



Planning Act 2008

2008 CHAPTER 29

PART 9

CHANGES TO EXISTING PLANNING REGIMES

CHAPTER 1

CHANGES RELATED TO DEVELOPMENT CONSENT REGIME

Planning obligations

174 Planning obligations

- (1) TCPA 1990 is amended as follows.
- (2) In section 106 (planning obligations)—
 - (a) after subsection (1) insert—

“(1A) In the case of a development consent obligation, the reference to development in subsection (1)(a) includes anything that constitutes development for the purposes of the Planning Act 2008.”;
 - (b) in subsection (9) after paragraph (a) insert—

“(aa) if the obligation is a development consent obligation, contains a statement to that effect;”;
 - (c) after subsection (13) insert—

“(14) In this section and section 106A “development consent obligation” means a planning obligation entered into in connection with an application (or a proposed application) for an order granting development consent.”
- (3) In section 106A(11) (modification and discharge of planning obligations: meaning of “the appropriate authority”) after paragraph (a) insert—

Status: Point in time view as at 01/04/2010.

Changes to legislation: Planning Act 2008, Chapter 1 is up to date with all changes known to be in force on or before 02 September 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)

- “(aa) the Secretary of State, in the case of any development consent obligation where the application in connection with which the obligation was entered into was (or is to be) decided by the Secretary of State;
 - (ab) the Infrastructure Planning Commission, in the case of any other development consent obligation;”.
- (4) In section 106B(1) (appeals) after “an authority” insert “ (other than the Secretary of State or the Infrastructure Planning Commission) ”.
- (5) After section 106B insert—

“106C Legal challenges relating to development consent obligations

- (1) A court may entertain proceedings for questioning a failure by the Secretary of State or the Infrastructure Planning Commission to give notice as mentioned in section 106A(7) only if—
 - (a) the proceedings are brought by a claim for judicial review, and
 - (b) the claim form is filed during the period of 6 weeks beginning with the day on which the period prescribed under section 106A(7) ends.
- (2) A court may entertain proceedings for questioning a determination by the Secretary of State or the Infrastructure Planning Commission that a planning obligation shall continue to have effect without modification only if—
 - (a) the proceedings are brought by a claim for judicial review, and
 - (b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106A(7).”

Commencement Information

II S. 174 in force at 1.3.2010 by S.I. 2010/101, art. 3(k) (with art. 6)

Blighted land

175 Blighted land: England and Wales

- (1) TCPA 1990 is amended as follows.
- (2) In Schedule 13 (blighted land) after paragraph 23 insert—

- “24 Land falls within this paragraph if—
- (a) the compulsory acquisition of the land is authorised by an order granting development consent, or
 - (b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by an order granting development consent are exercisable, or
 - (c) an application for an order granting development consent seeks authority to compulsorily acquire the land.

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Land identified in national policy statements

- 25 Land falls within this paragraph if the land is in a location identified in a national policy statement as suitable (or potentially suitable) for a specified description of development.

Note

Land ceases to fall within this paragraph when the national policy statement—

- (a) ceases to have effect, or
 - (b) ceases to identify the land as suitable or potentially suitable for that description of development.”
- (3) In section 150(1)(b) (notices requiring purchase of blighted land)—
- (a) for “21 or” insert “ 21, ”,
 - (b) after “notes)” insert “ or paragraph 24 ”, and
 - (c) after “Schedule 13 and” insert “ (except in the case of land falling within paragraph 24(c) of that Schedule) ”.
- (4) In section 151 (counter-notices objecting to blight notices) after subsection (7) insert—
- “(7A) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of paragraph 25 of Schedule 13 do not include those mentioned in subsection (4)(b).”
- (5) After section 165 (power of Secretary of State to acquire land affected by orders relating to new towns etc. where blight notice served) insert—

“165A Power of Secretary of State to acquire land identified in national policy statements where blight notice served

Where a blight notice has been served in respect of land falling within paragraph 25 of Schedule 13, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.”

- (6) In section 169 (meaning of “the appropriate authority” for purposes of Chapter 2 of Part 6) after subsection (5) insert—
- “(6) In relation to land falling within paragraph 25 of Schedule 13, “the appropriate authority” is—
- (a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;
 - (b) in any other case, the Secretary of State.
- (7) If any question arises by virtue of subsection (6)—
- (a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a statutory undertaker; or
 - (b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes,
- that question shall be referred to the Secretary of State, whose decision shall be final.

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- (8) In subsections (6) and (7) “statutory undertaker” means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11.”
- (7) In section 170 (“appropriate enactment” for purposes of Chapter 2) after subsection (8) insert—
- “(8A) In relation to land falling within paragraph 24(a) or (b) of that Schedule, “the appropriate enactment” is the order granting development consent.
- (8B) In relation to land falling within paragraph 24(c) of that Schedule, “the appropriate enactment” is an order in the terms of the order applied for.
- (8C) In relation to land falling within paragraph 25 of that Schedule, “the appropriate enactment” is section 165A.”
- (8) In section 171(1) (general interpretation of Chapter 2 of Part 6) at the appropriate place insert—
- ““national policy statement” has the meaning given by section 5(2) of the Planning Act 2008;”.

Commencement Information

- I2** S. 175 in force at 1.3.2010 for E.W. in so far as not already in force by S.I. 2010/101, art. 4(f) (with art. 6)
- I3** S. 175(1)(2)(4)-(8) in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(b)

176 Blighted land: Scotland

- (1) The Town and Country Planning (Scotland) Act 1997 (c. 8) is amended as follows.
- (2) In Schedule 14 (blighted land) after paragraph 16 insert—
- “17 (1) This paragraph applies to land which relates to 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,
- where one of the following conditions is met.
- (2) The conditions are—
- (a) the compulsory acquisition of the land is authorised by an order granting development consent under the Planning Act 2008,
- (b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable,
- (c) an application for such an order seeks authority to compulsorily acquire the land.

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Land identified in national policy statements so far as relating to certain pipe-lines

18 This paragraph applies to land which is in a location identified in a national policy statement as suitable (or potentially suitable) for 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.

Note

Land ceases to be within this paragraph when the national policy statement—

- (a) ceases to have effect, or
- (b) ceases to identify the land as suitable or potentially suitable for the construction of such a pipe-line.”

(3) In section 100 (scope of Chapter 2 of Part 5) after subsection (5) insert—

“(5A) In the application of subsections (3)(a) and (4) in relation to land to which paragraph 17 or 18 of Schedule 14 applies, references to the Scottish Ministers are to be read as references to the Secretary of State.”

(4) In section 101(1)(b) (notices requiring purchase of blighted land)—

- (a) for “or 15” substitute “, 15 or 17”, and
- (b) after “Schedule 14 and” insert “ (except in the case of land falling within paragraph 17 by virtue of paragraph 17(2)(c)) ”.

(5) In section 102 (counter-notices objecting to blight notices) after subsection (7) insert—

“(7A) An objection may not be made on the ground mentioned in paragraph (b) of subsection (4) in a counter-notice to a blight notice served by virtue of paragraph 18 of Schedule 14.”

(6) After section 116 insert—

“116A Power of Secretary of State to acquire land identified in national policy statements where blight notice served

Where a blight notice has been served in respect of land falling within paragraph 18 of Schedule 14, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.”

(7) In section 120 (meaning of “the appropriate authority” for purposes of Chapter 2 of Part 5) after subsection (4) insert—

“(5) In relation to land falling within paragraph 18 of Schedule 14, “the appropriate authority” is—

- (a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;
- (b) in any other case, the Secretary of State.

(6) If any question arises by virtue of subsection (5)—

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- (a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a statutory undertaker; or
 - (b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes,
- that question shall be referred to the Secretary of State, whose decision shall be final.
- (7) In subsections (5) and (6) “statutory undertaker” means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 10.”
- (8) In section 121 (“appropriate enactment” for purposes of Chapter 2) after subsection (7) insert—
- “(7A) In relation to land falling within paragraph 17 of that Schedule by virtue of paragraph 17(2)(a) or (b), “the appropriate enactment” means the order granting development consent.
- (7B) In relation to land falling within paragraph 17 of that Schedule by virtue of paragraph 17(2)(c), “the appropriate enactment” means an order in the terms of the order applied for.
- (7C) In relation to land falling within paragraph 18 of that Schedule, “the appropriate enactment” means section 116A.”
- (9) In section 122 (general interpretation of Chapter 2 of Part 5)—
- (a) after the definition of “crofter” insert—
 - ““cross-country pipe-line” has the meaning given by section 66 of the Pipe-lines Act 1962 (c. 58);
 - “gas transporter” has the same meaning as in Part 1 of the Gas Act 1986 (see section 7(1) of that Act);”, and
 - (b) after the definition of “hereditament” insert—
 - ““national policy statement” has the meaning given by section 5(2) of the Planning Act 2008;”.

Commencement Information

- I4** S. 176 in force at 1.3.2010 for S. in so far as not already in force by S.I. 2010/101, art. 5 (with art. 6)
- I5** S. 176(1)-(3)(5)-(9) in force at 6.4.2009 for specified purposes for S. by S.I. 2009/400, art. 4(a)

Grants

177 Grants for advice and assistance: England and Wales

In section 304A(1) of TCPA 1990 (grants for assisting the provision of advice and assistance in connection with planning matters), after paragraph (b) insert—

“(ba) the Planning Act 2008;”.

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Commencement Information

I6 [S. 177](#) in force at 6.4.2009 for E.W. by [S.I. 2009/400](#), [art. 3\(c\)](#)

178 Grants for advice and assistance: Scotland

- (1) The Secretary of State may make grants for the purpose of assisting any person to provide advice and assistance in connection with any matter which is related to the application of this Act to Scotland.
- (2) The Secretary of State may, as respects any such grant, provide that it is to be subject to such terms and conditions as the Secretary of State thinks appropriate.

Commencement Information

I7 [S. 178](#) in force at 6.4.2009 by [S.I. 2009/400](#), [art. 4\(b\)](#)

Status:

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