland (and, in consequence, are adjacent to England).
  - (6) The question is to be determined by reference to an Order in Council made under section 126(2) of the Scotland Act 1998 (c. 46) if, or to the extent that, the Order in Council is expressed to apply—
    - (a) by virtue of this subsection, for the purposes of this Act, or
    - (b) if no provision has been made by virtue of paragraph (a), for the general or residual purposes of that Act.

#### Textual Amendments

- F5** Words in s. 235(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 69, Sch. 25 Pt. 20; S.I. 2012/628, art. 7](#)
- F6** Words in s. 235(1) inserted (9.1.2019) by [The Infrastructure Planning \(Water Resources\) \(England\) Order 2019 \(S.I. 2019/12\), arts. 1\(1\), 2\(6\) \(with arts. 3-5\)](#)

## 236 Application of Act to Scotland: modifications

The modifications set out in Schedule 12 have effect in the application of this Act to Scotland for the purpose mentioned in section 240(4).

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#### Commencement Information

**II** S. 236 in force at 6.4.2009 for S. by S.I. 2009/400, art. 4(c)

### 237 Supplementary and consequential provision

- (1) The Secretary of State may by order made by statutory instrument make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,
 as the Secretary of State thinks appropriate for the general purposes, or any particular purpose, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.
- (2) The power conferred by subsection (1) includes power to make different provision for different purposes (including different areas).
- (3) An order under subsection (1) may amend, repeal, revoke or otherwise modify—
  - (a) an Act passed on or before the last day of the Session in which this Act is passed, or
  - (b) an instrument made under an Act before the passing of this Act.
- (4) An order under this section which amends or repeals any provision of an Act may not be made unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.
- (5) A statutory instrument containing an order under this section which does not amend or repeal any provision of an Act is subject to annulment pursuant to a resolution of either House of Parliament.
- (6) In this section any reference to an Act (other than this Act) includes a reference to an Act of the Scottish Parliament.

#### [<sup>F7</sup>237A Variation and replacement of section 33 consents: transitional provision

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

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- (5) In this section “ section 33 consent ” means a consent, authorisation, order, notice or scheme mentioned in section 33(1), (2) or (4). ]

#### Textual Amendments

- F7** S. 237A inserted (1.3.2010 retrospectively) by [Growth and Infrastructure Act 2013 \(c. 27\), s. 22\(1\)\(2\), 35\(1\); S.I. 2013/1124, art. 4\(a\)](#) (see S.I. 2010/101, arts. 2, 3)

## 238 Repeals

Schedule 13 contains repeals (including repeals of spent provisions).

#### Commencement Information

- I2** S. 238 in force at 6.4.2009 for specified purposes for E. by [S.I. 2009/400, art. 5\(g\)](#)  
**I3** S. 238 in force at 6.4.2009 for specified purposes for E.W. by [S.I. 2009/400, art. 3\(o\)](#)  
**I4** S. 238 in force at 23.6.2009 for specified purposes for E. by [S.I. 2009/1303, art. 2\(b\)](#), [Sch.](#)  
**I5** S. 238 in force at 6.4.2010 for specified purposes for E.W. by [S.I. 2010/566, art. 3\(d\)](#), [Sch.](#)  
**I6** [S. 238](#) in force at 6.4.2012 for specified purposes for E. by [S.I. 2012/601, art. 2\(c\)](#)  
**I7** [S. 238](#) in force at 30.4.2012 for specified purposes for W. by [S.I. 2012/802, art. 2\(c\)](#)

## 239 Financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and
- (b) any increase attributable to this Act in the sums payable under or by virtue of any other Act out of money so provided.

## 240 Extent

- (1) The following provisions of this Act extend to England and Wales only—
  - (a) in Part 2, section 13;
  - (b) in Part 3, sections 15 to 20 and 22 to [<sup>F8</sup>30A] ;
  - (c) in Part 6, section 118;
  - (d) in Part 7, sections 133 and 139 to 149;
  - (e) in Part 9, sections 193 and 194;
  - (f) in Part 10, sections 203 and 204;
  - (g) Part 11.
- (2) Section 178 extends to Scotland only.
- (3) The following provisions of this Act extend to England and Wales and (subject to subsection (4)) to Scotland—
  - (a) Parts 1 to 8 (except the sections listed in paragraphs (a) to (d) of subsection (1));
  - (b) this Part.

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- (4) Those provisions extend to Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—
  - (a) one end of which is in England or Wales, and
  - (b) the other end of which is in Scotland.
- (5) Subsections (3) and (4) are subject to subsection (6).
- (6) So far as it amends or repeals an enactment, this Act has the same extent as the enactment amended or repealed.
- (7) An order under section 225(2) extends to each part of the United Kingdom.

#### Textual Amendments

- F8** Word in s. 240(1)(b) substituted (27.3.2015) by [The Infrastructure Planning \(Radioactive Waste Geological Disposal Facilities\) Order 2015 \(S.I. 2015/949\)](#), arts. 1(1), **2(4)**

## 241 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
  - (a) the provisions of Parts 1 to 9 (except section 194(2) to (5) and paragraph 7 of Schedule 7) which—
    - (i) confer power to make orders (other than orders granting, or making changes to orders granting, development consent), regulations or rules, or
    - (ii) make provision about what is (or is not) permitted to be done, or what is required to be done, in the exercise of any such power;
  - (b) Part 11, except sections 206, 211(7), 224 and 225;
  - (c) this Part, except section 238.
- (2) Nothing in subsection (1)(a) affects the operation of section 13 of the Interpretation Act 1978 (c. 30) in relation to this Act.
- (3) Except as provided by subsection (1)(a), the provisions listed in subsection (4) come into force on such day as may be appointed by order made by—
  - (a) the Welsh Ministers, in relation to Wales;
  - (b) the Secretary of State, in relation to England.
- (4) The provisions are—
  - (a) sections 183, 185, 187, 188, 191(1) and (3), 192, 193 and 197 to 200;
  - (b) paragraphs 1, 2(1) and (2), 3(1), (2) and (4) and 4 to 6 of Schedule 7;
  - (c) Schedules 8 and 11;
  - (d) the repeals in—
    - (i) TCPA 1990 (except those in Schedules 1 and 1A to that Act);
    - (ii) the Environmental Protection Act 1990 (c. 43);
    - (iii) the Planning and Compensation Act 1991 (c. 34);
    - (iv) sections 42(3) and 53 of PCPA 2004.
- (5) Section 186 and the repeal in Schedule 1A to TCPA 1990 come into force on such day as the Welsh Ministers may by order appoint.



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- (6) Sections 194(2) to (5), 201, 202, 203 and 225 (together with related entries in Schedule 13), and paragraph 7 of Schedule 7, come into force at the end of two months beginning with the day on which this Act is passed.
- (7) Section 204 comes into force in accordance with subsection (5) of that section.
- (8) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint.
- (9) The powers conferred by this section are exercisable by statutory instrument.
- (10) An order under this section may—
  - (a) appoint different days for different purposes (including different areas);
  - (b) contain transitional, transitory or saving provision in connection with the coming into force of this Act.

## **242 Short title**

This Act may be cited as the Planning Act 2008.

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**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](#)