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DRAFT STATUTORY INSTRUMENTS

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**2011 No.**

**The Waste (England and Wales) Regulations 2011**

**PART 6**

**Duties of planning authorities**

**Meaning of planning functions**

**17.—**(1) In this Part, “planning functions” means any of the following functions, other than a function which must be discharged by statutory instrument—

- (a) determining—
  - (i) an application for planning permission under section 70 of the 1990 Act, or
  - (ii) an appeal made under section 78 of the 1990 Act in relation to the determination of such an application<sup>(1)</sup>;
- (b) deciding whether to take action under section 141(2) or (3) or 177(1)(a) or (b) of the 1990 Act<sup>(2)</sup>, or under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- (c) deciding whether to direct under section 90(1), (2) or (2A) of the 1990 Act<sup>(3)</sup> that planning permission must be deemed to be granted;
- (d) deciding whether—
  - (i) in making or confirming a discontinuance order, to include in the order any grant of planning permission, or
  - (ii) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission;
- (e) making a local development order under section 61A of the 1990 Act<sup>(4)</sup>;
- (f) discharging functions under Part 2 of the 1990 Act;
- (g) discharging functions in relation to England under—
  - (i) Part 2 of and Schedule 8 to the 2004 Act, or
  - (ii) Part 5 of the Local Democracy, Economic Development and Construction Act 2009<sup>(5)</sup>;
- (h) discharging functions in relation to Wales under Part 6 of and Schedule 8 to the 2004 Act;
- (i) deciding whether to—
  - (i) make a development consent order under section 104 or 105 of the 2008 Act, or

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(1) Section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2) and by the Planning and Compulsory Purchase Act 2004 (c.5), sections 40(2)(e) and 43(2).

(2) Section 177 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7.

(3) Section 90(1) was amended by the Environment Act 1995 (c. 25), section 78 and Schedule 10; section 90(2A) was inserted by the Transport and Works Act 1992 (c. 42), section 16(1).

(4) Section 61A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 40(1).

(5) 2009 c. 20.

- (ii) make changes to, or revoke, such an order under section 153 of that Act, other than in accordance with paragraph 2 of Schedule 6 to that Act.
- (2) In paragraph (1)(d), “discontinuance order” means an order under—
- (a) section 102 of the 1990 Act (including an order made under that section by virtue of section 104 of that Act)<sup>(6)</sup>; or
  - (b) paragraph 1 of Schedule 9 to the 1990 Act (including an order made under that paragraph by virtue of paragraph 11 of that Schedule).

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<sup>(6)</sup> Section 102 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7; section 102 and paragraph 1 of Schedule 9 were amended by section 21 of, and Schedule 1 to, that Act.