

- (a) the main purpose of the facility is expected to be the final disposal of radioactive waste,
 - (b) the part of the facility where radioactive waste is to be disposed of is expected to be constructed at a depth of at least 200 metres beneath the surface of the ground or seabed, and
 - (c) the natural environment which surrounds the facility is expected to act, in combination with any engineered measures, to inhibit the transit of radionuclides from the part of the facility where radioactive waste is to be disposed of to the surface.
- (3) Development is within section 14(1)(q) only if the development is within subsection (4) or (6) of this section.

(4) Development is within this subsection if—

- (a) it is the construction of one or more boreholes, and the carrying out of any associated excavation, construction or building work,
- (b) the borehole or boreholes will be constructed, and any associated excavation, construction or building work will be carried out, in England or waters adjacent to England up to the seaward limits of the territorial sea, and
- (c) the conditions in subsection (5) are met in relation to each borehole.

(5) The conditions are that—

- (a) the borehole is expected to be constructed to a depth of at least 150 metres beneath the surface of the ground or seabed, and
- (b) the main purpose of constructing the borehole is to obtain information, data or samples to determine the suitability of a site for the construction or use of a radioactive waste geological disposal facility.

(6) Development is within this subsection if—

- (a) it is the construction of a radioactive waste geological disposal facility, and
- (b) the facility (when constructed) will be in England or waters adjacent to England up to the seaward limits of the territorial sea.

(7) In this section—

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

“radioactive waste” has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010^(a) (see paragraph 3(1) of Part 2 of Schedule 23 to those regulations).”.

(4) In subsection (1)(b) of section 240 (extent), for “30” substitute “30A”.

(5) In paragraph 2 of Schedule 12 (application of the Act to Scotland: modifications)—

- (a) in sub-paragraph (a)(ii), for “(p)” substitute “(q)”,
- (b) in sub-paragraph (b), for “30” substitute “30A”.

Date

Name
Parliamentary Under Secretary of State
Department of Energy and Climate Change

(a) S.I. 2010/675.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order amends the Planning Act 2008 (“the 2008 Act”).

The 2008 Act was amended by Chapter 6 of Part 6 of the Localism Act 2011, which came into force on 1st April 2012, by virtue of article 7 of the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012 (S.I. 2012/628 (C. 14)). Section 128 of the Localism Act 2011 abolishes the Infrastructure Planning Commission, and Schedule 13 transfers its functions to the Secretary of State.

Article 2(2) of this Order amends section 14(1) of the 2008 Act to extend the categories of infrastructure project which are nationally significant for the purposes of the 2008 Act by adding to them a new type of project, being development relating to radioactive waste geological disposal facilities. This new type of project is subject to the limitations in new section 30A of the 2008 Act inserted by article 2(3) of this Order. The new section 30A provides criteria for determining whether any particular project for development relating to radioactive waste geological disposal facilities is to be treated as a nationally significant infrastructure project for the purposes of the 2008 Act.

Article 2(4) makes further consequential amendments in respect of Schedule 12 to the 2008 Act.

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£4.25

UK201501084 01/2015 19585

<http://www.legislation.gov.uk/id/ukdsi/2015/9780111126790>

ISBN 978-0-11-112679-0



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