



Town and Country Planning Act 1990

1990 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Deemed planning permission

90 Development with government authorisation.

- (1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority [^{F1}or National Park authority], or by statutory undertakers who are not a local authority [^{F1}or National Park authority], that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.
- [^{F2}(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State [^{F3}or the Welsh Ministers] may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—
- (a) so much of the operation or change of use to which the consent relates as constitutes development;
 - (b) any development ancillary to the operation or change of use to which the consent relates.
- (2ZA) On varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State [^{F4}or the Welsh Ministers] may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—
- (a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;

Status: Point in time view as at 18/07/2023.

Changes to legislation: Town and Country Planning Act 1990, Section 90 is up to date with all changes known to be in force on or before 15 July 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)

- (b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;
 - (c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a condition subject to which a new or varied planning permission is deemed to be granted.]
- [^{F5}(2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.]
- (3) The provisions of this Act (except [^{F6}section 100ZA and][^{F7}Part]XII) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this section as if it had been granted by the Secretary of State on an application referred to him under section 77 [^{F8}(so that section 71ZA applies as if references to the decision notice were to the direction).]
- (4) For the purposes of this section development is authorised by a government department if—
- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;
 - (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;
 - (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;
 - (d) authority is given by the department—
 - (i) for the borrowing of money for the purpose of the development, or
 - (ii) for the application for that purpose of any money not otherwise so applicable; or
 - (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants;
- and references in this section to the authorisation of a government department shall be construed accordingly.
- [^{F9}(5) In subsection (2), the reference to ancillary development, in the case of a consent relating to the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station.
- (6) In this section, references to England or Wales include—
- (a) waters adjacent to England or Wales up to the seaward limits of the territorial sea, and
 - (b) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (7) In this section “electric line”, “extension”, “generating station” and “Renewable Energy Zone” have the same meanings as in Part 1 of the Electricity Act 1989.]

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Textual Amendments

- F1** Words in s. 90(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F2** S. 90(2)(2ZA) substituted for s. 90(2) (31.7.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 21(2), 35(1)**; S.I. 2013/1488, art. 5(b)
- F3** Words in s. 90(2) inserted (1.4.2018 for specified purposes, 1.4.2019 in so far as not already in force) by Wales Act 2017 (c. 4), **ss. 39(13), 71(4)** (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, regs. 3(h), 5(a)
- F4** Words in s. 90(2ZA) inserted (1.4.2018 for specified purposes, 1.4.2019 in so far as not already in force) by Wales Act 2017 (c. 4), **ss. 39(13), 71(4)** (with Sch. 7 paras. 1, 6, 8, 9); S.I. 2017/1179, regs. 3(h), 5(a)
- F5** S. 90(2A) inserted (1.1.1993) by Transport and Works Act 1992 (c. 42), **s. 16(1)**; S.I. 1992/2784, art. 2, **Sch. 1.**
- F6** Words in s. 90(3) inserted (1.10.2018) by Neighbourhood Planning Act 2017 (c. 20), s. 46(1), **Sch. 3 para. 5**; S.I. 2018/567, reg. 3(b)
- F7** Word in s. 90(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 12** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
- F8** Words in s. 90(3) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes, 16.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), **ss. 33(3), 58(2)(b)(4)(b)**; S.I. 2016/52, arts. 3(b), 5(b) (with art. 12)
- F9** S. 90(5)(6)(7) substituted for s. 90(5) (31.7.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 21(3), 35(1)**; S.I. 2013/1488, art. 5(b)

Modifications etc. (not altering text)

- C1** S. 90(2A) modified (21.8.2013) by The Croxley Rail Link Order 2013 (S.I. 2013/1967), arts. 1, **32**
- C2** S. 90(2A) modified (19.8.2014) by The Network Rail (Huyton) Order 2014 (S.I. 2014/2027), arts. 1, **29** (with art. 31(2))

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