



Planning Act 2008

2008 CHAPTER 29

PART 7 **E+W+S**

ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 1 **E+W+S**

CONTENT OF ORDERS

General

120 What may be included in order granting development consent **E+W+S**

- (1) An order granting development consent may impose requirements in connection with the development for which consent is granted.
- (2) The requirements may in particular include ^{F1}—
 - (a) requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, or the giving of any notice, which (but for section 33(1)) would have been required for the development^{F2};
 - (b) requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a)].
- (3) An order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted.
- (4) The provision that may be made under subsection (3) includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5.
- (5) An order granting development consent may—
 - (a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order;

Status: Point in time view as at 11/08/2022.

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- (b) make such amendments, repeals or revocations of statutory provisions of local application as appear to the [^{F3}Secretary of State] to be necessary or expedient in consequence of a provision of the order or in connection with the order;
 - (c) include any provision that appears to the [^{F4}Secretary of State] to be necessary or expedient for giving full effect to any other provision of the order;
 - (d) include incidental, consequential, supplementary, transitional or transitory provisions and savings.
- (6) In subsection (5) “statutory provision” means a provision of an Act or of an instrument made under an Act.
- (7) Subsections (3) to (6) are subject to subsection (8) and the following provisions of this Chapter.
- [^{F5}(8) With the exception of provision made under subsection (3) for or relating to any of the matters listed in paragraph 32B of Schedule 5, an order granting development consent may not include—
- (a) provision creating offences,
 - (b) provision conferring power to create offences, or
 - (c) provision changing an existing power to create offences.]
- (9) To the extent that provision for or relating to a matter may be included in an order granting development consent, none of the following may include any such provision—
- (a) an order under section 14 or 16 of the Harbours Act 1964 (c. 40) (orders in relation to harbours, docks and wharves);
 - (b) an order under section 4(1) of the Gas Act 1965 (c. 36) (order authorising storage of gas in underground strata);
 - (c) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as to railways, tramways, inland waterways etc.).

Textual Amendments

- F1** Words in s. 120(2) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 140(a)**, 240(2) (with s. 144); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F2** S. 120(2)(b) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 140(b)**, 240(2) (with s. 144); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F3** Words in s. 120(5)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 60(2)**; [S.I. 2012/628](#), [art. 7\(a\)](#)
- F4** Words in s. 120(5)(c) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 60(2)**; [S.I. 2012/628](#), [art. 7\(a\)](#)
- F5** S. 120(8) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 60(3)**; [S.I. 2012/628](#), [art. 7\(a\)](#)

Commencement Information

- I1** S. 120 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(e)** (with [art. 6](#))

^{F6}121 Proposed exercise of powers in relation to legislation **E+W+S**

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Status: Point in time view as at 11/08/2022.

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Textual Amendments

- F6** S. 121 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 61](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

Compulsory acquisition

122 Purpose for which compulsory acquisition may be authorised **E+W+S**

- (1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the [^{F7}Secretary of State] is satisfied that the conditions in subsections (2) and (3) are met.
- (2) The condition is that the land—
 - (a) is required for the development to which the development consent relates,
 - (b) is required to facilitate or is incidental to that development, or
 - (c) is replacement land which is to be given in exchange for the order land under section 131 or 132.
- (3) The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily.

Textual Amendments

- F7** Words in s. 122(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 62](#); [S.I. 2012/628](#), art. 7(a)

Commencement Information

- I2** S. 122 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(f\)](#) (with art. 6)

123 Land to which authorisation of compulsory acquisition can relate **E+W+S**

- (1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the [^{F8}Secretary of State] is satisfied that one of the conditions in subsections (2) to (4) is met.
- (2) The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.
- (3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.
- (4) The condition is that the prescribed procedure has been followed in relation to the land.

Textual Amendments

- F8** Words in s. 123(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 62](#); [S.I. 2012/628](#), art. 7(a)

Commencement Information

- I3** S. 123 partly in force; s. 123 in force for certain purposes at Royal Assent see s. 241

Status: Point in time view as at 11/08/2022.

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I4 S. 123 in force at 1.3.2010 by S.I. 2010/101, art. 3(f) (with art. 6)

F9 124 Guidance about authorisation of compulsory acquisition E+W+S

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Textual Amendments

F9 S. 124 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 63, Sch. 25 Pt. 20; S.I. 2012/628, art. 7

125 Application of compulsory acquisition provisions E+W+S

- (1) This section applies if an order granting development consent includes provision authorising the compulsory acquisition of land.
- (2) Part 1 of the Compulsory Purchase Act 1965 (c. 56) (procedure for compulsory purchase) applies to the compulsory acquisition of land under the order—
 - (a) as it applies to a compulsory purchase to which Part 2 of the Acquisition of Land Act 1981 (c. 67) applies, and
 - (b) as if the order were a compulsory purchase order under that Act.
- (3) Part 1 of the Compulsory Purchase Act 1965, as applied by subsection (2), has effect with the omission of the following provisions—
 - (a) section 4 (time limit for exercise of compulsory purchase powers);
 - (b) section 10 (compensation for injurious affection);
 - ^{F10}(c)
- (4) In so far as the order includes provision authorising the compulsory acquisition of land in Scotland—
 - (a) subsections (2) and (3) do not apply, and
 - (b) the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) (“the 1947 Act”) applies to the compulsory acquisition of that land under the order as if the order were a compulsory purchase order as defined in section 1(1) of that Act.
- (5) The 1947 Act, as applied by subsection (4), has effect with the omission of the following provisions—
 - (a) Parts 2 and 3 of the First Schedule (compulsory purchase by Ministers and special provisions as to certain descriptions of land);
 - (b) section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19) (time limit for exercise of compulsory purchase powers) (that section being incorporated into the 1947 Act by paragraph 1 of the Second Schedule to the 1947 Act).
- (6) Subsections (2) to (5) are subject to any contrary provision made by the order granting development consent.

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Textual Amendments

F10 S. 125(3)(c) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 16 para. 17](#); S.I. 2016/733, reg. 3(j)

Commencement Information

I5 S. 125 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(f\)](#) (with [art. 6](#))

126 Compensation for compulsory acquisition **E+W+S**

- (1) This section applies in relation to an order granting development consent which includes provision authorising the compulsory acquisition of land.
- (2) The order may not include provision the effect of which is to modify the application of a compensation provision, except to the extent necessary to apply the provision to the compulsory acquisition of land authorised by the order.
- (3) The order may not include provision the effect of which is to exclude the application of a compensation provision.
- (4) A compensation provision is a provision of or made under an Act which relates to compensation for the compulsory acquisition of land.

Commencement Information

I6 S. 126 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(f\)](#) (with [art. 6](#))

127 Statutory undertakers' land **E+W+S**

- (1) This section applies in relation to land (“statutory undertakers' land”) if—
 - (a) the land has been acquired by statutory undertakers for the purposes of their undertaking,
 - (b) a representation has been made about an application for an order granting development consent before the completion of the examination of the application, and the representation has not been withdrawn, and
 - (c) as a result of the representation the [^{F11}Secretary of State] is satisfied that—
 - (i) the land is used for the purposes of carrying on the statutory undertakers' undertaking, or
 - (ii) an interest in the land is held for those purposes.
- (2) An order granting development consent may include provision authorising the compulsory acquisition of statutory undertakers' land only to the extent that the [^{F12}Secretary of State is satisfied of the matters set out in subsection (3).]
- (3) The matters are that the nature and situation of the land are such that—
 - (a) it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
 - (b) if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.

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- (4) Subsections (2) and (3) do not apply in a case within subsection (5).
- (5) An order granting development consent may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the ^{F13}Secretary of State is satisfied of the matters set out in subsection (6).]
- (6) The matters are that the nature and situation of the land are such that—
 - (a) the right can be purchased without serious detriment to the carrying on of the undertaking, or
 - (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.

^{F14}(7)

- (8) In this section—
 - “statutory undertakers” has the meaning given by section 8 of the Acquisition of Land Act 1981 (c. 67) and also includes the undertakers—
 - (a) which are deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment;
 - (b) which are statutory undertakers for the purposes of section 16(1) and (2) of that Act (see section 16(3) of that Act).
- (9) In the application of this section to a statutory undertaker which is a health service body (as defined in section 60(7) of the National Health Service and Community Care Act 1990 (c. 19)), references to land acquired or available for acquisition by the statutory undertakers are to be construed as references to land acquired or available for acquisition by the Secretary of State for use or occupation by the body.

Textual Amendments

F11 Words in s. 127(1)(c) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 64\(2\)](#); S.I. 2012/628, art. 7(a)

F12 Words in s. 127(2) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 23\(2\)\(a\), 35\(1\)](#); S.I. 2013/1124, art. 4(b) (with art. 6)

F13 Words in s. 127(5) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 23\(2\)\(b\), 35\(1\)](#); S.I. 2013/1124, art. 4(b) (with art. 6)

F14 S. 127(7) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\), ss. 23\(2\)\(c\), 35\(1\)](#); S.I. 2013/1124, art. 4(b) (with art. 6)

Modifications etc. (not altering text)

C1 S. 127(2)-(6) applied (with modifications) (29.10.2020) by [The Southampton to London Pipeline Development Consent Order 2020 \(S.I. 2020/1099\), arts. 1, 25\(11\)\(a\)](#) (with art. 25, Sch. 9 para. 36)

Commencement Information

I7 S. 127 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(f\)](#) (with art. 6)

^{F15}128 **Local authority and statutory undertakers' land: general** E+W+S

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Status: Point in time view as at 11/08/2022.

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Textual Amendments

F15 S. 129 repealed (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 24(1), 35(1)** (with s. 24(6)); [S.I. 2013/1124, art. 4\(c\)](#) (with art. 7)

^{F15}129 Local authority and statutory undertakers' land: acquisition by public body E +W+S

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Textual Amendments

F15 S. 129 repealed (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 24(1), 35(1)** (with s. 24(6)); [S.I. 2013/1124, art. 4\(c\)](#) (with art. 7)

Commencement Information

I8 S. 129 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(f\)](#) (with art. 6)

130 National Trust land E+W+S

- (1) This section applies to land belonging to the National Trust which is held by the Trust inalienably.
- (2) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of land to which this section applies, if the condition in subsection (3) is met.
- (3) The condition is that—
 - (a) a representation has been made by the National Trust about the application for the order granting development consent before the completion of the examination of the application,
 - ^{F16}(aa) the representation contains an objection to the compulsory acquisition of the land,] and
 - (b) the [^{F17}objection] has not been withdrawn.
- ^{F18}(3A) In a case to which this section applies and to which section 131 or 132 also applies, special parliamentary procedure—
 - (a) may be required by subsection (2) whether or not also required by section 131(3) or 132(2), and
 - (b) may be required by section 131(3) or 132(2) whether or not also required by subsection (2).]
- (4) In this section “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the National Trust Act 1907 (c. cxxxvi) or section 8 of the National Trust Act 1939 (c. lxxxvi).
- (5) In this section “the National Trust” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907 (c. cxxxvi).

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Textual Amendments

- F16** S. 130(3)(aa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 141(3)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)
- F17** Word in s. 130(3)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 141(3)(b)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)
- F18** S. 130(3A) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 24(5)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

Commencement Information

- I9** S. 130 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(f)** (with art. 6)

131 Commons, open spaces etc: compulsory acquisition of land E+W+S

- (1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.
- (2) This section does not apply in a case to which section 132 applies.
- (3) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of land to which this section applies, [^{F19}unless—
 - (a) the Secretary of State is satisfied that one of subsections (4) to (5) applies, and
 - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.]
- (4) This subsection applies if—
 - (a) replacement land has been or will be given in exchange for the order land, and
 - (b) the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.

[^{F20}(4A) This subsection applies if—

- (a) the order land is, or forms part of, an open space,
- (b) none of the order land is of any of the other descriptions in subsection (1),
- (c) either—
 - (i) there is no suitable land available to be given in exchange for the order land, or
 - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and
- (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special parliamentary procedure.

(4B) This subsection applies if—

- (a) the order land is, or forms part of, an open space,
- (b) none of the order land is of any of the other descriptions in subsection (1), and
- (c) the order land is being acquired for a temporary (although possibly long-lived) purpose.]

(5) This subsection applies if—

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- (a) the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and
- (b) the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

- F21(6)
- F21(7)
- F21(8)
- F21(9)
- F21(10)

(11) If an order granting development consent authorises the compulsory acquisition of land to which this section applies, it may include provision—

- (a) for vesting replacement land given in exchange as mentioned in subsection (4)
 - (a) in the prospective seller and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and
 - (b) for discharging the order land from all rights, trusts and incidents to which it is subject.

(12) In this section —

“common”, “fuel or field garden allotment” and “open space” have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);

“the order land” means the land authorised to be compulsorily acquired;

“the prospective seller” means the person or persons in whom the order land is vested;

“replacement land” means land which is not less in area than the order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.

Textual Amendments

F19 Words in s. 131(3) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 24\(2\)\(a\)](#), [35\(1\)](#) (with [s. 24\(6\)](#)); [S.I. 2013/1124](#), [art. 4\(c\)](#) (with [art. 7](#))

F20 S. 131(4A)(4B) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 24\(2\)\(b\)](#), [35\(1\)](#) (with [s. 24\(6\)](#)); [S.I. 2013/1124](#), [art. 4\(c\)](#) (with [art. 7](#))

F21 S. 131(6)-(10) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 24\(2\)\(c\)](#), [35\(1\)](#) (with [s. 24\(6\)](#)); [S.I. 2013/1124](#), [art. 4\(c\)](#) (with [art. 7](#))

Commencement Information

I10 S. 131 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(f\)](#) (with [art. 6](#))

132 Commons, open spaces etc: compulsory acquisition of rights over land **E+W+S**

- (1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.

Status: Point in time view as at 11/08/2022.

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- (2) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, ^{F22}unless—
 - (a) the Secretary of State is satisfied that one of subsections (3) to (5) applies, and
 - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order].
- (3) This subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons—
 - (a) the persons in whom it is vested,
 - (b) other persons, if any, entitled to rights of common or other rights, and
 - (c) the public.
- (4) This subsection applies if—
 - (a) replacement land has been or will be given in exchange for the order right, and
 - (b) the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the order granting development consent).
- ^{F23}(4A) This subsection applies if—
 - (a) the order land is, or forms part of, an open space,
 - (b) none of the order land is of any of the other descriptions in subsection (1),
 - (c) either—
 - (i) there is no suitable land available to be given in exchange for the order right, or
 - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and
 - (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special parliamentary procedure.
- (4B) This subsection applies if—
 - (a) the order land is, or forms part of, an open space,
 - (b) none of the order land is of any of the other descriptions in subsection (1), and
 - (c) the order right is being acquired for a temporary (although possibly long-lived) purpose.]
- (5) This subsection applies if—
 - (a) the order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and
 - (b) the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

^{F24}(6)

^{F24}(7)

^{F24}(8)

Status: Point in time view as at 11/08/2022.

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F24(9)

F24(10)

(11) If an order granting development consent authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, it may include provision—

- (a) for vesting replacement land given in exchange as mentioned in subsection (4)
 - (a) in the persons in whom the order land is vested and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and
 - (b) for discharging the order land from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of the order right.

(12) In this section —

“common”, “fuel or field garden allotment” and “open space” have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);

“the order land” means the land to which this section applies over which the order right is to be exercisable;

“the order right” means the right authorised to be compulsorily acquired;

“replacement land” means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right—

- (a) the persons in whom the order land is vested,
- (b) the persons, if any, entitled to rights of common or other rights over the order land, and
- (c) the public.

Textual Amendments

F22 Words in s. 132(2) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 24\(3\)\(a\)](#), [35\(1\)](#) (with [s. 24\(6\)](#)); [S.I. 2013/1124](#), [art. 4\(c\)](#) (with [art. 7](#))

F23 S. 132(4A)(4B) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 24\(3\)\(b\)](#), [35\(1\)](#) (with [s. 24\(6\)](#)); [S.I. 2013/1124](#), [art. 4\(c\)](#) (with [art. 7](#))

F24 S. 132(6)-(10) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 24\(3\)\(c\)](#), [35\(1\)](#) (with [s. 24\(6\)](#)); [S.I. 2013/1124](#), [art. 4\(c\)](#) (with [art. 7](#))

Commencement Information

I11 S. 132 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(f\)](#) (with [art. 6](#))

133 Rights in connection with underground gas storage facilities **E+W**

(1) This section applies if—

- (a) the development to which an order granting development consent relates is development within section 14(1)(c), and
- (b) the order authorises the compulsory acquisition of one or more rights within subsection (2).

(2) The rights are—

- (a) a right to store gas in underground gas storage facilities;

Status: Point in time view as at 11/08/2022.

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- (b) a right to stop up a well, borehole or shaft, or prevent its use by another person;
 - (c) a right of way over land.
- (3) If the right within subsection (2) is an existing right to store gas in underground gas storage facilities, this Act has effect in relation to the compulsory acquisition of the right with the omission of section 131.
- (4) If the order authorises the compulsory acquisition of the right by the creation of a new right within subsection (2), this Act has effect in relation to the compulsory acquisition of the right with the omission of sections 127 to 132.

Commencement Information

I12 S. 133 in force at 1.3.2010 by S.I. 2010/101, art. 4(d) (with art. 6)

134 Notice of authorisation of compulsory acquisition E+W+S

- (1) This section applies if—
- (a) an order is made granting development consent, and
 - (b) the order includes provision authorising the compulsory acquisition of land.
- (2) In this section —
- “the order land” means—
- (a) in a case where the order granting development consent authorises the compulsory acquisition of a right over land by the creation of a new right, the land over which the right is to be exercisable;
 - (b) in any other case where the order granting development consent authorises the compulsory acquisition of land, the land authorised to be compulsorily acquired;
- “the prospective purchaser” means—
- (a) in a case where the order granting development consent authorises the compulsory acquisition of a right over land by the creation of a new right, the person for whose benefit the order authorises the creation of the right;
 - (b) in any other case where the order granting development consent authorises the compulsory acquisition of land, the person authorised by the order to compulsorily acquire the land.
- (3) After the order has been made, the prospective purchaser must—
- [^{F25}(za) make a copy of the order available, at a place in the vicinity of the land, for inspection by the public at all reasonable hours,]
 - (a) serve a compulsory acquisition notice ^{F26}... on each person to whom subsection (4) applies, and
 - (b) affix a compulsory acquisition notice to a conspicuous object or objects on or near the order land.
- (4) This subsection applies to any person who, if the order granting development consent were a compulsory purchase order, would be a qualifying person for the purposes of section 12(1) of the Acquisition of Land Act 1981 (c. 67) (notice to owners, lessees and occupiers).
- (5) A compulsory acquisition notice which is affixed under subsection (3)(b) must—

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- (a) be addressed to persons occupying or having an interest in the order land, and
 - (b) so far as practicable, be kept in place by the prospective purchaser until the end of the period of 6 weeks beginning with the date on which the order is published.
- (6) The prospective purchaser must also publish a compulsory acquisition notice in one or more local newspapers circulating in the locality in which the order land is situated.
- [^{F27}(6A) The prospective purchaser must send a compulsory acquisition notice to the Chief Land Registrar and it shall be a local land charge in respect of the land in England or Wales to which it relates.]
- (7) A compulsory acquisition notice is a notice in the prescribed form—
- (a) describing the order land,
 - (b) in a case where the order granting development consent authorises the compulsory acquisition of a right over land by the creation of a new right, describing the right,
 - (c) stating that the order granting development consent includes provision authorising the compulsory acquisition of a right over the land by the creation of a right over it or (as the case may be) the compulsory acquisition of the land,
- [^{F28}(cza) in a case where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981—
- (i) containing a prescribed statement about the effect of those Parts, and
 - (ii) inviting any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the prospective purchaser information about the person's name, address and interest in land, using a prescribed form,]

[^{F29}(ca) stating where and when a copy of the order is available for inspection in accordance with subsection (3)(za),] and

 - (d) stating that a person aggrieved by the order may challenge the order only in accordance with section 118.

^{F30}(8)

Textual Amendments

- F25** S. 134(3)(za) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 142(2)(a)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)
- F26** Words in s. 134(3)(a) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 142(2)(b)**, 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7
- F27** S. 134(6A) inserted (E.W.) (2.2.2017) by [The Housing and Planning Act 2016 \(Compulsory Purchase\) \(Corresponding Amendments\) Regulations 2017 \(S.I. 2017/16\)](#), reg. 1(2), **Sch. para. 6(1)(a)** (with Sch. para. 6(2))
- F28** S. 134(7)(cza) inserted (E.W.) (2.2.2017) by [The Housing and Planning Act 2016 \(Compulsory Purchase\) \(Corresponding Amendments\) Regulations 2017 \(S.I. 2017/16\)](#), reg. 1(2), **Sch. para. 6(1)(b)** (with Sch. para. 6(2))
- F29** S. 134(7)(ca) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), **ss. 142(3)**, 240(2) (with s. 144); S.I. 2012/57, art. 2(d); S.I. 2012/628, art. 7(a)
- F30** S. 134(8) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 142(4)**, 240(2), **Sch. 25 Pt. 21** (with s. 144); S.I. 2012/628, art. 7

Status: Point in time view as at 11/08/2022.

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Commencement Information

- I13** S. 134 partly in force; s. 134 in force for certain purposes at Royal Assent see s. 241
I14 S. 134 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(f\)](#) (with [art. 6](#))

Miscellaneous

135 Orders: Crown land **E+W+S**

- (1) An order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if—
 - (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
 - (b) the appropriate Crown authority consents to the acquisition.
- (2) An order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.
- (3) The reference in subsection (2) to rights benefiting the Crown does not include rights which benefit the general public.
- (4) For the purposes of this section “the Crown” includes—
 - (a) the Duchy of Lancaster;
 - (b) the Duchy of Cornwall;
 - (c) the Speaker of the House of Lords;
 - (d) the Speaker of the House of Commons;
 - (e) the Corporate Officer of the House of Lords;
 - (f) the Corporate Officer of the House of Commons.

Commencement Information

- I15** S. 135 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(g\)](#) (with [art. 6](#))

136 Public rights of way **E+W+S**

- (1) An order granting development consent may extinguish a public right of way over land only if the [^{F31}Secretary of State] is satisfied that—
 - (a) an alternative right of way has been or will be provided, or
 - (b) the provision of an alternative right of way is not required.
- (2) The following provisions of this section apply if—
 - (a) an order granting development consent makes provision for the acquisition of land, compulsorily or by agreement,
 - (b) the order extinguishes a public right of way over the land, and
 - (c) the right of way is not a right enjoyable by vehicular traffic.
- (3) The order granting development consent may not provide for the right of way to be extinguished from a date which is earlier than the date on which the order is published.
- (4) Subsection (5) applies if—

Status: Point in time view as at 11/08/2022.

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- (a) the order granting development consent extinguishes the right of way from a date (“the extinguishment date”) which is earlier than the date on which the acquisition of the land is completed, and
 - (b) at any time after the extinguishment date it appears to the [^{F32}Secretary of State] that the proposal to acquire the land has been abandoned.
- (5) The [^{F33}Secretary of State] must by order direct that the right is to revive.
- ^{F34}(6)
- (7) Nothing in subsection (5) prevents the making of a further order extinguishing the right of way.

Textual Amendments

- F31** Words in s. 136(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(2)**; S.I. 2012/628, art. 7(a)
- F32** Words in s. 136(4)(b) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(3)**; S.I. 2012/628, art. 7(a)
- F33** Words in s. 136(5) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(3)**; S.I. 2012/628, art. 7(a)
- F34** S. 136(6) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 66(4)**, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

- I16** S. 136 in force at 1.3.2010 by S.I. 2010/101, **art. 3(g)** (with art. 6)

^{F35}**137 Public rights of way: statutory undertakers' apparatus etc.** **E+W+S**

.....

Textual Amendments

- F35** S. 137 repealed (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 23(3)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

138 Extinguishment of rights, and removal of apparatus, of statutory undertakers etc. **E+W+S**

- (1) This section applies if an order granting development consent authorises the acquisition of land (compulsorily or by agreement) and—
 - (a) there subsists over the land a relevant right, or
 - (b) there is on, under or over the land relevant apparatus.
- (2) “Relevant right” means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which—
 - (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or
 - (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

Status: Point in time view as at 11/08/2022.

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- (3) “Relevant apparatus” means—
- (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or
 - (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network.
- (4) The order may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, [^{F36}only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates]

[^{F37}(4A) In this section “statutory undertakers” means persons who are, or are deemed to be, statutory undertakers for the purpose of any provision of Part 11 of TCPA 1990.

[^{F38}(4B) In this section—

“electronic communications apparatus” has the meaning given in paragraph 5 of the electronic communications code;

“electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;

“operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;]

^{F39}(5)

^{F39}(6)]

Textual Amendments

F36 Words in s. 138(4) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 23(4)(a)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

F37 S. 138(4A)(4B) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 23(4)(b)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

F38 S. 138(4B) substituted (28.12.2017) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Primary Legislation\) Regulations 2017 \(S.I. 2017/1285\)](#), reg. 1(1), **Sch. 1 para. 12(2)**

F39 S. 138(5)(6) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 23(4)(c)**, 35(1); S.I. 2013/1124, art. 4(b) (with art. 6)

Modifications etc. (not altering text)

C2 S. 138(4) applied (with modifications) (29.10.2020) by [The Southampton to London Pipeline Development Consent Order 2020 \(S.I. 2020/1099\)](#), arts. 1, **25(11)(b)** (with art. 25, Sch. 9 para. 36)

Commencement Information

I17 S. 138 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(g)** (with art. 6)

139 Common land and rights of common E+W

- (1) An order granting development consent may not include provision the effect of which is to exclude or modify the application of a provision of or made under the Commons Act 2006, except in accordance with section 131 or 132.

Status: Point in time view as at 11/08/2022.

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- (2) For the purposes of section 38(6)(a) of the Commons Act 2006, works carried out under a power conferred by an order granting development consent are not to be taken to be carried out under a power conferred by or under an enactment, except in a case to which section 131 or 132 applies.
- (3) An order granting development consent may not authorise the suspension of, or extinguishment or interference with, registered rights of common, except in accordance with section 131 or 132.
- (4) “Registered rights of common” means rights of common registered under—
 - (a) the Commons Act 2006, or
 - (b) the Commons Registration Act 1965.

Commencement Information

I18 S. 139 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

140 Operation of generating stations **E+W**

An order granting development consent may include provision authorising the operation of a generating station only if the development to which the order relates is or includes the construction or extension of the generating station.

Commencement Information

I19 S. 140 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

141 Keeping electric lines installed above ground **E+W**

An order granting development consent may include provision authorising an electric line to be kept installed above ground only if the development to which the order relates is or includes the installation of the line above ground.

Commencement Information

I20 S. 141 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

142 Use of underground gas storage facilities **E+W**

An order granting development consent may include provision authorising the use of underground gas storage facilities only if the development to which the order relates is or includes development within section 17(2), (3) or (5).

Commencement Information

I21 S. 142 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

Status: Point in time view as at 11/08/2022.

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143 Diversion of watercourses **E+W**

- (1) An order granting development consent may include provision authorising the diversion of any part of a navigable watercourse only if the condition in subsection (2) is met.
- (2) The new length of watercourse must be navigable in a reasonably convenient manner by vessels of a kind that are accustomed to using the part of the watercourse which is to be diverted.
- (3) In deciding whether the condition in subsection (2) is met, the effect of any bridge or tunnel must be ignored if the construction of the bridge or tunnel is part of the development for which consent is granted by the order granting development consent.
- (4) If an order granting development consent includes provision authorising the diversion of any part of a navigable watercourse, the order is also to be taken to authorise the diversion of any tow path or other way adjacent to that part.

Commencement Information

I22 S. 143 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

144 Highways **E+W**

- (1) An order granting development consent may include provision authorising the charging of tolls in relation to a highway only if a request to that effect has been included in the application for the order.
 - (2) If an order granting development consent includes provision authorising the charging of tolls in relation to a highway, the order is treated as a toll order for the purposes of sections 7 to 18 of the New Roads and Street Works Act 1991 (c. 22).
- [^{F40}(2A) Subsection (2) does not apply to an order that includes provision authorising other charges in respect of the use or keeping of motor vehicles on roads.
- (2B) In subsection (2A)—
- “motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exceptions: certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of the Road Traffic Acts;
- “road” has the meaning given in section 142(1) of the Road Traffic Regulation Act 1984.]
- ^{F41}(3)

Textual Amendments

F40 S. 144(2A)(2B) inserted (25.6.2013) by [Growth and Infrastructure Act 2013](#) (c. 27), [ss. 27\(2\)](#), 35(1); [S.I. 2013/1124](#), [art. 9](#) (with [arts. 10](#), 11)

F41 S. 144(3) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013](#) (c. 27), [ss. 27\(3\)](#), 35(1); [S.I. 2013/1124](#), [art. 9](#) (with [arts. 10](#), 11)

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Commencement Information

I23 S. 144 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

145 Harbours **E+W**

- (1) An order granting development consent may include provision for the creation of a harbour authority only if—
 - (a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and
 - (b) the creation of a harbour authority is necessary or expedient for the purposes of the development.
- (2) An order granting development consent may include provision changing the powers or duties of a harbour authority only if—
 - (a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and
 - (b) the authority has requested the inclusion of the provision or has consented in writing to its inclusion.
- (3) An order granting development consent may include provision authorising the transfer of property, rights or liabilities from one harbour authority to another only if—
 - (a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and
 - (b) the order makes provision for the payment of compensation of an amount—
 - (i) determined in accordance with the order, or
 - (ii) agreed between the parties to the transfer.
- (4) An order granting development consent which includes provision for the creation of a harbour authority, or changing the powers or duties of a harbour authority, may also make other provision in relation to the authority.

This is subject to subsection (6).
- (5) Subject to subsection (6), the provision which may be included in relation to a harbour authority includes in particular—
 - (a) any provision in relation to a harbour authority which could be included in a harbour revision order under section 14 of the Harbours Act 1964 (c. 40) by virtue of any provision of Schedule 2 to that Act;
 - (b) provision conferring power on the authority to change provision made in relation to it (by the order or by virtue of this paragraph), where the provision is about—
 - (i) the procedures (including financial procedures) of the authority;
 - (ii) the power of the authority to impose charges;
 - (iii) the power of the authority to delegate any of its functions;
 - (iv) the welfare of officers and employees of the authority and financial and other provision made for them.
- (6) The order may not include provision—
 - (a) which, by virtue of any other provision of this Act, is not permitted to be included in an order granting development consent;

Status: Point in time view as at 11/08/2022.

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- (b) conferring power on a harbour authority to delegate, or makes changes to its powers so as to permit the delegation of, any of the functions mentioned in paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964.

Commencement Information

I24 S. 145 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

146 Discharge of water E+W

- (1) This section applies if—
- (a) an order granting development consent includes provision authorising the discharge of water into inland waters or underground strata, and
 - (b) but for the order, the person to whom development consent is granted would have had no power to take water, or to require discharges to be made, from the inland waters or other source from which the discharges authorised by the order are intended to be made.
- (2) The order does not have the effect of conferring any such power on that person.

Commencement Information

I25 S. 146 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(e\)](#) (with [art. 6](#))

147 Development of Green Belt land E+W

- (1) This section applies if an order granting development consent includes provision—
- (a) authorising the acquisition of Green Belt land, compulsorily or by agreement,
 - (b) authorising the sale, exchange or appropriation of Green Belt land, or
 - (c) freeing land from any restriction imposed upon it by or under the Green Belt (London and Home Counties) Act 1938 (c. xciii), or by a covenant or other agreement entered into for the purposes of that Act.
- (2) The [^{F42}Secretary of State] must notify the relevant local authorities of the provision made by the order.
- ^{F43}(3)
- (4) The relevant local authorities are—
- (a) each local authority in whose area all or part of the land is situated,
 - (b) any local authority in whom all or part of the land is vested, and
 - (c) each contributing local authority.
- (5) In this section “local authority” and “contributing local authority” have the same meanings as in the Green Belt (London and Home Counties) Act 1938 (c. xciii) (see section 2(1) of that Act).

Textual Amendments

F42 Words in [s. 147\(2\)](#) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), [Sch. 13 para. 68\(2\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Status: Point in time view as at 11/08/2022.

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F43 S. 147(3) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 68(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I26 S. 147 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

F44 **148 Deemed consent under section 34 of the Coast Protection Act 1949** **E+W**

.....

Textual Amendments

F44 S. 148 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7) (a), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

Commencement Information

I27 S. 148 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

F45 **149 Deemed licences under Part 2 of the Food and Environment Protection Act 1985** **E+W**

.....

Textual Amendments

F45 S. 149 repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 4(7) (b), **22 Pt. 2** (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

Commencement Information

I28 S. 149 in force at 1.3.2010 by S.I. 2010/101, **art. 4(e)** (with art. 6)

[F46 **149A Deemed consent under a marine licence** **E+W+S**

- (1) An order granting development consent may include provision deeming a marine licence to have been issued under Part 4 of the Marine and Coastal Access Act 2009 (marine licensing) for any activity only if the activity is to be carried out wholly in one or more of the areas specified in subsection (2).
- (2) The areas are—
 - (a) England,
 - (b) waters adjacent to England up to the seaward limits of the territorial sea,
 - (c) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions,
 - (d) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions,
 - (e) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.

Status: Point in time view as at 11/08/2022.

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- (3) Subsections (4) and (5) apply if an order granting development consent includes provision—
- (a) deeming a marine licence to have been granted under Part 4 of the Marine and Coastal Access Act 2009 subject to specified conditions, and
 - (b) deeming those conditions to have been attached to the marine licence by the Secretary of State [^{F47} or the Welsh Ministers] under that Part.
- (4) A person who fails to comply with such a condition does not commit an offence under section 161 of this Act.
- (5) Sections 68 (notice of applications) and 69(3) and (5) (representations) of the Marine and Coastal Access Act 2009 do not apply in relation to the deemed marine licence.]

Textual Amendments

- F46** S. 149A inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 4(2)** (with s. 111); [S.I. 2011/556](#), art. 3(2)(a)
- F47** Words in s. 149A(3)(b) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 74** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(r)

150 Removal of consent requirements E+W+S

- (1) An order granting development consent may include provision the effect of which is to remove a requirement for a prescribed consent or authorisation to be granted, only if the relevant body has consented to the inclusion of the provision.
- (2) “The relevant body” is the person or body which would otherwise be required to grant the prescribed consent or authorisation.

Commencement Information

- I29** S. 150 partly in force; s. 150 in force for certain purposes at Royal Assent see s. 241
- I30** S. 150 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(h)** (with [art. 6](#))

151 Liability under existing regimes E+W+S

An order granting development consent may not include provision the effect of which is to exclude or modify the application of—

- (a) any provision of the Nuclear Installations Act 1965 (c. 57);
- (b) section 28 of, and Schedule 2 to, the Reservoirs Act 1975 (c. 23) (liability for damage and injury due to escape of water from a reservoir constructed after 1930);
- (c) section 209 of the Water Industry Act 1991 (c. 56) (civil liability of water undertakers for escapes of water from pipes);
- (d) section 48A of the Water Resources Act 1991 (c. 57) (civil remedies for loss or damage due to water abstraction).

Status: Point in time view as at 11/08/2022.

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Commencement Information

I31 S. 151 in force at 1.3.2010 by S.I. 2010/101, art. 3(h) (with art. 6)

152 Compensation in case where no right to claim in nuisance **E+W+S**

- (1) This section applies if, by virtue of section 158 or an order granting development consent, there is a defence of statutory authority in civil or criminal proceedings for nuisance in respect of any authorised works.
- (2) “Authorised works” are—
 - (a) development for which consent is granted by an order granting development consent;
 - (b) anything else authorised by an order granting development consent.
- (3) A person by whom or on whose behalf any authorised works are carried out must pay compensation to any person whose land is injuriously affected by the carrying out of the works.
- (4) A dispute as to whether compensation under subsection (3) is payable, or as to the amount of the compensation, must be referred to the [^{F48}Upper Tribunal].
- (5) Subsection (2) of section 10 of the Compulsory Purchase Act 1965 (c. 56) (limitation on compensation) applies to subsection (3) of this section as it applies to that section.
- (6) Any rule or principle applied to the construction of section 10 of that Act must be applied to the construction of subsection (3) of this section (with any necessary modifications).
- (7) Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works) applies in relation to authorised works as if—
 - (a) references in that Part to any public works were to any authorised works;
 - (b) references in that Part to the responsible authority were to the person for whose benefit the order granting development consent has effect for the time being;
 - (c) sections 1(6) and 17 were omitted.
- (8) An order granting development consent may not include provision the effect of which is to remove or modify the application of any of subsections (1) to (7).

Textual Amendments

F48 Words in s. 152(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 293](#) (with Sch. 5)

Modifications etc. (not altering text)

- C3** S. 152 applied (26.9.2012) by [The Network Rail \(Ipswich Chord\) Order 2012 \(S.I. 2012/2284\)](#), arts. 1, [19\(5\)](#) (with art. 26(2))
- C4** S. 152 applied (6.11.2012) by [The Network Rail \(North Doncaster Chord\) Order 2012 \(S.I. 2012/2635\)](#), arts. 1, [25\(5\)](#) (with art. 35(2))
- C5** S. 152 applied (21.4.2014) by [The Network Rail \(Norton Bridge Area Improvements\) Order 2014 \(S.I. 2014/909\)](#), arts. 1, [23\(5\)](#) (with art. 34(2))

Status: Point in time view as at 11/08/2022.

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- C6 S. 152 applied (18.9.2014) by The A556 (Knutstford to Bowdon Improvement) Development Consent Order 2014 (S.I. 2014/2269), arts. 1, **21(5)** (with art. 21(6))
- C7 S. 152 applied (7.1.2015) by The Willington C Gas Pipeline Order 2014 (S.I. 2014/3328), arts. 1, **19(3)(a)**
- C8 S. 152 applied (23.6.2015) by The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015 (S.I. 2015/1347), arts. 1, **24(5)** (with art. 24(6))
- C9 S. 152 applied (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **25(5)** (with arts. 51, 53)
- C10 S. 152 applied (18.2.2016) by The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016 (S.I. 2016/73), arts. 1, **22(5)** (with arts. 22(6), 37)
- C11 S. 152 applied (25.3.2016) by The Thorpe Marsh Gas Pipeline Order 2016 (S.I. 2016/297), arts. 1, **24(4)** (with arts. 24(5), 39)
- C12 S. 152 applied (7.9.2016) by The Hornsea Two Offshore Wind Farm Order 2016 (S.I. 2016/844), arts. 1(2), **21(4)** (with arts. 21(5), 37, 38)
- C13 S. 152 applied (29.3.2017) by The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330), arts. 1, **19(3)(a)** (with arts. 19(4), 31)
- C14 S. 152 applied (29.8.2017) by The East Anglia THREE Offshore Wind Farm Order 2017 (S.I. 2017/826), arts. 1, **18(4)** (with arts. 5(9), 18(5), 36, 37, Sch. 8 para. 34)
- C15 S. 152 applied (22.12.2017) by The M20 Junction 10a Development Consent Order 2017 (S.I. 2017/1202), arts. 1, **26(5)** (with arts. 4, 37)
- C16 S. 152 applied (3.10.2018) by The A19/A184 Testos Junction Alteration Development Consent Order 2018 (S.I. 2018/994), arts. 1, **24(5)** (with arts. 3(3), 5)
- C17 S. 152 applied (13.3.2019) by The Port of Tilbury (Expansion) Order 2019 (S.I. 2019/359), arts. 1, **27(4)(5)** (with arts. 55, 56)
- C18 S. 152 applied (27.2.2020) by The A30 Chiverton to Carland Cross Development Consent Order 2020 (S.I. 2020/121), arts. 1, **28(5)** (with art. 3(1))
- C19 S. 152 applied (18.6.2020) by The A63 (Castle Street Improvement, Hull) Development Consent Order 2020 (S.I. 2020/556), arts. 1, **24(5)** (with arts. 5, 44)
- C20 S. 152 applied (22.1.2021) by The Hornsea Three Offshore Wind Farm Order 2020 (S.I. 2020/1656), arts. 1, **21(4)** (with arts. 21(5), 40, 41, Sch. 9 Pt. 5 para. 18)
- C21 S. 152 applied (5.3.2022) by The Norfolk Vanguard Offshore Wind Farm Order 2022 (S.I. 2022/138), arts. 1, **21(4)** (with arts. 21(5), 41, 42, Sch. 16)
- C22 S. 152 applied (22.4.2022) by The East Anglia TWO Offshore Wind Farm Order 2022 (S.I. 2022/433), arts. 1(2), **21(4)(8)** (with arts. 21(5), 40, 41)
- C23 S. 152 applied (11.8.2022) by The Sizewell C (Nuclear Generating Station) Order 2022 (S.I. 2022/853), arts. 1, **33(4)** (with arts. 33(5)(8), 62, 76, 87)

Commencement Information

- I32 S. 152 in force at 1.3.2010 by S.I. 2010/101, **art. 3(h)** (with art. 6)

CHAPTER 2 **E+W+S**

CHANGES TO, AND REVOCATION OF, ORDERS

153 **Changes to, and revocation of, orders granting development consent** **E+W+S**

Schedule 6 (changes to, and revocation of, orders granting development consent) has effect.

Status: Point in time view as at 11/08/2022.

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Commencement Information

I33 S. 153 in force at 1.10.2011 by [S.I. 2011/2054](#), [art. 2\(b\)](#)

CHAPTER 3 **E+W+S**

GENERAL

154 Duration of order granting development consent **E+W+S**

- (1) Development for which development consent is granted must be begun before the end of—
 - (a) the prescribed period, or
 - (b) such other period (whether longer or shorter than that prescribed) as is specified in the order granting the consent.
- (2) If the development is not begun before the end of the period applicable under subsection (1), the order granting development consent ceases to have effect at the end of that period.
- (3) Where an order granting development consent authorises the compulsory acquisition of land, steps of a prescribed description must be taken in relation to the compulsory acquisition before the end of—
 - (a) the prescribed period, or
 - (b) such other period (whether longer or shorter than that prescribed) as is specified in the order.
- (4) If steps of the prescribed description are not taken before the end of the period applicable under subsection (3), the authority to compulsorily acquire the land under the order ceases to have effect.

Commencement Information

I34 S. 154 partly in force; s. 154 in force for certain purposes at Royal Assent see s. 241

I35 S. 154 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(i\)](#) (with [art. 6](#))

155 When development begins **E+W+S**

- (1) For the purposes of this Act (except Part 11) development is taken to begin on the earliest date on which any material operation comprised in, or carried out for the purposes of, the development begins to be carried out.
- (2) “Material operation” means any operation except an operation of a prescribed description.

Modifications etc. (not altering text)

C24 S. 155 modified (1.3.2010) by [The Infrastructure Planning \(Miscellaneous Prescribed Provisions\) Regulations 2010 \(S.I. 2010/105\)](#), regs. 1(1), 4

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Commencement Information

- I36** S. 155 partly in force; s. 155 in force for certain purposes at Royal Assent see s. 241
I37 S. 155 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(i\)](#) (with [art. 6](#))

156 Benefit of order granting development consent **E+W+S**

- (1) If an order granting development consent is made in respect of any land, the order has effect for the benefit of the land and all persons for the time being interested in the land.
- (2) Subsection (1) is subject to subsection (3) and any contrary provision made in the order.
- (3) To the extent that the development for which development consent is granted is development within section 17(3), the order granting the consent has effect for the benefit of a person for the time being interested in the land only if the person is a gas transporter.

Modifications etc. (not altering text)

- C25** [S. 156\(1\)](#) applied (20.2.2013) by [The Kentish Flats Extension Order 2013 \(S.I. 2013/343\)](#), [arts. 1, 7\(1\)](#) (with [arts. 13, 14](#))
C26 [S. 156\(1\)](#) applied (28.2.2013) by [The Rookery South \(Resource Recovery Facility\) Order 2011 2013 \(S.I. 2013/680\)](#), [art. 7\(1\)](#)

Commencement Information

- I38** S. 156 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(i\)](#) (with [art. 6](#))

157 Use of buildings in respect of which development consent granted **E+W+S**

- (1) If development consent is granted for development which includes the erection, extension, alteration or re-erection of a building, the order granting consent may specify the purposes for which the building is authorised to be used.
- (2) If no purpose is so specified, the consent is taken to authorise the use of the building for the purpose for which it is designed.

Commencement Information

- I39** S. 157 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(i\)](#) (with [art. 6](#))

158 Nuisance: statutory authority **E+W+S**

- (1) This subsection confers statutory authority for—
 - (a) carrying out development for which consent is granted by an order granting development consent;
 - (b) doing anything else authorised by an order granting development consent.
- (2) Statutory authority under subsection (1) is conferred only for the purpose of providing a defence in civil or criminal proceedings for nuisance.

Status: Point in time view as at 11/08/2022.

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- (3) Subsections (1) and (2) are subject to any contrary provision made in any particular case by an order granting development consent.

Modifications etc. (not altering text)

- C27** S. 158 modified (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\)](#), arts. 1, **9(4)** (with art. 33)
- C28** S. 158(1) excluded (24.7.2014) by [The Daventry International Rail Freight Interchange Alteration Order 2014 \(S.I. 2014/1796\)](#), arts. 1, **9** (with art. 24(2), Sch. 6 para. 3)
- C29** S. 158(1)(2) excluded (25.5.2020) by [The West Midlands Rail Freight Interchange Order 2020 \(S.I. 2020/511\)](#), arts. 1, **44(6)** (with art. 44(8))
- C30** S. 158(2) excluded (24.7.2014) by [The Daventry International Rail Freight Interchange Alteration Order 2014 \(S.I. 2014/1796\)](#), arts. 1, **9** (with art. 24(2), Sch. 6 para. 3)
- C31** S. 158(2) applied (29.3.2017) by [The Glyn Rhonwy Pumped Storage Generating Station Order 2017 \(S.I. 2017/330\)](#), arts. 1, **19(1)** (with art. 31)
- C32** S. 158(2) applied (10.10.2019) by [The Abergelli Power Gas Fired Generating Station Order 2019 \(S.I. 2019/1268\)](#), arts. 1, **20(1)**
- C33** S. 158(2) applied (14.4.2020) by [The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020 \(S.I. 2020/325\)](#), arts. 1, **19(1)** (with art. 7)
- C34** S. 158(2) applied (1.9.2020) by [The Immingham Open Cycle Gas Turbine Order 2020 \(S.I. 2020/847\)](#), arts. 1, **19(1)** (with Sch. 9 para. 144)

Commencement Information

- I40** S. 158 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(i)** (with art. 6)

159 Interpretation: land and rights over land **E+W+S**

- (1) This section applies for the purposes of this Part.
- (2) “Land” includes any interest in or right over land.
- (3) Acquiring a right over land includes acquiring it by the creation of a new right as well as by the acquisition of an existing one.

Commencement Information

- I41** S. 159 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(i)** (with art. 6)

Status:

Point in time view as at 11/08/2022.

Changes to legislation:

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