

**Status:** Point in time view as at 25/04/2024. This version of this schedule contains provisions that are prospective.

**Changes to legislation:** Planning Act 2008, SCHEDULE 10 is up to date with all changes known to be in force on or before 01 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)

## SCHEDULES

### SCHEDULE 10 **U.K.**

Section 196

#### FURTHER PROVISIONS AS TO THE PROCEDURE FOR CERTAIN PROCEEDINGS

##### *Town and Country Planning Act 1990 (c. 8)*

1 TCPA 1990 is amended as follows.

#### Commencement Information

- I1** Sch. 10 para. 1 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)  
**I2** Sch. 10 para. 1 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

PROSPECTIVE

2 In section 77 (reference of applications to Secretary of State) for subsection (6) substitute—

“(6) Subsection (5) does not apply to—

- (a) an application for planning permission referred to a Planning Inquiry Commission under section 101; or
- (b) an application referred to the Secretary of State under this section instead of being dealt with by a local planning authority in England.”

3 In section 78(5) (appeals against failure to take planning decisions)—

- (a) for “79(1)” substitute “ 79(1) and (3) ”, and
- (b) for “and 288(10)(b)” substitute “ , 288(10)(b) and 319A(7)(b) ”.

#### Commencement Information

- I3** Sch. 10 para. 3 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

4 In section 79 (determination of appeals under section 78) for subsection (3) substitute—

“(3) Subsection (2) does not apply to—

- (a) an appeal referred to a Planning Inquiry Commission under section 101; or
- (b) an appeal against a decision of a local planning authority in England.”

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**Commencement Information**

**I4** Sch. 10 para. 4 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

- 5 In section 175 (supplementary provisions about appeals against enforcement notices) after subsection (3) insert—
- “(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.”

**Commencement Information**

**I5** Sch. 10 para. 5 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

- 6 In section 176(4) (determination of appeals: disapplication of section 175(3))—
- (a) after “If” insert “ section 175(3) would otherwise apply and ”, and
- (b) after “subsection (3)” insert “ of this section ”.

**Commencement Information**

**I6** Sch. 10 para. 6 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

- 7 In section 195(5) (appeals against failure to give decision on application under section 191 or 192) for “section 288(10)(b)” substitute “ sections 196(1A), 288(10)(b) and 319A(7)(d) ”.

**Commencement Information**

**I7** Sch. 10 para. 7 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

- 8 (1) Amend section 196 (further provision as to appeals to Secretary of State under section 195) as follows.
- (2) After subsection (1) insert—
- “(1A) Subsection (1) does not apply to an appeal against a decision of a local planning authority in England.”
- (3) In subsection (2) for “such an appeal” substitute “ an appeal under section 195(1) ”.

**Commencement Information**

**I8** Sch. 10 para. 8 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

PROSPECTIVE

- 9 (1) Amend section 208 (appeals against notices under section 207) as follows.
- (2) After subsection (5) insert—

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“(5A) Subsection (5) does not apply to an appeal against a notice issued by a local planning authority in England.”

(3) In subsection (6) for “such an appeal is brought” substitute “ an appeal is brought under subsection (1) ”.

10 In section 322 (orders as to costs of parties where no local inquiry held) after subsection (1) insert—

“(1A) This section also applies to proceedings under this Act to which section 319A applies.”

#### Commencement Information

**I9** Sch. 10 para. 10 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

**I10** Sch. 10 para. 10 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

11 In section 322A (orders as to costs: supplementary) after subsection (1) insert—

“(1A) This section also applies where—

- (a) arrangements are made for a local inquiry or a hearing to be held pursuant to a determination under section 319A;
- (b) the inquiry or hearing does not take place; and
- (c) if it had taken place, the Secretary of State or a person appointed by the Secretary of State would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay any costs of any other party.”

#### Commencement Information

**I11** Sch. 10 para. 11 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

**I12** Sch. 10 para. 11 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

12 (1) Amend section 323 (procedure on certain appeals and applications) as follows.

(2) After subsection (1) insert—

“(1A) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act which, pursuant to a determination under section 319A, are to be considered on the basis of representations in writing.”

(3) In subsections (2) and (3) for “The regulations may” substitute “ Regulations under this section may ”.

(4) In subsection (2)(a) for “such an inquiry or hearing” substitute “ an inquiry or hearing to which rules under section 9 of the Tribunals and Inquiries Act 1992 would apply ”.

#### Commencement Information

**I13** Sch. 10 para. 12 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

**I14** Sch. 10 para. 12 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

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- 13 (1) Amend section 333 (regulations and orders) as follows.
- (2) In subsection (4) for “and 319” substitute “, 319 and 319A(9)”.
- (3) After subsection (5) insert—
- “(5A) No order may be made under section 319A(9) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.”

**Commencement Information**

**I15** Sch. 10 para. 13 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

**I16** Sch. 10 para. 13 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

- 14 (1) Amend Schedule 6 (determination of certain appeals by person appointed by Secretary of State) as follows.
- (2) In paragraph 2 for sub-paragraph (5) substitute—
- “(5) Sub-paragraph (2) does not apply—
- (a) in the case of an appeal to which section 319A applies; or
- (b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101.”
- (3) After sub-paragraph (9) of that paragraph insert—
- “(10) Sub-paragraph (9) does not apply to references to the Secretary of State in section 319A (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings).”
- (4) In paragraph 3 for sub-paragraph (5) substitute—
- “(5) Sub-paragraph (4) does not apply—
- (a) in the case of an appeal to which section 319A applies; or
- (b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101.
- (5A) In the case of an appeal to which section 319A applies, the Secretary of State must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”
- (5) In sub-paragraph (6) of that paragraph after “(4)” insert “ or (5A) ”.
- (6) In paragraph 6 after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) does not apply in the case of an appeal to which section 319A applies; but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.”
- (7) In sub-paragraph (2)(a) of that paragraph after “2(4)” insert “ or this paragraph ”.

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### Commencement Information

**I17** Sch. 10 para. 14 in force at 6.4.2009 for specified purposes for E.W. by S.I. 2009/400, art. 3(j)

**I18** Sch. 10 para. 14 in force at 25.4.2024 for specified purposes by S.I. 2024/452, reg. 2(b)

## PROSPECTIVE

### *Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

- 15 The Listed Buildings Act is amended as follows.
- 16 In section 12 (reference of applications to Secretary of State) after subsection (4) insert—
- “(4A) Subsection (4) does not apply to an application referred to the Secretary of State under this section instead of being dealt with by a local planning authority in England.”
- 17 In section 20(4) (right of appeal in case of failure to give notice of decision) for “22(1) and 63(7)(b)” substitute “ 22(1) and (2A), 63(7)(b) and 88D(7)(b) ”.
- 18 (1) Amend section 22 (determination of appeals under section 20) as follows.
- (2) After subsection (2) insert—
- “(2A) Subsection (2) does not apply to an appeal against a decision of a local planning authority in England.”
- (3) In subsection (3) for “the appeal” substitute “ an appeal under section 20 ”.
- 19 In section 40 (supplementary provisions about appeals against listed building enforcement notices) after subsection (2) insert—
- “(2A) Subsection (2) does not apply to an appeal against a listed building enforcement notice issued by a local planning authority in England.”
- 20 In section 41(4) (determination of appeals: disapplication of section 40(2))—
- (a) after “If” insert “ section 40(2) would otherwise apply and ”, and
- (b) after “subsection (3)” insert “ of this section ”.
- 21 In section 74(3) (application of certain provisions in relation to buildings in conservation areas) after “82D” insert “ , 88D ”.
- 22 In section 89 (application of certain general provisions of TCPA 1990) after subsection (1) insert—
- “(1ZA) In the application of sections 322, 322A and 323 of that Act by virtue of this section, references to section 319A of that Act shall have effect as references to section 88D of this Act.”
- 23 (1) Amend section 93 (regulations and orders) as follows.
- (2) In subsection (4) after “75(7)” insert “ , 88D(8) ”.
- (3) After subsection (5) insert—

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- “(5A) No order may be made under section 88D(8) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.”
- 24 (1) Amend Schedule 3 (determination of certain appeals by person appointed by Secretary of State) as follows.
- (2) In paragraph 2 after sub-paragraph (4) insert—
- “(4A) Sub-paragraph (2) does not apply in the case of an appeal to which section 88D applies.”
- (3) After sub-paragraph (8) of that paragraph insert—
- “(9) Sub-paragraph (8) does not apply to references to the Secretary of State in section 88D (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings).”
- (4) In paragraph 3 after sub-paragraph (4) insert—
- “(4A) Sub-paragraph (4) does not apply in the case of an appeal to which section 88D applies.
- (4B) In the case of an appeal to which section 88D applies, the Secretary of State must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”
- (5) In sub-paragraph (5) of that paragraph after “(4)” insert “ or (4B) ”.
- (6) In paragraph 6 after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) does not apply in the case of an appeal to which section 88D applies; but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.”
- (7) In sub-paragraph (2)(a) of that paragraph after “2(4)” insert “ or this paragraph ”.

PROSPECTIVE

*Planning (Hazardous Substances) Act 1990 (c. 10)*

- 25 The Hazardous Substances Act is amended as follows.
- 26 In section 20 (reference of applications to Secretary of State) after subsection (4) insert—
- “(4A) Subsection (4) does not apply to an application referred to the Secretary of State under this section instead of being dealt with by a hazardous substances authority in England.”
- 27 In section 21 (appeals against decisions or failure to take decisions relating to hazardous substances) after subsection (5) insert—

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- 28 “(5A) Subsection (5) does not apply to an appeal against a decision of a hazardous substances authority in England.”
- In section 25(1) (appeals against hazardous substances contravention notices)—
- (a) in paragraph (b)(v) after “principal Act” insert “ and section 21A of this Act ”, and
- (b) in paragraph (c) for “that Act” substitute “ the principal Act ”.
- 29 In section 37 (application of certain general provisions of TCPA 1990) after subsection (2) insert—
- “(3) In the application of sections 322, 322A and 323 of that Act by virtue of this section, references to section 319A of that Act shall have effect as references to section 21A of this Act.”
- 30 (1) Amend the Schedule (determination of appeals by person appointed by Secretary of State) as follows.
- (2) In paragraph 2 after sub-paragraph (4) insert—
- “(4A) Sub-paragraph (2) does not apply to an appeal against a decision of a hazardous substances authority in England.”
- (3) After sub-paragraph (8) of that paragraph insert—
- “(9) Sub-paragraph (8) does not apply to references to the Secretary of State in section 21A (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings).”
- (4) In paragraph 3 after sub-paragraph (4) insert—
- “(4A) Sub-paragraph (4) does not apply in the case of an appeal against a decision of a hazardous substances authority in England.
- (4B) In the case of an appeal to which section 21A applies, the Secretary of State must give the appellant, the hazardous substances authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”
- (5) In sub-paragraph (5) of that paragraph after “(4)” insert “ or (4B) ”.
- (6) In paragraph 6 after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) does not apply in the case of an appeal against a decision of a hazardous substances authority in England; but an appointed person may hold a hearing or a local inquiry in connection with such an appeal pursuant to a determination under section 21A.”
- (7) In sub-paragraphs (2)(a) and (3)(a) of that paragraph after “2(4)” insert “ or this paragraph ”.

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