



# Growth and Infrastructure Act 2013

## 2013 CHAPTER 27

An Act to make provision in connection with facilitating or controlling the following, namely, the provision or use of infrastructure, the carrying-out of development, and the compulsory acquisition of land; to make provision about when rating lists are to be compiled; to make provision about the rights of employees of companies who agree to be employee shareholders; and for connected purposes. [25th April 2013]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Promoting growth and facilitating provision of infrastructure, and related matters*

#### **1 Option to make planning application directly to Secretary of State**

(1) In the Town and Country Planning Act 1990, after section 62 insert—

##### **“62A When application may be made directly to Secretary of State**

- (1) A relevant application that would otherwise have to be made to the local planning authority may (if the applicant so chooses) be made instead to the Secretary of State if the following conditions are met at the time it is made—
- (a) the local planning authority concerned is designated by the Secretary of State for the purposes of this section; and
  - (b) the development to which the application relates (where the application is within subsection (2)(b)(i)), or the development for which outline planning permission has been granted (where the application is within subsection (2)(b)(ii)), is major development.
- (2) In this section—
- (a) “major development” means development of a description prescribed by the Secretary of State;

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- (b) “relevant application” means—
  - (i) an application for planning permission for the development of land in England, other than an application of the kind described in section 73(1); or
  - (ii) an application for approval of a matter that, as defined by section 92, is a reserved matter in the case of an outline planning permission for the development of land in England.
- (3) Where a relevant application is made to the Secretary of State under this section, an application under the planning Acts—
  - (a) that is—
    - (i) an application for listed building consent, or for conservation area consent, under the Planning (Listed Buildings and Conservation Areas) Act 1990, or
    - (ii) an application of a description prescribed by the Secretary of State,
  - (b) that is considered by the person making the application to be connected with the relevant application,
  - (c) that would otherwise have to be made to the local planning authority or hazardous substances authority,
  - (d) that is neither a relevant application nor an application of the kind described in section 73(1), and
  - (e) that relates to land in England,
 may (if the person so chooses) be made instead to the Secretary of State.
- (4) If an application (“the connected application”) is made to the Secretary of State under subsection (3) but the Secretary of State considers that it is not connected with the relevant application concerned, the Secretary of State may—
  - (a) refer the connected application to the local planning authority, or hazardous substances authority, to whom it would otherwise have been made; and
  - (b) direct that the connected application—
    - (i) is to be treated as having been made to that authority (and not to the Secretary of State under this section), and
    - (ii) is to be determined by that authority accordingly.
- (5) The decision of the Secretary of State on an application made to the Secretary of State under this section shall be final.
- (6) The Secretary of State may give directions requiring a local planning authority or hazardous substances authority to do things in relation to an application made to the Secretary of State under this section that would otherwise have been made to the authority; and directions under this subsection—
  - (a) may relate to a particular application or to applications more generally; and
  - (b) may be given to a particular authority or to authorities more generally.

### **62B Designation for the purposes of section 62A**

- (1) An authority may be designated for the purposes of section 62A only if—

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- (a) the criteria that are to be applied in deciding whether to designate the authority are set out in a document to which subsection (2) applies,
  - (b) by reference to those criteria, the Secretary of State considers that there are respects in which the authority are not adequately performing their function of determining applications under this Part, and
  - (c) the criteria that are to be applied in deciding whether to revoke a designation are set out in a document to which subsection (2) applies.
- (2) This subsection applies to a document if—
- (a) the document has been laid before Parliament by the Secretary of State,
  - (b) the 40-day period for the document has ended without either House of Parliament having during that period resolved not to approve the document, and
  - (c) the document has been published (whether before, during or after the 40-day period for it) by the Secretary of State in such manner as the Secretary of State thinks fit.
- (3) In this section “the 40-day period” for a document is the period of 40 days beginning with the day on which the document is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the two days on which it is laid).
- (4) In calculating the 40-day period for a document, no account is to be taken of any period during which—
- (a) Parliament is dissolved or prorogued, or
  - (b) both Houses of Parliament are adjourned for more than four days.
- (5) None of the following may be designated for the purposes of section 62A—
- (a) the Homes and Communities Agency;
  - (b) the Mayor of London;
  - (c) a Mayoral development corporation;
  - (d) an urban development corporation.
- (6) The Secretary of State must publish (in such manner as the Secretary of State thinks fit)—
- (a) any designation of an authority for the purposes of section 62A, and
  - (b) any revocation of such a designation.

### **62C Notifying parish councils of applications under section 62A(1)**

- (1) If an application is made to the Secretary of State under section 62A(1) and a parish council would be entitled under paragraph 8 of Schedule 1 to be notified of the application were it made to the local planning authority, the Secretary of State must notify the council of—
- (a) the application, and
  - (b) any alteration to the application accepted by the Secretary of State.
- (2) Paragraph 8(4) and (5) of Schedule 1 apply in relation to duties of the Secretary of State under subsection (1) as they apply to duties of a local planning authority under paragraph 8(1) of that Schedule.

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- (3) An authority designated for the purposes of section 62A must comply with requests from the Secretary of State for details of requests received by the authority under paragraph 8(1) of Schedule 1.”
- (2) Schedule 1 (amendments related to applications made under the new section 62A, including provision for such applications to be determined by a person appointed for the purpose unless the Secretary of State otherwise directs) has effect.

#### Commencement Information

- I1** S. 1 partly in force; s. 1(1) in force for specified purposes at Royal Assent, see s. 35(2)
- I2** S. 1 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2
- I3** S. 1 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

## 2 Planning proceedings: costs etc

- (1) In section 320 of the Town and Country Planning Act 1990 (local inquiries), at the end insert—
- “(3) In its application by subsection (2) to an inquiry held in England, section 250(4) of that Act has effect as if—
- (a) after “the costs incurred by him in relation to the inquiry” there were inserted “, or such portion of those costs as he may direct, ”, and
- (b) after “the amount of the costs so incurred” there were inserted “ or, where he directs a portion of them to be paid, the amount of that portion ”.”
- (2) In section 322 of that Act (orders as to costs of parties where no local inquiry held), after subsection (1A) insert—
- “(1B) Section 250(4) of the Local Government Act 1972 applies to costs incurred by the Secretary of State, or a person appointed by the Secretary of State, in relation to proceedings in England to which this section applies which do not give rise to a local inquiry as it applies to costs incurred in relation to a local inquiry.
- (1C) In its application for that purpose, section 250(4) of that Act has effect as if—
- (a) after “the costs incurred by him in relation to the inquiry” there were inserted “, or such portion of those costs as he may direct, ”, and
- (b) after “the amount of the costs so incurred” there were inserted “ or, where he directs a portion of them to be paid, the amount of that portion ”.
- (1D) Section 42 of the Housing and Planning Act 1986 (recovery of Minister's costs) applies to costs incurred in relation to proceedings in England to which this section applies which do not give rise to a local inquiry as it applies to costs incurred in relation to an inquiry.”
- (3) In section 322A of that Act (costs orders: supplementary), after subsection (2) insert—
- “(3) Where this section applies in the case of an inquiry or hearing which was to take place in England but did not, section 250(4) of that Act applies to costs

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incurred by the Secretary of State or a person appointed by the Secretary of State as if—

- (a) in the case of an inquiry, the inquiry had taken place;
  - (b) in the case of a hearing, the hearing were an inquiry which had taken place.
- (4) In its application for that purpose, section 250(4) of that Act has effect as if—
  - (a) after “the costs incurred by him in relation to the inquiry” there were inserted “, or such portion of those costs as he may direct, ”, and
  - (b) after “the amount of the costs so incurred” there were inserted “ or, where he directs a portion of them to be paid, the amount of that portion ”.
- (5) Section 42 of the Housing and Planning Act 1986 (recovery of Minister's costs) applies to costs incurred in relation to a hearing of the kind referred to in subsection (1) or (1A) which was to take place in England but did not as it applies to costs incurred in relation to an inquiry which was to take place but did not.”
- (4) In section 322B of that Act (local inquiries in London: costs), in the subsection set out in subsection (5)—
  - (a) after “the costs incurred by the Secretary of State in relation to the inquiry” insert “, or such portion of those costs as he may direct, ”, and
  - (b) after “the amount of the costs so incurred” insert “ or, where he directs a portion of them to be paid, the amount of that portion ”.
- (5) In section 323 of that Act (power to make provision about procedure in cases where no inquiry or hearing etc), after subsection (3) insert—
  - “(4) Regulations made by the Secretary of State under this section may include provision as to the circumstances in which, in proceedings in England such as are mentioned in subsection (1) or (1A)—
    - (a) directions may be given under section 250(4) of the Local Government Act 1972 as applied by a prescribed provision of this Act;
    - (b) orders for costs may be made under section 250(5) of that Act as so applied.”
- (6) In section 9 of the Tribunals and Inquiries Act 1992 (power to make provision about procedure in inquiries and hearings), after subsection (3) insert—
  - “(3ZA) Rules made by the Lord Chancellor under this section may include provision as to the circumstances in which, in statutory inquiries held in England—
    - (a) directions may be given under section 250(4) of the Local Government Act 1972 as applied by a provision of the Town and Country Planning Act 1990 specified in the rules;
    - (b) orders for costs may be made under section 250(5) of the Local Government Act 1972 as so applied.”
- (7) In Schedule 6 to the Town and Country Planning Act 1990 (determination of certain appeals by person appointed by the Secretary of State), in paragraph 2, after subparagraph (10) insert—

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“(11) The Secretary of State may, if he thinks fit, direct that anything in connection with an appeal in England to which this Schedule applies which would otherwise fall to be done by an appointed person shall instead be done by the Secretary of State.”

#### Commencement Information

- I4** S. 2(1)-(6) in force at 1.10.2013 by S.I. 2013/2143, art. 2(b)  
**I5** S. 2(7) in force at 25.6.2013 by S.I. 2013/1488, art. 3(a)

### 3 Compulsory purchase inquiries: costs

In section 5 of the Acquisition of Land Act 1981 (public local inquiries), after subsection (3) insert—

- “(4) In relation to each of the matters mentioned in paragraphs (a) and (b) of subsection (3), section 250(5) of the Local Government Act 1972 also applies—
- (a) where arrangements are made for a public local inquiry to be held in England in pursuance of this Act but the inquiry does not take place;
  - (b) to the costs of a party to a public local inquiry held in England in pursuance of this Act who does not attend the inquiry.”

#### Commencement Information

- I6** S. 3 in force at 25.6.2013 by S.I. 2013/1488, art. 3(b)

### 4 Permitted development rights: prior approvals

(1) In section 60 of the Town and Country Planning Act 1990 (planning permission granted by development order) after subsection (2) insert—

- “(2A) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for development consisting of a change in the use of land in England, the order may require the approval of the local planning authority, or of the Secretary of State, to be obtained—
- (a) for the use of the land for the new use;
  - (b) with respect to matters that relate to the new use and are specified in the order.
- (2B) Without prejudice to the generality of subsection (1), a development order may include provision for ensuring—
- (a) that, before a person in reliance on planning permission granted by the order carries out development of land in England that is a dwelling house or is within the curtilage of a dwelling house—
    - (i) a written description, and a plan, of the proposed development are given to the local planning authority,
    - (ii) notice of the proposed development, and of the period during which representations about it may be made to the local planning authority, is served by the local planning authority on the owner or occupier of any adjoining premises, and

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- (iii) that period has ended, and
  - (b) that, where within that period an owner or occupier of any adjoining premises objects to the proposed development, it may be carried out in reliance on the permission only if the local planning authority consider that it would not have an unacceptable impact on the amenity of adjoining premises.
- (2C) In subsection (2B) “adjoining premises” includes any land adjoining—
- (a) the dwelling house concerned, or
  - (b) the boundary of its curtilage.”
- (2) In section 70A(5) of that Act (“relevant application” includes an application for approval under section 60(2)) after “60(2)” insert “, (2A) or (2B) ”.

VALID FROM 09/12/2013

## **5 Local development orders: repeal of pre-adoption intervention powers**

- (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) Section 61B(1) to (7) (Secretary of State or Welsh Ministers may call in unadopted local development order for approval or may direct that it be modified) cease to apply in relation to England.
- (3) Accordingly—
  - (a) in section 61B(1) (power to call in unadopted order) after “local planning authority” insert “ in Wales, ”, and
  - (b) in section 61B(6) (power to direct that unadopted order be modified) after “local development order” insert “ being prepared by a local planning authority in Wales ”.
- (4) In section 61B, after subsection (7) insert—

“(7A) Where a local development order is adopted by a local planning authority in England, that authority must submit a copy of the order to the appropriate authority as soon after the order's adoption as is reasonably practicable.”
- (5) In paragraph 1 of Schedule 4A (power to specify procedure for preparing local development orders) after sub-paragraph (2) insert—

“(2A) Sub-paragraph (2)(a) applies in relation to England as if for “submission, approval, adoption,” there were substituted “ adoption, post-adoption submission, ”.”
- (6) In Schedule 4A omit—
  - (a) paragraph 4 (information about local development orders to be included in English planning authorities' monitoring reports under section 35 of the Planning and Compulsory Purchase Act 2004), and
  - (b) in paragraph 1(3), the words “35 or”.

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## 6 Limits on power to require information with planning applications

In section 62 of the Town and Country Planning Act 1990 (applications for planning permission) after subsection (4) (limitation of power under section 62(3) to require inclusion of particulars and evidence in an application) insert—

“(4A) Also, a requirement under subsection (3) in respect of an application for planning permission for development of land in England—

- (a) must be reasonable having regard, in particular, to the nature and scale of the proposed development; and
- (b) may require particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration in the determination of the application.”

### Commencement Information

I7 S. 6 in force at 25.6.2013 by S.I. 2013/1488, art. 3(c)

## 7 Modification or discharge of affordable housing requirements

(1) After section 106B of the Town and Country Planning Act 1990 insert—

### “106BA Modification or discharge of affordable housing requirements

- (1) This section applies in relation to an English planning obligation that contains an affordable housing requirement.
- (2) A person against whom the affordable housing requirement is enforceable may apply to the appropriate authority—
  - (a) for the requirement to have effect subject to modifications,
  - (b) for the requirement to be replaced with a different affordable housing requirement,
  - (c) for the requirement to be removed from the planning obligation, or
  - (d) in a case where the planning obligation consists solely of one or more affordable housing requirements, for the planning obligation to be discharged.
- (3) Where an application is made to an authority under subsection (2) and is the first such application in relation to the planning obligation—
  - (a) if the affordable housing requirement means that the development is not economically viable, the authority must deal with the application in accordance with subsection (5) so that the development becomes economically viable, or
  - (b) if paragraph (a) does not apply, the authority must determine that the affordable housing requirement is to continue to have effect without modification or replacement.
- (4) Where an application is made to an authority under subsection (2) and is the second or a subsequent such application in relation to the planning obligation, the authority may—
  - (a) deal with the application in accordance with subsection (5), or



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- (b) determine that the affordable housing requirement is to continue to have effect without modification or replacement.
- (5) The authority may—
- (a) determine that the requirement is to have effect subject to modifications,
  - (b) determine that the requirement is to be replaced with a different affordable housing requirement,
  - (c) determine that the planning obligation is to be modified to remove the requirement, or
  - (d) where the planning obligation consists solely of one or more affordable housing requirements, determine that the planning obligation is to be discharged.
- (6) A determination under subsection (5)(a), (b) or (c)—
- (a) may provide for the planning obligation to be modified in accordance with the application or in some other way,
  - (b) may not have the effect that the obligation as modified is more onerous in its application to the applicant than in its unmodified form, and
  - (c) may not have the effect that an obligation is imposed on a person other than the applicant or that the obligation as modified is more onerous in its application to such a person than in its unmodified form.
- (7) Subsection (6)(b) does not apply to a determination in response to the second or a subsequent application under this section in relation to the planning obligation; but such a determination may not have the effect that the development becomes economically unviable.
- (8) In making a determination under this section the authority must have regard to—
- (a) guidance issued by the Secretary of State, and
  - (b) where the determination relates to an application to which section 106BB applies, any representations made by the Mayor of London in accordance with that section.
- (9) The authority must give notice of their determination to the applicant—
- (a) within such period as may be prescribed by the Secretary of State, or
  - (b) if no period is prescribed under paragraph (a) (and subject to section 106BB(5)), within the period of 28 days beginning with the day on which the application is received, or such longer period as is agreed in writing between the applicant and the authority.
- (10) Where an authority determine under this section that a planning obligation is to have effect subject to modifications, the obligation as modified is to be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.
- (11) The Secretary of State may by regulations make provision with respect to—
- (a) the form and content of applications under subsection (2), and
  - (b) the notices to be given to applicants of determinations under subsection (9).

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- (12) This section and section 106BC do not apply in relation to an English planning obligation if planning permission for the development was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites.
- (13) In this section and section 106BC—
- “affordable housing requirement” means a requirement relating to the provision of housing that is or is to be made available for people whose needs are not adequately served by the commercial housing market (and it is immaterial for this purpose where or by whom the housing is or is to be provided);
- “the appropriate authority” has the same meaning as in section 106A;
- “the development”, in relation to a planning obligation, means the development authorised by the planning permission to which the obligation relates;
- “English planning obligation” means a planning obligation that—
- (a) identifies a local planning authority in England as an authority by whom the obligation is enforceable, and
  - (b) does not identify a local planning authority in Wales as such an authority.
- (14) The Secretary of State may by order amend this section so as to modify the definition of “affordable housing requirement” in subsection (13).
- (15) An order under subsection (14) may have effect for the purposes of planning obligations entered into before (as well as after) its coming into force.
- (16) The Mayor of London must consult the local planning authority before exercising any function under this section.

**106BB Duty to notify the Mayor of London of certain applications under section 106BA**

- (1) This section applies to an application under section 106BA(2) in relation to a planning obligation where—
- (a) the application for the planning permission to which the planning obligation relates was an application to which section 2A applied (applications of potential strategic importance relating to land in Greater London),
  - (b) the application for planning permission was not determined by the Mayor of London, and
  - (c) pursuant to an order under section 2A or a development order, the local planning authority that determined the application for planning permission were required to consult the Mayor of London in relation to that determination.
- (2) A local planning authority that receive an application to which this section applies must send a copy of the application to the Mayor of London before the end of the next working day following the day on which the application was received.

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In this subsection, “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

- (3) The Mayor of London must notify the local planning authority before the end of the period of 7 days beginning with the day on which the application was received by the authority whether the Mayor intends to make representations about the application.
- (4) Where pursuant to subsection (3) the Mayor of London notifies the local planning authority that the Mayor intends to make representations, those representations must be made before—
  - (a) the end of the period of 14 days beginning with the day on which the application was received by the authority, or
  - (b) the end of such longer period as may be agreed in writing between the authority and the Mayor.
- (5) Where this section applies, section 106BA(9)(b) applies as if it required an authority to give notice of their determination to an applicant within—
  - (a) the period of 35 days beginning with the day on which the application was received by the authority, or
  - (b) such longer period as is agreed in writing between the applicant and the authority.

#### **106BC Appeals in relation to applications under section 106BA**

- (1) Where an authority other than the Secretary of State—
  - (a) fail to give notice as mentioned in section 106BA(9),
  - (b) determine under section 106BA that a planning obligation is to continue to have effect without modification, or
  - (c) determine under that section that a planning obligation is to be modified otherwise than in accordance with an application under that section,the applicant may appeal to the Secretary of State.
- (2) For the purposes of an appeal under subsection (1)(a), it is to be assumed that the authority have determined that the planning obligation is to continue to have effect without modification.
- (3) An appeal under this section must be made by notice served within such period as may be prescribed by the Secretary of State.
- (4) If no period is prescribed under subsection (3), an appeal under this section must be made—
  - (a) in relation to an appeal under subsection (1)(a), within the period of 6 months beginning with the expiry of the period mentioned in section 106BA(9) that applies in the applicant's case, or
  - (b) otherwise, within the period of 6 months beginning with the date on which notice of the determination is given to the applicant under section 106BA(9).
- (5) An appeal under this section must be made by notice served in such manner as may be prescribed by the Secretary of State.

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- (6) Subsections (3) to (8), (10) and (11) of section 106BA apply in relation to an appeal under this section as they apply in relation to an application to an authority under that section, subject to subsections (7) to (15) below.
- (7) References to the affordable housing requirement or the planning obligation are to the requirement or obligation as it stood immediately before the application under section 106BA to which the appeal relates.
- (8) References to the first, the second or a subsequent application in relation to a planning obligation are to an appeal under this section against a determination on the first, the second or a subsequent application in relation to the obligation (whether or not it is the first such appeal).
- (9) Section 106BA(5)(d) (discharge of affordable housing requirement) does not apply in relation to an appeal under this section.
- (10) Subsection (11) applies if, on an appeal under this section, the Secretary of State—
  - (a) does not uphold the determination under section 106BA to which the appeal relates (if such a determination has been made), and
  - (b) determines that the planning obligation is to be modified in accordance with section 106BA(5)(a), (b) or (c).
- (11) The Secretary of State must also determine that the planning obligation is to be modified so that it provides that, if the development has not been completed before the end of the relevant period, the obligation is treated as containing the affordable housing requirement or requirements it contained immediately before the first application under section 106BA in relation to the obligation, subject to the modifications within subsection (12).
- (12) Those modifications are—
  - (a) the modifications necessary to ensure that, if the development has been commenced before the end of the relevant period, the requirement or requirements apply only in relation to the part of the development that is not commenced before the end of that period, and
  - (b) such other modifications as the Secretary of State considers necessary or expedient to ensure the effectiveness of the requirement or requirements at the end of that period.
- (13) In subsections (11) and (12) “relevant period” means the period of three years beginning with the date when the applicant is notified of the determination on the appeal.
- (14) Section 106BA and this section apply in relation to a planning obligation containing a provision within subsection (11) as if—
  - (a) the provision were an affordable housing requirement, and
  - (b) a person against whom the obligation is enforceable were a person against whom that requirement is enforceable.
- (15) If subsection (11) applies on an appeal relating to a planning obligation that already contains a provision within that subsection—
  - (a) the existing provision within subsection (11) ceases to have effect, but
  - (b) that subsection applies again to the obligation.

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- (16) The determination of an appeal by the Secretary of State under this section is to be final.
  - (17) Schedule 6 applies to appeals under this section.
  - (18) In the application of Schedule 6 to an appeal under this section in a case where the authority mentioned in subsection (1) is the Mayor of London, references in that Schedule to the local planning authority are references to the Mayor of London.”
- (2) Schedule 2 (amendments relating to this section) has effect.
  - (3) The amendments made by this section and that Schedule apply in relation to planning obligations within the meaning of section 106 of the Town and Country Planning Act 1990 entered into before (as well as after) the coming into force of this section.
  - (4) Sections 106BA, 106BB and 106BC of the Town and Country Planning Act 1990, and subsection (5) of this section, are repealed at the end of 30 April 2016.
  - (5) The Secretary of State may by order amend subsection (4) by substituting a later date for the date for the time being specified in that subsection.
  - (6) The Secretary of State may by order make transitional or transitory provision or savings relating to any of the repeals made by subsection (4).

## **8 Disposals of land held for planning purposes**

- (1) In the Town and Country Planning Act 1990, section 233 (disposal by local authorities of land held for planning purposes) is amended as follows.
- (2) After subsection (3) (Secretary of State's consent required for certain disposals for consideration less than the best that can reasonably be obtained) insert—
  - “(3A) The Secretary of State may give consent under subsection (3)—
    - (a) in relation to any particular disposal or disposals, or in relation to a particular class of disposals,
    - (b) in relation to local authorities generally, or local authorities of a particular class, or to any particular local authority or authorities, and
    - (c) either unconditionally or subject to conditions (either generally, or in relation to any particular disposal or disposals or class of disposals).”
- (3) After subsection (8) (exclusion of section 123 of the Local Government Act 1972) insert—
  - “(9) Section 128(2) of the Local Government Act 1972 (which already gives protection to purchasers etc in respect of certain land transactions, including disposals under this section by certain authorities) applies in relation to every disposal of land under this section by a local authority for an area in England; and section 29 of the Town and Country Planning Act 1959 does not apply in relation to such a disposal.”

### **Commencement Information**

**18** S. 8 in force at 25.6.2013 for E. by S.I. 2013/1124, art. 3

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*Status: Point in time view as at 01/12/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Growth and Infrastructure Act 2013. (See end of Document for details)*

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## 9 Electronic communications code: the need to promote growth

- (1) In section 109(2) of the Communications Act 2003 (matters to which Secretary of State must have regard when making regulations about conditions and restrictions on application of electronic communications code), after paragraph (b) insert—

“(ba) the need to promote economic growth in the United Kingdom;”.

- (2) In section 109 of that Act (regulations specifying the restrictions and conditions subject to which the electronic communications code is to apply) after subsection (2) insert—

“(2A) Subsection (2B) applies if—

- (a) the Secretary of State has complied with subsection (2)(b) in connection with any particular exercise before 6 April 2018 of the power to make regulations under this section, and
- (b) the regulations in question are expressed to cease to have effect (other than for transitional purposes) before that date.

- (2B) The Secretary of State is to be treated as also having complied with any duty imposed in connection with that exercise of that power by any of the following—

section 11A(2) of the National Parks and Access to the Countryside Act 1949;

section 85(1) of the Countryside and Rights of Way Act 2000;

section 17A(1) of the Norfolk and Suffolk Broads Act 1988;

section 14 of the National Parks (Scotland) Act 2000 (asp 10);

Article 4(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (S.I. 1985/170 (N.I. 1)).”

- (3) For the purposes of its application to section 17A of the Norfolk and Suffolk Broads Act 1988, the definition of “statutory undertaker” in section 25(1) of that Act is until 6 April 2018 to be read as if paragraph (d) were omitted.

- (4) Consultation undertaken for the purposes of section 109(4) of the Communications Act 2003 in anticipation of the commencement of this section (including consultation undertaken before the passing of this Act) is as effective as consultation undertaken after that commencement.

## 10 Periodic review of mineral planning permissions

- (1) Schedule 3 (periodic review of mineral planning permissions) has effect.
- (2) The amendments made by that Schedule apply in relation to mineral permissions granted before (as well as after) its coming into force, subject to subsection (3).
- (3) Those amendments do not apply in relation to a periodic review under Schedule 14 to the Environment Act 1995 of the mineral permissions relating to a mining site which is begun but not completed before the coming into force of Schedule 3.
- (4) For the purposes of subsection (3) a periodic review is begun when a notice is served under paragraph 4 of Schedule 14 to the Environment Act 1995 in connection with the review, and is completed—
- (a) when an application under paragraph 6 of that Schedule in connection with the review is finally determined, or

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**Changes to legislation:** There are currently no known outstanding effects for the Growth and Infrastructure Act 2013. (See end of Document for details)

- (b) if no such application is made, when the mineral permissions cease to have effect in accordance with paragraph 7 of that Schedule.
- (5) Subsection (3) does not affect the determination under Schedule 14 to the Environment Act 1995 as amended by Schedule 3 of the date of any subsequent periodic review by reference to a periodic review within that subsection.
- (6) Expressions used in this section which are defined in the Environment Act 1995 have the same meaning as in that Act.

#### Commencement Information

**19** S. 10 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

## 11 Stopping up and diversion of highways

- (1) Section 253 of the Town and Country Planning Act 1990 (procedure in anticipation of planning permission) is amended as follows.
- (2) In subsection (1), omit paragraph (b) and the “and” preceding it.
- (3) After subsection (1) insert—
  - “(1A) Where—
    - (a) the Welsh Ministers would, if planning permission for any development had been granted under Part 3, have power to make an order under section 247 or 248 authorising the stopping up or diversion of a highway in order to enable that development to be carried out, and
    - (b) subsection (2), (3) or (4) applies,then, notwithstanding that such permission has not been granted, the Welsh Ministers may publish notice of the draft of such an order in accordance with section 252.”
- (4) In subsection (2)—
  - (a) for “Secretary of State” (in each place where it occurs) substitute “ Welsh Ministers ”, and
  - (b) for “, a local development order or a neighbourhood development order” substitute “ or a local development order ”.
- (5) In subsection (4), for “, county borough, metropolitan district or London borough” substitute “ or county borough, ”.
- (6) In subsection (5)—
  - (a) for “or the council of a London borough” substitute “, the council of a London borough or the Welsh Ministers ”, and
  - (b) after “subsection (1)” insert “ or, as the case may be, (1A) ”.

## 12 Stopping up and diversion of public paths

- (1) Part 10 of the Town and Country Planning Act 1990 (highways) is amended as follows.

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*Changes to legislation: There are currently no known outstanding effects for the Growth and Infrastructure Act 2013. (See end of Document for details)*

- (2) In section 257 (footpaths, bridleways and restricted byways affected by other development: orders by other authorities), after subsection (1) insert—

“(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that—

- (a) an application for planning permission in respect of development has been made under Part 3, and
- (b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”

- (3) In that section, in subsection (4)—

- (a) omit the “and” following paragraph (a), and
- (b) after paragraph (b) insert—
  - “(c) in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under section 62A, the local planning authority to whom the application would otherwise have been made.”

- (4) In section 259 (confirmation of orders made by other authorities), after subsection (1) insert—

“(1A) An order under section 257(1A) may not be confirmed unless the Secretary of State or (as the case may be) the authority is satisfied—

- (a) that planning permission in respect of the development has been granted, and
- (b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.”

- (5) In that section, in subsection (2), for “any such order” substitute “ any order under section 257(1) or 258 ”.

### **13 Declarations negating intention to dedicate way as highway**

- (1) Section 31 of the Highways Act 1980 (dedication of way as highway presumed after public use for 20 years) is amended as set out in subsections (2) to (6).

- (2) In subsection (6) (depositing of maps and statements and lodging of declarations by owner of land to negative presumed intention to dedicate)—

- (a) in paragraph (a) omit “on a scale of not less than 6 inches to 1 mile”,
- (b) in the words after paragraph (b)—
  - (i) omit “statutory”, and
  - (ii) after “declarations” insert “ in valid form ”, and
- (c) in sub-paragraphs (i) and (ii) for “ten” substitute “ the relevant number of ”.

- (3) After subsection (6) insert—

“(6A) Where the land is in England—



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- (a) a map deposited under subsection (6)(a) and a statement deposited under subsection (6)(b) must be in the prescribed form,
  - (b) a declaration is in valid form for the purposes of subsection (6) if it is in the prescribed form, and
  - (c) the relevant number of years for the purposes of sub-paragraphs (i) and (ii) of subsection (6) is 20 years.
- (6B) Where the land is in Wales—
- (a) a map deposited under subsection (6)(a) must be on a scale of not less than 6 inches to 1 mile,
  - (b) a declaration is in valid form for the purposes of subsection (6) if it is a statutory declaration, and
  - (c) the relevant number of years for the purposes of sub-paragraphs (i) and (ii) of subsection (6) is 10 years.”
- (4) After subsection (6B) (as inserted by subsection (3) above) insert—
- “(6C) Where, under subsection (6), an owner of land in England deposits a map and statement or lodges a declaration, the appropriate council must take the prescribed steps in relation to the map and statement or (as the case may be) the declaration and do so in the prescribed manner and within the prescribed period (if any).”
- (5) In subsection (7)—
- (a) for “and (6) above” substitute “, (6), (6C) and (13)”, and
  - (b) for “subsection (6)” substitute “ subsections (6), (6C) and (13) ”.
- (6) After subsection (12) insert—
- “(13) The Secretary of State may make regulations for the purposes of the application of subsection (6) to land in England which make provision—
- (a) for a statement or declaration required for the purposes of subsection (6) to be combined with a statement required for the purposes of section 15A of the Commons Act 2006;
  - (b) as to the fees payable in relation to the depositing of a map and statement or the lodging of a declaration (including provision for a fee payable under the regulations to be determined by the appropriate council).
- (14) For the purposes of the application of this section to land in England “prescribed” means prescribed in regulations made by the Secretary of State.
- (15) Regulations under this section made by the Secretary of State may make—
- (a) such transitional or saving provision as the Secretary of State considers appropriate;
  - (b) different provision for different purposes or areas.”
- (7) In consequence of the amendment made by subsection (2)(c), omit paragraph 3 of Schedule 6 to the Countryside and Rights of Way Act 2000.

**Commencement Information**

**I10** S. 13 in force at 25.6.2013 for specified purposes by [S.I. 2013/1488, art. 4\(a\)](#)

**Status:** Point in time view as at 01/12/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Growth and Infrastructure Act 2013. (See end of Document for details)

**II1** S. 13 in force at 1.10.2013 in so far as not already in force by S.I. 2013/1766, art. 3(a) (with art. 4)

#### **14 Registration of town or village green: reduction of section 15(3)(c) period**

- (1) Section 15 of the Commons Act 2006 (registration of greens) is amended as follows.
- (2) In subsection (3), in paragraph (c), for the words from “the period” to the end of the paragraph substitute “ the relevant period ”.
- (3) After that subsection insert—
  - “(3A) In subsection (3), “the relevant period” means—
    - (a) in the case of an application relating to land in England, the period of one year beginning with the cessation mentioned in subsection (3)(b);
    - (b) in the case of an application relating to land in Wales, the period of two years beginning with that cessation.”

#### **Commencement Information**

**II2** S. 14 in force at 1.10.2013 by S.I. 2013/1488, art. 6 (with art. 8)

#### **15 Registration of town or village green: statement by owner**

In the Commons Act 2006, after section 15 (registration of greens) insert—

##### **“15A Registration of greens: statement by owner**

- (1) Where the owner of any land in England to which this Part applies deposits with the commons registration authority a statement in the prescribed form, the statement is to be regarded, for the purposes of section 15, as bringing to an end any period during which persons have indulged as of right in lawful sports and pastimes on the land to which the statement relates.
- (2) Subsection (1) does not prevent a new period commencing.
- (3) A statement under subsection (1) must be accompanied by a map in the prescribed form identifying the land to which the statement relates.
- (4) An owner of land may deposit more than one statement under subsection (1) in respect of the same land.
- (5) If more than one statement is deposited in respect of the same land, a later statement (whether or not made by the same person) may refer to the map which accompanied an earlier statement and that map is to be treated, for the purposes of this section, as also accompanying the later statement.
- (6) Where a statement is deposited under subsection (1), the commons registration authority must take the prescribed steps in relation to the statement and accompanying map and do so in the prescribed manner and within the prescribed period (if any).
- (7) Regulations may make provision—

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- (a) for a statement required for the purposes of this section to be combined with a statement or declaration required for the purposes of section 31(6) of the Highways Act 1980;
  - (b) for the requirement in subsection (3) to be satisfied by the statement referring to a map previously deposited under section 31(6) of the Highways Act 1980;
  - (c) as to the fees payable in relation to the depositing of a statement under subsection (1) (including provision for a fee payable under the regulations to be determined by the commons registration authority);
  - (d) as to when a statement under subsection (1) is to be regarded as having been deposited with the commons registration authority.
- (8) An agreement under section 4(3) of this Act or section 2(2) of the Commons Registration Act 1965 which would have the effect of requiring an owner of land to deposit a statement under subsection (1) with a registration authority in Wales is to be disregarded for the purposes of this section.
- (9) In this section “prescribed” means prescribed in regulations.

#### **15B Register of section 15A statements**

- (1) Each commons registration authority must keep, in such manner as may be prescribed, a register containing prescribed information about statements deposited under section 15A(1) and the maps accompanying those statements.
- (2) The register kept under this section must be available for inspection free of charge at all reasonable hours.
- (3) A commons registration authority may discharge its duty under subsection (1) by including the prescribed information in the register kept by it under section 31A of the Highways Act 1980 (register of maps and statements deposited and declarations lodged under section 31(6) of that Act).
- (4) Regulations may make provision—
  - (a) where a commons registration authority discharges its duty under subsection (1) in the way described in subsection (3), for the creation of a new part of the register kept under section 31A of the Highways Act 1980 for that purpose;
  - (b) as to the circumstances in which an entry relating to a statement deposited under section 15A(1) or a map accompanying such a statement, or anything relating to the entry, is to be removed from the register kept under this section or (as the case may be) the register kept under section 31A of the Highways Act 1980.
- (5) In this section “prescribed” means prescribed in regulations.”

#### **Commencement Information**

**I13** S. 15 in force at 25.6.2013 for specified purposes by S.I. 2013/1488, art. 4(b)

**I14** S. 15 in force at 1.10.2013 in so far as not already in force by S.I. 2013/1766, art. 3(b)

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## 16 Restrictions on right to register land as town or village green

- (1) In the Commons Act 2006, after section 15B (as inserted by section 15 of this Act) insert—

### “15C Registration of greens: exclusions

- (1) The right under section 15(1) to apply to register land in England as a town or village green ceases to apply if an event specified in the first column of the Table set out in Schedule 1A has occurred in relation to the land (“a trigger event”).
  - (2) Where the right under section 15(1) has ceased to apply because of the occurrence of a trigger event, it becomes exercisable again only if an event specified in the corresponding entry in the second column of the Table occurs in relation to the land (“a terminating event”).
  - (3) The Secretary of State may by order make provision as to when a trigger or a terminating event is to be treated as having occurred for the purposes of this section.
  - (4) The Secretary of State may by order provide that subsection (1) does not apply in circumstances specified in the order.
  - (5) The Secretary of State may by order amend Schedule 1A so as to—
    - (a) specify additional trigger or terminating events;
    - (b) amend or omit any of the trigger or terminating events for the time being specified in the Schedule.
  - (6) A trigger or terminating event specified by order under subsection (5)(a) must be an event related to the development (whether past, present or future) of the land.
  - (7) The transitional provision that may be included in an order under subsection (5)(a) specifying an additional trigger or terminating event includes provision for this section to apply where such an event has occurred before the order is made or before it comes into force and as to its application in such a case.
  - (8) For the purposes of determining whether an application under section 15 is made within the period mentioned in section 15(3)(c), any period during which an application to register land as a town or village green may not be made by virtue of this section is to be disregarded.”
- (2) Schedule 4 (which inserts the new Schedule 1A to the Commons Act 2006) has effect.
- (3) In that Act of 2006, in section 59 (orders and regulations)—
- (a) after subsection (3) insert—
 

“(3A) A statutory instrument containing an order under section 15C(5) may not be made unless a draft has been laid before and approved by a resolution of each House of Parliament.”, and
  - (b) in subsection (4), after “subsection (3)” insert “or (3A) ”.
- (4) For the purposes of the application of section 15C of the Commons Act 2006 (as inserted by subsection (1) above), it does not matter whether an event specified

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in the first column of Schedule 1A to that Act occurred before or on or after the commencement of this section.

- (5) The amendment made by subsection (1) does not apply in relation to an application under section 15(1) of the Commons Act 2006 which is sent before the day on which this section comes into force.

## **17 Applications to amend registers: modification of power to provide for fees**

In section 24 of the Commons Act 2006 (regulations about making and determination of Part 1 applications)—

- (a) omit subsection (2)(d) (provision for England and Wales in the same terms as the provision for Wales made by the new subsection (2B)), and  
(b) after subsection (2) insert—

“(2A) Regulations under subsection (1) made by the Secretary of State may make provision as to the fees payable in relation to an application (including provision for a fee payable under the regulations to be determined by the person to whom the application is made or (if different) the person by whom the application is to be determined).

(2B) Regulations under subsection (1) made by the Welsh Ministers may make provision as to the fee payable on an application (which may be a fee determined by the person to whom the application is made).”

### *Other infrastructure provisions*

## **18 Power stations: repeal of requirements to give notice**

- (1) In the Energy Act 1976—  
(a) section 14 (fuelling of new and converted power stations: requirement to give notice to Secretary of State) is omitted, and  
(b) in section 19 (penalties), in subsection (2)—  
(i) omit paragraph (b) (including the “or” following it), and  
(ii) in paragraph (c), omit “, 7 or 14(3)”.  
(2) In Schedule 16 to the Electricity Act 1989, paragraph 22 (which amends the provision repealed by subsection (1)(a)) is omitted.  
(3) In the Planning Act 2008—  
(a) in section 33 (effect of requirement for development consent on other consent regimes), in subsection (1), omit paragraph (e), and  
(b) in Schedule 2, paragraph 15 (which amends the provision repealed by subsection (1)(a)) is omitted.

## **19 Conditions of licences under Gas Act 1986: payments to other licence-holders**

In section 7B of the Gas Act 1986 (general provisions about licences under section 7 for gas transporters, under section 7ZA for gas interconnectors, and under section 7A for gas suppliers and gas shippers) in subsection (5)(b)(ii) (gas transporter's licence may require payments to be made to holder of licence under section 7A) omit “under section 7A above”.

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## **20 Variation of consents under Electricity Act 1989**

(1) The Electricity Act 1989 is amended as follows.

(2) After section 36B insert—

### **“36C Variation of consents under section 36**

- (1) The person for the time being entitled to the benefit of a section 36 consent may make an application to the appropriate authority for the consent to be varied.
- (2) Regulations may make provision about the variation of a section 36 consent, including in particular provision about—
  - (a) the making and withdrawal of applications;
  - (b) fees;
  - (c) publicity and consultation requirements;
  - (d) rights to make representations;
  - (e) public inquiries;
  - (f) consideration of applications.
- (3) Regulations under subsection (2) may provide for any statutory provision applicable to the grant of a section 36 consent to apply with specified modifications to the variation of a section 36 consent.
- (4) On an application for a section 36 consent to be varied, the appropriate authority may make such variations to the consent as appear to the authority to be appropriate, having regard (in particular) to—
  - (a) the applicant's reasons for seeking the variation;
  - (b) the variations proposed;
  - (c) any objections made to the proposed variations, the views of consultees and the outcome of any public inquiry.
- (5) Regulations may make provision treating, for prescribed purposes, a section 36 consent varied under this section as granted in its varied form when the original consent was granted (rather than when the variation was made).
- (6) In this section—
 

“the appropriate authority” means—

  - (a) the Scottish Ministers, in a case where the section 36 consent relates to a generating station (or proposed generating station) in Scotland;
  - (b) the Marine Management Organisation, in a case where the section 36 consent was granted by it;
  - (c) the Secretary of State, in any other case;

“regulations” means regulations made by—

  - (a) the Scottish Ministers, in the case of section 36 consents relating to generating stations (or proposed generating stations) in Scotland;
  - (b) the Secretary of State, in any other case;

“Scotland” has the same meaning as in section 32(2) (see section 32(3));

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“section 36 consent” means a consent granted under section 36 (construction, extension or operation of generating station), whenever granted;

“statutory provision” means a provision of or made under an Act, whenever passed or made; and for this purpose “Act” includes an Act of the Scottish Parliament.”

(3) In section 106 (regulations and orders)—

(a) after subsection (1) insert—

“(1ZA) Subsection (1) does not apply to the power conferred on the Scottish Ministers by section 36C.”;

(b) after subsection (2) insert—

“(3) Regulations made by the Scottish Ministers under section 36C are subject to the negative procedure.”

#### Commencement Information

**I15** S. 20 in force at 31.7.2013 in relation to E.W. so far as it is not already in force by S.I. 2013/1488, art. 5(a)

**I16** S. 20 in force at 1.12.2013 in relation to S. so far as it is not already in force by S.I. 2013/1488, art. 7

## 21 Consents under Electricity Act 1989: deemed planning permission

(1) Section 90 of the Town and Country Planning Act 1990 (deemed planning permission: development with government authorisation) is amended as set out in subsections (2) and (3).

(2) For subsection (2) substitute—

“(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—

- (a) so much of the operation or change of use to which the consent relates as constitutes development;
- (b) any development ancillary to the operation or change of use to which the consent relates.

(2ZA) On varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—

- (a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;
- (b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;

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- (c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a condition subject to which a new or varied planning permission is deemed to be granted.”
- (3) For subsection (5) substitute—
  - “(5) In subsection (2), the reference to ancillary development, in the case of a consent relating to the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station.
  - (6) In this section, references to England or Wales include—
    - (a) waters adjacent to England or Wales up to the seaward limits of the territorial sea, and
    - (b) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
  - (7) In this section “electric line”, “extension”, “generating station” and “Renewable Energy Zone” have the same meanings as in Part 1 of the Electricity Act 1989.”
- (4) Section 57 of the Town and Country Planning (Scotland) Act 1997 (deemed planning permission: development with government authorisation) is amended as set out in subsections (5) and (6).
- (5) For subsection (2) substitute—
  - “(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—
    - (a) so much of the operation or change of use to which the consent relates as constitutes development;
    - (b) any development ancillary to the operation or change of use to which the consent relates.
  - (2ZA) On varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—
    - (a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;
    - (b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;
    - (c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a condition subject to which a new or varied planning permission is deemed to be granted.”



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- (6) In subsection (5), for “In subsection (2) “ancillary development”, in relation to development consisting of” substitute “ In subsection (2)(b), the reference to ancillary development, in the case of a consent relating to ”.

**Commencement Information**

**I17** S. 21(1)-(3) in force at 31.7.2013 by S.I. 2013/1488, **art. 5(b)**

**I18** S. 21(4)-(6) in force at 1.12.2013 by S.S.I. 2013/303, **art. 2**

## 22 Variation and replacement of pre-Planning Act 2008 consents

- (1) After section 237 of the Planning Act 2008 insert—

**“237A Variation and replacement of section 33 consents: transitional provision**

- (1) This section applies where a section 33 consent (“the original consent”) has been granted or made as a result of an application made before Part 4 came into force.
- (2) Nothing in section 33 prevents the original consent, or a section 33 consent that replaces it, from being varied or replaced.
- (3) If the original consent, or a section 33 consent that replaces it, is varied or replaced, section 31 does not apply to the development to which the consent as varied, or the replacement consent, relates (and so development consent is not required for that development).
- (4) A section 33 consent replaces an earlier section 33 consent for the purposes of this section if (but only if)—
- (a) it is granted or made on an application for consent for development without complying with conditions subject to which the earlier section 33 consent was granted or made, and
  - (b) it is granted subject to, or made on, different conditions, or unconditionally.
- (5) In this section “section 33 consent” means a consent, authorisation, order, notice or scheme mentioned in section 33(1), (2) or (4).”
- (2) This section is deemed to have had effect since Part 4 of the Planning Act 2008 came into force.

**Commencement Information**

**I19** S. 22 in force at 25.6.2013 by S.I. 2013/1124, **art. 4(a)**

## 23 Removal of Planning Act 2008 consent and certification requirements

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 127 (compulsory acquisition of statutory undertakers' land, and rights over statutory undertakers' land)—

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- (a) in subsection (2), for the words from “Secretary of State” to the end substitute “ Secretary of State is satisfied of the matters set out in subsection (3). ”;
  - (b) in subsection (5), for the words from “Secretary of State” to the end substitute “ Secretary of State is satisfied of the matters set out in subsection (6). ”;
  - (c) omit subsection (7).
- (3) Section 137 (consent of statutory undertakers etc required to extinguishment of right of way over land on which they have apparatus) is repealed.
- (4) In section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc)—
- (a) in subsection (4), for the words from “only if” to the end substitute “ 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. ”;
  - (b) after subsection (4) insert—
    - “(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.
    - (4B) In this section the following terms have the meanings given in paragraph 1(1) of Schedule 17 to the Communications Act 2003—
      - “electronic communications apparatus”;
      - “electronic communications code”;
      - “electronic communications code network”;
      - “operator”. ”;
  - (c) omit subsections (5) and (6).
- (5) In Schedule 12 (modifications of Act in its application to Scotland), in paragraph 18, for “Section 137(7)” substitute “ Section 138(4A) ”.

#### Commencement Information

**I20** S. 23 in force at 25.6.2013 by S.I. 2013/1124, art. 4(b) (with art. 6)

## 24 Special parliamentary procedure in cases under the Planning Act 2008

- (1) Sections 128 and 129 of the Planning Act 2008 (special parliamentary procedure applies to certain orders granting development consent which authorise compulsory acquisition of land belonging to a local authority or statutory undertaker) are repealed.
- (2) In section 131 of the Planning Act 2008 (special parliamentary procedure applies to certain orders granting development consent which authorise compulsory acquisition of land forming part of a common, open space, fuel allotment or field garden allotment)—
  - (a) in subsection (3) (special parliamentary procedure does not apply if Secretary of State certifies that subsection (4) or (5) applies) for the words from “unless” to the end substitute “unless—
    - “(a) the Secretary of State is satisfied that one of subsections (4) to (5) applies, and

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- (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.”,
    - (b) after subsection (4) insert—
      - “(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.”, and
    - (c) omit subsections (6) to (10) (provision about certificates under subsection (3) (b)).
- (3) In section 132 of the Planning Act 2008 (special parliamentary procedure applies to certain orders granting development consent which authorise compulsory acquisition of rights over land forming part of a common, open space, fuel allotment or field garden allotment)—
  - (a) in subsection (2) (special parliamentary procedure does not apply if Secretary of State certifies that one of subsections (3) to (5) applies) for the words from “unless” to the end substitute “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.”,
  - (b) after subsection (4) insert—
    - “(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

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- (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.”, and
- (c) omit subsections (6) to (10) (provision about certificates under subsection (2) (b)).
- (4) In consequence of subsection (1) the following are repealed—
- (a) paragraphs 12 and 13 of Schedule 12 to the Planning Act 2008 (application of sections 128 and 129 to Scotland),
  - (b) section 141(2) of the Localism Act 2011 (which amended section 128), and
  - (c) paragraph 60 of Schedule 22 to that Act (which amended section 129).
- (5) In section 130 of the Planning Act 2008 (special parliamentary procedure where order granting development consent authorises acquisition of inalienable National Trust land despite Trust's objections) after subsection (3) insert—
- “(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).”
- (6) An amendment or repeal made by this section applies in relation to any order granting development consent which is made after the amendment or repeal comes into force.

#### **Commencement Information**

**I21** S. 24 in force at 25.6.2013 by S.I. 2013/1124, art. 4(c) (with art. 7)

## **25 Modifications of special parliamentary procedure in certain cases**

- (1) The Statutory Orders (Special Procedure) Act 1945 is amended as follows.
- (2) In section 1(1) (Act applies where subsequent Act requires an order to be subject to parliamentary procedure) after “provision is made requiring that any such order shall be subject to special parliamentary procedure” insert “ or requiring that any such order shall be subject to special parliamentary procedure to a limited extent ”.
- (3) In section 1 after subsection (2) insert—
- “(3) In this Act “special-acquisition provision” means—
- (a) section 130, 131 or 132 of the Planning Act 2008 (certain orders granting development consent which also authorise compulsory acquisition of, or of rights over, inalienable National Trust land or

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- land forming part of a common, open space or fuel or field garden allotment),
- (b) section 17, 18 or 19 of, or paragraph 4, 5 or 6 of Schedule 3 to, the Acquisition of Land Act 1981 (certain compulsory purchase orders which authorise compulsory acquisition of, or of rights over, land of a local authority or statutory undertaker, inalienable National Trust land, or land forming part of a common, open space or fuel or field garden allotment),
  - (c) paragraph 22 of Schedule 3 to the Harbours Act 1964 (harbour revision or empowerment order authorising compulsory purchase of, or of rights over, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment),
  - (d) paragraph 12 or 13 of Schedule 4 to the New Towns Act 1981 (order authorising compulsory purchase of local authority land, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment), or
  - (e) section 12 of the Transport and Works Act 1992 (order authorising compulsory purchase of, or of rights over, inalienable National Trust land or land forming part of a common, open space or fuel or field garden allotment).
- (4) A reference in this Act to land to which a special-acquisition provision applies is to be read as follows—
- (a) “land” has the same meaning as it has for the purposes of the special-acquisition provision, and
  - (b) in the case of a special-acquisition provision mentioned in subsection (3)(c) or (e), the reference is to—
    - (i) land (as so defined) belonging to the National Trust which is held by the Trust inalienably, or
    - (ii) land (as so defined) forming part of a common, open space or fuel or field garden allotment.
- (5) The definition of “the National Trust” given by section 7(1) of the Acquisition of Land Act 1981, and section 18(3) of that Act (meaning of “held inalienably”), apply for the purposes of subsection (4)(b)(i).
- (6) In subsection (4)(b)(ii) “common”, “fuel or field garden allotment” and “open space” have the same meaning as in section 19 of that Act.”
- (4) After section 1 insert—

**“1A Order subject to special parliamentary procedure only so far as authorising certain acquisitions of land or rights**

- (1) Where under a special-acquisition provision an order is subject to special parliamentary procedure so far as the order authorises compulsory acquisition of, or of a right over, land to which that provision applies, sections 3 to 7 of this Act apply in relation to the order with the modifications specified in subsections (3) to (19).
- (2) Where those sections apply with those modifications in relation to an order, in subsections (3) to (19) “the special authorisation” means the order so far as

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it authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.

- (3) In section 3(1) the reference to a petition duly presented against the order is to be read as a reference to a petition duly presented against the special authorisation.
- (4) In section 3(2)—
  - (a) the reference to petitions against an order to which this Act applies is to be read as a reference to petitions against the special authorisation, and
  - (b) in paragraphs (a) and (b) a reference to the order is to be read as a reference to the special authorisation.
- (5) In section 3(4) a reference to the order is to be read as a reference to the special authorisation.
- (6) In section 3(4A)—
  - (a) the reference in the opening words to the order to which a petition relates is to be read as a reference to the order containing the special authorisation to which a petition relates, and
  - (b) in paragraph (a) the reference to the order being one that relates to proposals of the kind mentioned is to be read as a reference to the Chairmen being of the opinion that removal of the special authorisation from the order would be inconsistent with proposals of that kind.
- (7) In section 3(5)—
  - (a) the reference to every order to which this Act applies is to be read as a reference to the special authorisation, and
  - (b) the reference to every such report is to be read as a reference to the report of the Chairmen in respect of the special authorisation.
- (8) In section 4(1)—
  - (a) the reference to any order to which this Act applies is to be read as a reference to the special authorisation,
  - (b) the reference to resolving that an order be annulled is to be read as a reference to resolving that the special authorisation be annulled,
  - (c) the reference to an order becoming void is to be read as a reference to the special authorisation becoming void, and
  - (d) the reference to taking no further proceedings on an order is to be read as a reference to taking no further proceedings on the special authorisation.
- (9) In section 4(2) the reference to the order is to be read as a reference to the special authorisation.
- (10) In section 4(3)—
  - (a) the reference to neither House resolving that the order be annulled is to be read as a reference to neither House resolving that the special authorisation be annulled, and
  - (b) the reference to petitions relating to the order is to be read as a reference to petitions relating to the special authorisation.

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- (11) Section 4 is to be read as if after subsection (3) there were inserted—
- “(4) Where either House resolves during the resolution period that the special authorisation be annulled, the Minister is to either—
- (a) withdraw the order by notice given in the prescribed manner, or
  - (b) cause the order to be submitted to Parliament for further consideration by means of a Bill for the confirmation of the order.
- (5) A Bill presented for the purposes of subsection (4)(b) must set out the order as laid before Parliament under section 1(2) of this Act, and any such Bill is to be treated as a public bill, except that—
- (a) where a petition for amendment of the special authorisation was certified as proper to be received, the Bill—
    - (i) after being read a second time in the House in which it is presented, is to be referred to a joint committee of both Houses for the purposes of the consideration of that petition,
    - (ii) after it has been reported by the joint committee, is to be ordered to be considered in the House in which it is presented as if it had been reported by a committee of that House, and
    - (iii) when it has been read a third time and passed in that House, is to be treated as having passed through all its stages up to and including committee in the second House;
  - (b) where no such petition has been so certified—
    - (i) the Bill is after its presentation to be treated as having passed all its stages up to and including committee in the House in which it is presented,
    - (ii) the Bill is to be ordered to be considered in that House as if it had been reported from a committee of that House, and
    - (iii) when the Bill has been read a third time and passed in that House, the like proceedings are to be taken on the Bill in the second House.”
- (12) In section 5(1)—
- (a) the reference to any petition against an order to which this Act applies is to be read as a reference to any petition against the special authorisation,
  - (b) the reference to the order standing referred to a committee is to be read as a reference to the special authorisation standing referred to that committee, and
  - (c) the reference to the committee's power to report the order is to be read as a reference to the committee's power to report the special authorisation.
- (13) In section 5(2) a reference to the order is to be read as a reference to the special authorisation.
- (14) In section 5(3) the reference to any order to which this Act applies is to be read as a reference to the special authorisation.

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- (15) In section 6(1) the reference to an order to which this Act applies being reported without amendment is to be read as a reference to the special authorisation being reported without amendment.
  - (16) In section 6(2) the reference to any such order being reported with amendments is to be read as a reference to the special authorisation being reported with amendments.
  - (17) In section 6(3) the reference to it being reported, with respect to any such order, that the order be not approved is to be read as a reference to it being reported that the special authorisation be not approved.
  - (18) In section 6(5)—
    - (a) the requirement for a Bill to set out the order as referred to the joint committee is to be read as a requirement for the Bill to set out the order as laid under section 1(2) of this Act, and
    - (b) in paragraph (a) the reference to a petition for amendment of the order is to be read as a petition for amendment of the special authorisation.
  - (19) In section 7 a reference to an order to which this Act applies is to be read as a reference to the special authorisation.”
- (5) After section 9 insert—

**“9A Standing Orders in cases where section 1A applies**

- (1) In this section, a reference to a special-acquisition order is to an order which, under a special-acquisition provision, is subject to special parliamentary procedure so far as it authorises compulsory acquisition of, or of a right over, land to which that provision applies.
  - (2) A reference in section 9(a) or (d) of this Act to an order to which this Act applies is, in the case of a special-acquisition order, to be read as a reference to that order so far as it authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.
  - (3) The reference in section 9(f) of this Act to any order is, in the case of a special-acquisition order, to be read as a reference to that order so far as it authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.
  - (4) The reference in section 9(g) of this Act to section 6 of this Act is to be read as a reference to section 4 or 6 of this Act.
  - (5) Where Standing Orders of either House of Parliament make provision that relates to orders to which this Act applies and is for a purpose mentioned in section 9 then, unless the Standing Orders provide otherwise, the provision applies in relation to a special-acquisition order only so far as the order authorises compulsory acquisition of, or of a right over, land to which the particular special-acquisition provision applies.”
- (6) In section 11(1) (interpretation) after the definition of “Prescribed” insert—
- ““Special-acquisition provision” has the meaning given by section 1(3) of this Act;”.



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- (7) In the Acquisition of Land Act 1981—
- (a) in sections 17(2) and 18(2) (certain compulsory purchase orders subject to special parliamentary procedure so far as authorising acquisition of special land if owner objects to the order) for “the order” substitute “ the compulsory purchase of the land ”, and
  - (b) in paragraphs 4(2) and 5(2) of Schedule 3 (certain compulsory purchase orders subject to special parliamentary procedure so far as authorising acquisition of rights over special land if owner objects to the order) for “the order” substitute “ the compulsory purchase of the rights ”.
- (8) In paragraph 12 of Schedule 4 to the New Towns Act 1981 (certain compulsory purchase orders subject to special parliamentary procedure so far as authorising acquisition of special land if owner objects to the order) for “to the order” substitute “ to the acquisition of the land ”.
- (9) In each of the following provisions (which refer to orders confirmed by Act under section 6 of the 1945 Act) before “6” insert “ 4 or ”
- section 44(1) of the Harbours Act 1964,
  - section 27 of the Acquisition of Land Act 1981,
  - paragraph 16(a) of Schedule 4 to the New Towns Act 1981,
  - paragraph 6(6)(a) of Schedule 11 to the Water Industry Act 1991,
  - paragraph 6(6)(a) of Schedule 19 to the Water Resources Act 1991, and
  - section 12(3)(b) of the Transport and Works Act 1992.
- (10) An amendment made by subsection (4) or (5), so far as it applies to orders granting development consent, applies to any such order made after the amendment comes into force.

#### Commencement Information

- I22** S. 25(1)-(6)(10) in force at 25.6.2013 in so far as not already in force by S.I. 2013/1488, **art. 3(e)** (with art. 8)
- I23** S. 25(1)-(6)(10) in force at 25.6.2013 for specified purposes by S.I. 2013/1124, **art. 4(d)** (with art. 8)
- I24** S. 25(7)-(9) in force at 25.6.2013 by S.I. 2013/1488, **art. 3(e)** (with art. 8)

## 26 Bringing business and commercial projects within Planning Act 2008 regime

- (1) The Planning Act 2008 is amended as follows.
- (2) For section 35 substitute—

### “35 Directions in relation to projects of national significance

- (1) The Secretary of State may give a direction for development to be treated as development for which development consent is required.

This is subject to the following provisions of this section and section 35ZA.

- (2) The Secretary of State may give a direction under subsection (1) only if—
- (a) the development is or forms part of—

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- (i) a project (or proposed project) in the field of energy, transport, water, waste water or waste, or
    - (ii) a business or commercial project (or proposed project) of a prescribed description,
  - (b) the development will (when completed) be wholly in one or more of the areas specified in subsection (3), and
  - (c) the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with—
    - (i) in a case within paragraph (a)(i), one or more other projects (or proposed projects) in the same field;
    - (ii) in a case within paragraph (a)(ii), one or more other business or commercial projects (or proposed projects) of a description prescribed under paragraph (a)(ii).
- (3) The areas are—
- (a) England or waters adjacent to England up to the seaward limits of the territorial sea;
  - (b) in the case of a project for the carrying out of works in the field of energy, a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (4) The Secretary of State may give a direction under subsection (1) only with the consent of the Mayor of London if—
- (a) all or part of the development is or will be in Greater London, and
  - (b) the development is or forms part of a business or commercial project (or proposed project) of a description prescribed under subsection (2)(a)(ii).
- (5) Regulations under subsection (2)(a)(ii) may not prescribe a description of project which includes the construction of one or more dwellings.

### **35ZA Directions under sections 35: procedural matters**

- (1) The power in section 35(1) to give a direction in a case within section 35(2)(a)(i) (projects in the field of energy etc) is exercisable only in response to a qualifying request if no application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development to which the request relates.
- (2) The power in section 35(1) to give a direction in a case within section 35(2)(a)(ii) (business or commercial projects of prescribed description) is exercisable only in response to a qualifying request made by one or more of the following—
  - (a) a person who proposes to carry out any of the development to which the request relates;
  - (b) a person who has applied, or proposes to apply, for a consent or authorisation mentioned in section 33(1) or (2) in relation to any of that development;
  - (c) a person who, if a direction under section 35(1) is given in relation to that development, proposes to apply for an order granting development consent for any of that development.

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- (3) If the Secretary of State gives a direction under section 35(1) in relation to development, the Secretary of State may—
  - (a) if an application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development, direct the application to be treated as an application for an order granting development consent;
  - (b) if a person proposes to make an application for such a consent or authorisation in relation to the development, direct the proposed application to be treated as a proposed application for development consent.
- (4) A direction under section 35(1), or subsection (3) of this section, may be given so as to apply for specified purposes or generally.
- (5) A direction under subsection (3) may provide for specified provisions of or made under this or any other Act—
  - (a) to have effect in relation to the application, or proposed application, with any specified modifications, or
  - (b) to be treated as having been complied with in relation to the application or proposed application.
- (6) If the Secretary of State gives a direction under subsection (3), the relevant authority must refer the application, or proposed application, to the Secretary of State instead of dealing with it themselves.
- (7) If the Secretary of State is considering whether to give a direction under subsection (3), the Secretary of State may direct the relevant authority to take no further action in relation to the application, or proposed application, until the Secretary of State has decided whether to give the direction.
- (8) The Secretary of State may require an authority within subsection (9) to provide any information required by the Secretary of State for the purpose of enabling the Secretary of State to decide—
  - (a) whether to give a direction under section 35(1), and
  - (b) the terms in which such a direction should be given.
- (9) An authority is within this subsection if an application for a consent or authorisation mentioned in section 33(1) or (2) in relation to the development has been, or may be, made to it.
- (10) If the Secretary of State decides to give a direction under section 35(1), the Secretary of State must give reasons for the decision.
- (11) In this section—

“qualifying request” means a written request, for a direction under section 35(1) or subsection (3) of this section, that—

  - (a) specifies the development to which it relates, and
  - (b) explains why the conditions in section 35(2)(a) and (b) are met in relation to the development;

“relevant authority”—

  - (a) in relation to an application for a consent or authorisation mentioned in section 33(1) or (2) that has been made, means the authority to which the application was made, and

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- (b) in relation to such an application that a person proposes to make, means the authority to which the person proposes to make the application.”
- (3) In section 35A (timetable for deciding request for direction under section 35), in subsection (5), in the definition of “qualifying request”, for “35(10)” substitute “35ZA(11)”;
- (4) In section 232 (orders and regulations)—
  - (a) in subsection (5)(e) (regulations not subject to negative procedure), after “section” insert “ 35(2)(a)(ii), ”;
  - (b) in subsection (7) (regulations subject to affirmative procedure), after “section” insert “ 35(2)(a)(ii), ”.

## 27 Authorisation of road user charging under Planning Act 2008

- (1) Section 144 of the Planning Act 2008 (content of order granting development consent: highways) is amended as follows.
- (2) After subsection (2) insert—
  - “(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.”
- (3) Omit subsection (3).

### Commencement Information

**I25** S. 27 in force at 25.6.2013 by [S.I. 2013/1124](#), [art. 9](#) (with [arts. 10, 11](#))

## 28 Delegation of planning functions by Mayor of London

- (1) In section 38 of the Greater London Authority Act 1999 (delegation) after subsection (2A) insert—
  - “(2B) In relation to a function listed in subsection (2C), subsection (2) has effect—
    - (a) as if paragraph (b) referred only to members of staff appointed under section 67(1), and
    - (b) with the omission of paragraphs (c) to (f).
  - (2C) The functions referred to in subsection (2B) are—
    - (a) the function of giving a direction under section 2A(1) or (1B) of the Town and Country Planning Act 1990 (call-in of planning applications by the Mayor), and

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- (b) the function of determining an application by virtue of section 2A or 2B of that Act.”
- (2) In consequence of subsection (1), omit section 2B(8) of the Town and Country Planning Act 1990 (which disapplies section 38(1) of the 1999 Act in relation to functions under sections 2A and 2B of the 1990 Act).

#### Commencement Information

**I26** S. 28 in force at 1.10.2013 by S.I. 2013/2143, art. 2(c)

### *Economic measures*

#### **29 Postponement of compilation of English rating lists to 2017**

- (1) Section 41 of the Local Government Finance Act 1988 (local rating lists) is amended in accordance with subsections (2) to (5).
- (2) In subsection (2) (list to be compiled on 1 April 1990 and every five years thereafter), at the end insert “, subject to subsection (2A).”
- (3) After that subsection insert—
  - “(2A) In the case of a billing authority in England—
    - (a) subsection (2) does not require a list to be compiled on 1 April 2015 and on 1 April in every fifth year afterwards, and
    - (b) a list must instead be compiled on 1 April 2017 and on 1 April in every fifth year afterwards.”
- (4) In subsection (3) (list to remain in force until the next one is compiled five years later) omit “five years later”.
- (5) In subsection (7) (expiry of five year period not to detract from duty to maintain list) omit “five year”.
- (6) Section 52 of the Local Government Finance Act 1988 (central rating lists) is amended in accordance with subsections (7) to (10).
- (7) In subsection (2) (list to be compiled on 1 April 1990 and every five years thereafter), at the end insert “, subject to subsection (2A).”
- (8) After that subsection insert—
  - “(2A) In the application of this section to England—
    - (a) subsection (2) does not require a list to be compiled on 1 April 2015 and on 1 April in every fifth year afterwards, and
    - (b) a list must instead be compiled on 1 April 2017 and on 1 April in every fifth year afterwards.”
- (9) In subsection (3) (list to remain in force until the next one is compiled five years later) omit “five years later”.
- (10) In subsection (7) (expiry of five year period not to detract from duty to maintain list) omit “five year”.

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### **30 Power to postpone compilation of Welsh rating lists**

- (1) Before section 55 of the Local Government Finance Act 1988 (but after the italic heading before that section) insert—

#### **“54A Postponement of compilation of Welsh lists for 2015 onwards**

- (1) The Welsh Ministers may by order provide that the lists to which this section applies must be compiled on a date specified in the order (“the specified date”) rather than on 1 April 2015.
- (2) The lists to which this section applies are—
- (a) each local non-domestic rating list that would otherwise have to be compiled on 1 April 2015 for a billing authority in Wales, and
  - (b) the central non-domestic rating list that would otherwise have to be compiled for Wales on that date.
- (3) The specified date must be 1 April in 2016, 2017, 2018, 2019 or 2020; and the same date must be specified for each list to which this section applies.
- (4) If an order has effect under this section, section 41 (local rating lists) applies in relation to billing authorities in Wales as if subsection (2)—
- (a) did not require a list to be compiled on 1 April 2015 and on 1 April in every fifth year afterwards, but
  - (b) instead required a list to be compiled on the specified date and on 1 April in every fifth year afterwards.
- (5) If an order has effect under this section, section 52 (central rating lists) applies in relation to Wales as if subsection (2)—
- (a) did not require a list to be compiled on 1 April 2015 and on 1 April in every fifth year afterwards, but
  - (b) instead required a list to be compiled on the specified date and on 1 April in every fifth year afterwards.”
- (2) In section 41 (local rating lists), after subsection (8) insert—
- “(9) This section in its application to Wales is subject to section 54A (postponement of compilation of Welsh lists for 2015 onwards).”
- (3) In section 52 (central rating lists), after subsection (7) insert—
- “(8) This section in its application to Wales is subject to section 54A (postponement of compilation of Welsh lists for 2015 onwards).”
- (4) In section 143 (orders and regulations), after subsection (3B) insert—
- “(3C) The power to make an order under section 54A is exercisable by statutory instrument, and no such order is to be made unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales.”

### **31 Employee shareholders**

- (1) After section 205 of the Employment Rights Act 1996 insert—

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### *“Employee shareholder status*

#### **205A Employee shareholders**

- (1) An individual who is or becomes an employee of a company is an “employee shareholder” if—
  - (a) the company and the individual agree that the individual is to be an employee shareholder,
  - (b) in consideration of that agreement, the company issues or allots to the individual fully paid up shares in the company, or procures the issue or allotment to the individual of fully paid up shares in its parent undertaking, which have a value, on the day of issue or allotment, of no less than £2,000,
  - (c) the company gives the individual a written statement of the particulars of the status of employee shareholder and of the rights which attach to the shares referred to in paragraph (b) (“the employee shares”) (see subsection (5)), and
  - (d) the individual gives no consideration other than by entering into the agreement.
- (2) An employee who is an employee shareholder does not have—
  - (a) the right to make an application under section 63D (request to undertake study or training),
  - (b) the right to make an application under section 80F (request for flexible working),
  - (c) the right under section 94 not to be unfairly dismissed, or
  - (d) the right under section 135 to a redundancy payment.
- (3) The following provisions are to be read in the case of an employee who is an employee shareholder as if for “8 weeks' notice”, in each place it appears, there were substituted “16 weeks' notice”—
  - (a) regulation 11 of the Maternity and Parental Leave etc. Regulations 1999 (S.I. 1999/3312) (requirement for employee to notify employer of intention to return to work during maternity leave period), and
  - (b) regulation 25 of the Paternity and Adoption Leave Regulations 2002 (S.I. 2002/2788) (corresponding provision for adoption leave).
- (4) Regulation 30 of the Additional Paternity Leave Regulations 2010 (S.I. 2010/1055) (requirement for employee to notify employer of intention to return to work during additional paternity leave period) is to be read in the case of an employee who is an employee shareholder as if for “six weeks' notice”, in each place it appears, there were substituted “16 weeks' notice”.
- (5) The statement referred to in subsection (1)(c) must—
  - (a) state that, as an employee shareholder, the individual would not have the rights specified in subsection (2),
  - (b) specify the notice periods that would apply in the individual's case as a result of subsections (3) and (4),
  - (c) state whether any voting rights attach to the employee shares,
  - (d) state whether the employee shares carry any rights to dividends,

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- (e) state whether the employee shares would, if the company were wound up, confer any rights to participate in the distribution of any surplus assets,
  - (f) if the company has more than one class of shares and any of the rights referred to in paragraphs (c) to (e) attach to the employee shares, explain how those rights differ from the equivalent rights that attach to the shares in the largest class (or next largest class if the class which includes the employee shares is the largest),
  - (g) state whether the employee shares are redeemable and, if they are, at whose option,
  - (h) state whether there are any restrictions on the transferability of the employee shares and, if there are, what those restrictions are,
  - (i) state whether any of the requirements of sections 561 and 562 of the Companies Act 2006 are excluded in the case of the employee shares (existing shareholders' right of pre-emption), and
  - (j) state whether the employee shares are subject to drag-along rights or tag-along rights and, if they are, explain the effect of the shares being so subject.
- (6) Agreement between a company and an individual that the individual is to become an employee shareholder is of no effect unless, before the agreement is made—
- (a) the individual, having been given the statement referred to in subsection (1)(c), receives advice from a relevant independent adviser as to the terms and effect of the proposed agreement, and
  - (b) seven days have passed since the day on which the individual receives the advice.
- (7) Any reasonable costs incurred by the individual in obtaining the advice (whether or not the individual becomes an employee shareholder) which would, but for this subsection, have to be met by the individual are instead to be met by the company.
- (8) The reference in subsection (2)(b) to making an application under section 80F does not include a reference to making an application within the period of 14 days beginning with the day on which the employee shareholder returns to work from a period of parental leave under regulations under section 76.
- (9) The reference in subsection (2)(c) to unfair dismissal does not include a reference to a dismissal—
- (a) which is required to be regarded as unfair for the purposes of Part 10 by a provision (whenever made) contained in or made under this or any other Act, or
  - (b) which amounts to a contravention of the Equality Act 2010.
- (10) The reference in subsection (2)(c) to the right not to be unfairly dismissed does not include a reference to that right in a case where section 108(2) (health and safety cases) applies.
- (11) The Secretary of State may by order amend subsection (1) so as to increase the sum for the time being specified there.



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(12) The Secretary of State may by regulations provide that any agreement for a company to buy back from an individual the shares referred to in subsection (1)(b) in the event that the individual ceases to be an employee shareholder or ceases to be an employee must be on terms which meet the specified requirements.

(13) In this section—

“company” means—

- (a) a company or overseas company (within the meaning, in each case, of the Companies Act 2006) which has a share capital, or
- (b) a European Public Limited-Liability Company (or Societas Europaea) within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European company;

“drag-along rights”, in relation to shares in a company, means the right of the holders of a majority of the shares, where they are selling their shares, to require the holders of the minority to sell theirs;

“parent undertaking” has the same meaning as in the Companies Act 2006;

“relevant independent adviser” has the meaning that it has for the purposes of section 203(3)(c);

“tag-along rights”, in relation to shares in a company, means the right of the holders of a minority of the shares to sell their shares, where the holders of the majority are selling theirs, on the same terms as those on which the holders of the majority are doing so.

(14) The reference in this section to the value of shares in a company is a reference to their market value within the meaning of the Taxation of Chargeable Gains Act 1992 (see sections 272 and 273 of that Act).”

(2) After section 47F of that Act insert—

**“47G Employee shareholder status**

- (1) An employee has the right not to be subjected to a detriment by any act, or any deliberate failure to act, by the employee's employer done on the ground that the employee refused to accept an offer by the employer for the employee to become an employee shareholder (within the meaning of section 205A).
- (2) This section does not apply if the detriment in question amounts to dismissal within the meaning of Part 10.”

(3) In section 48(1) of that Act (presentation of complaint to employment tribunal), for “or 47F” substitute “, 47F or 47G ”.

(4) After section 104F of that Act insert—

**“104G Employee shareholder status**

An employee who is dismissed is to be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee refused to accept an offer by the employer

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for the employee to become an employee shareholder (within the meaning of section 205A).”

- (5) In section 108(3) of that Act (exceptions to provision on qualifying period of employment), after paragraph (gl) insert—  
“(gm) section 104G applies.”.
- (6) In section 236(3) of that Act (orders and regulations subject to affirmative resolution procedure), for “or 125(7)” substitute “, 125(7) or 205A(11) or (12)”.

#### Commencement Information

**I27** S. 31 in force at 1.9.2013 by S.I. 2013/1766, art. 2

### *General provisions*

## **32 Orders**

- (1) Any power of the Secretary of State to make an order under this Act—  
(a) is exercisable by statutory instrument, and  
(b) includes—  
(i) power to make different provision for different purposes, and  
(ii) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (2) The Secretary of State may not make an order to which subsection (3) applies unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.
- (3) This subsection applies to—  
(a) an order under section 7(5);  
(b) an order under section 33 which amends or repeals any provision of an Act of Parliament, an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales.
- (4) A statutory instrument that—  
(a) contains an order made by the Secretary of State under this Act, and  
(b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,  
is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to an order under section 7(6).
- (6) Subsections (1)(b) and (4) do not apply to an order under section 35.

## **33 Consequential amendments**

- (1) The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of this Act.

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- (2) The power to make an order under this section may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment.
- (3) In this section “enactment” means an enactment whenever passed or made, and includes an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales.

PROSPECTIVE

### **34 Financial provisions**

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

### **35 Commencement**

- (1) Subject as follows, this Act comes into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (2) Section 1(1) so far as it inserts the new section 62B, sections 4, 7, 9, 16, 19, 26, 32 and 33, this section and section 36, and Schedules 2 and 4, come into force on the day on which this Act is passed.
- (3) Sections 11, 12, 17, 18, 29 and 30 come into force at the end of two months beginning with the day on which this Act is passed.
- (4) Section 21(4) to (6) come into force on such day as the Scottish Ministers may by order appoint; and different days may be appointed for different purposes.
- (5) The Scottish Ministers may by order make such transitional, transitory or saving provision as the Scottish Ministers consider appropriate in connection with the coming into force of section 21(4) to (6).
- (6) The Secretary of State may by order make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any other provision of this Act.
- (7) Power to make an order under subsection (5) or (6) includes power to make different provision for different purposes.

### **36 Short title and extent**

- (1) This Act may be cited as the Growth and Infrastructure Act 2013.
- (2) Subject as follows, this Act extends to England and Wales only.
- (3) Sections 9(4) and 32 to 35, and this section, extend also to Scotland and Northern Ireland.
- (4) Any amendment or repeal made by this Act has the same extent as the provision to which it relates, subject to subsection (5).
- (5) Section 25(1) to (6) and (10) extend to England and Wales, and Scotland, only.

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- (6) The power under section 411(6) of the Communications Act 2003 may be exercised so as to extend the amendment made by section 9(1) to any of the Channel Islands or the Isle of Man.

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## SCHEDULES

### SCHEDULE 1

Section 1

#### PLANNING APPLICATIONS MADE TO SECRETARY OF STATE: FURTHER AMENDMENTS

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

1 The Town and Country Planning Act 1990 is amended as follows.

##### Commencement Information

**I28** Sch. 1 para. 1 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I29** Sch. 1 para. 1 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

2 (1) In section 2A (Mayor of London: applications of strategic importance) after subsection (1A) insert—

“(1B) Where this section applies to an application for planning permission made to the Secretary of State under section 62A, the Mayor of London may direct—

- (a) that the application is to be treated as having been made to the local planning authority (and not to the Secretary of State under section 62A), and
- (b) that the Mayor of London is to be the local planning authority for the purposes of determining the application.”

(2) In consequence—

- (a) in section 2A(2) after “(1)” insert “ or (1B) ”, and
- (b) in section 2C(1) after “to whom the original application was made” insert “ or to whom the original application would have been made had it not been made to the Secretary of State under section 62A ”.

##### Commencement Information

**I30** Sch. 1 para. 2 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I31** Sch. 1 para. 2 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

3 In section 58(1)(b) (planning permission may be granted on application to local planning authority) after “on application to the authority” insert “ (or, in the cases provided in this Part, on application to the Secretary of State) ”.

##### Commencement Information

**I32** Sch. 1 para. 3 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I33** Sch. 1 para. 3 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

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- 4 In section 59(2)(b) (development order may provide for planning permission to be granted on application to local planning authority) after “on application to the authority” insert “ (or, in the cases provided in the following provisions, on application to the Secretary of State) ”.

**Commencement Information**

- I34** Sch. 1 para. 4 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2  
**I35** Sch. 1 para. 4 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

- 5 After section 76B insert—

**“76C Provisions applying to applications made under section 62A**

- (1) Sections 62(3) and (4), 65(5), 70 to 70C, 72(1) and (5) and 73A apply, with any necessary modifications, to an application for planning permission made to the Secretary of State under section 62A as they apply to an application for planning permission which is to be determined by the local planning authority.
- (2) Any requirements imposed by a development order by virtue of section 62, 65 or 71 or paragraph 8(6) of Schedule 1 may be applied by a development order, with or without modifications, to an application for planning permission made to the Secretary of State under section 62A.
- (3) Where an application is made to the Secretary of State under section 62A(3) instead of to the authority to whom it would otherwise have been made, a development order may apply, with or without modifications, to the application any enactment that relates to applications of that kind when made to that authority.

**76D Deciding applications made under section 62A**

- (1) An application made to the Secretary of State under section 62A (“a direct application”) is to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State, subject to section 76E.
- (2) Where a person has been appointed under subsection (1) or this subsection to determine a direct application then, at any time before the person has determined the application, the Secretary of State may—
  - (a) revoke the person's appointment; and
  - (b) appoint another person to determine the application instead.
- (3) A person appointed under this section to determine an application for planning permission made to the Secretary of State under section 62A has the same powers and duties that the Secretary of State has under section 76C.
- (4) Where a direct application is determined by a person appointed under this section, the person's decision is to be treated as that of the Secretary of State.
- (5) Except as provided by Part 12, the validity of that decision is not to be questioned in any proceedings whatsoever.

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- (6) It is not a ground of application to the High Court under section 288 that a direct application ought to have been determined by the Secretary of State and not by a person appointed under this section unless the applicant challenges the person's power to determine the direct application before the person's decision on the direct application is given.
- (7) Where any enactment (other than this section and section 319A)—
- (a) refers (or is to be read as referring) to the Secretary of State in a context relating to or capable of relating to an application made under section 62A (otherwise than by referring to the application having been made to the Secretary of State), or
  - (b) refers (or is to be read as referring) to anything (other than the making of the application) done or authorised or required to be done by, to or before the Secretary of State in connection with any such application,
- then, so far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by a person appointed under this section, as if the reference to the Secretary of State were or included a reference to that person.

#### **76E Applications under section 62A: determination by Secretary of State**

- (1) The Secretary of State may direct that an application made to the Secretary of State under section 62A (“a direct application”) is to be determined by the Secretary of State instead of by a person appointed under section 76D.
- (2) Where a direction is given under subsection (1), the Secretary of State must serve a copy of the direction on—
  - (a) the person, if any, appointed under section 76D to determine the application concerned,
  - (b) the applicant, and
  - (c) the local planning authority.
- (3) Where a direct application is to be determined by the Secretary of State in consequence of a direction under subsection (1)—
  - (a) in determining the application, the Secretary of State may take into account any report made to the Secretary of State by any person previously appointed to determine the application, and
  - (b) subject to that, the provisions of the planning Acts which are relevant to the application apply to it as if section 76D had never applied to it.
- (4) The Secretary of State may by a further direction revoke a direction under subsection (1) at any time before the determination of the direct application concerned.
- (5) Where a direction is given under subsection (4), the Secretary of State must serve a copy of the direction on—
  - (a) the person, if any, previously appointed under section 76D to determine the application concerned,
  - (b) the applicant, and
  - (c) the local planning authority.

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- (6) Where a direction is given under subsection (4) in relation to a direct application—
- (a) anything done by or on behalf of the Secretary of State in connection with the application which might have been done by a person appointed under section 76D to determine the application is, unless the person appointed under section 76D to determine the application directs otherwise, to be treated as having been done by that person, and
  - (b) subject to that, section 76D applies to the application as if no direction under subsection (1) had been given in relation to the application.”

**Commencement Information**

**I36** Sch. 1 para. 5 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I37** Sch. 1 para. 5 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

- 6 In section 70A(2) (power to decline to determine planning application where Secretary of State has refused similar application in previous two years) after “has refused a similar application” insert “ made to the Secretary of State under section 62A or ”.

**Commencement Information**

**I38** Sch. 1 para. 6 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I39** Sch. 1 para. 6 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

- 7 In section 70B(3) (power to decline to determine planning application where Secretary of State currently considering similar application) after “in pursuance of section” insert “ 62A, ”.

**Commencement Information**

**I40** Sch. 1 para. 7 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I41** Sch. 1 para. 7 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

- 8 In section 78(2) (right to appeal where local planning authority has taken none of the listed steps in relation to an application) after “made such an application” insert “ to the local planning authority ”.

**Commencement Information**

**I42** Sch. 1 para. 8 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I43** Sch. 1 para. 8 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

- 9 In section 284(3) (actions which may be questioned in legal proceedings only so far as provided by Part 12 of the 1990 Act) before paragraph (za) insert—
- “(ya) any decision on an application made to the Secretary of State under section 62A;”.



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#### Commencement Information

**I44** Sch. 1 para. 9 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I45** Sch. 1 para. 9 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

10 In section 303 (fees for planning applications etc) as substituted by section 199 of the Planning Act 2008, after subsection (1) insert—

“(1A) The Secretary of State may by regulations make provision for the payment of a fee to the Secretary of State in respect of—

- (a) any application made to the Secretary of State under section 62A;
- (b) the giving of advice about applying under section 62A for any permission, approval or consent or for anything else for which an application may be made under that section.”

#### Commencement Information

**I46** Sch. 1 para. 10 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I47** Sch. 1 para. 10 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

11 In section 319A(7) (proceedings for which Secretary of State must determine the procedure) before paragraph (a) insert—

“(za) an application made to the Secretary of State under section 62A;”.

#### Commencement Information

**I48** Sch. 1 para. 11 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I49** Sch. 1 para. 11 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

#### *Planning and Compulsory Purchase Act 2004 (c. 5)*

12 In section 59(2) of the Planning and Compulsory Purchase Act 2004 (correctable errors: meaning of “inspector”) after “to determine appeals instead of the Secretary of State” insert “ or appointed under section 76D of the principal Act to determine applications instead of the Secretary of State ”.

#### Commencement Information

**I50** Sch. 1 para. 12 in force at 9.5.2013 for specified purposes for E. by S.I. 2013/1124, art. 2

**I51** Sch. 1 para. 12 in force at 1.10.2013 for specified purposes by S.I. 2013/2143, art. 2(a)

## SCHEDULE 2

Section 7

### MODIFICATION OR DISCHARGE OF AFFORDABLE HOUSING REQUIREMENTS: RELATED AMENDMENTS

1 The Town and Country Planning Act 1990 is amended as follows.

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- 2            In section 5(3) (provisions for the purposes of which the Broads Authority is the sole district planning authority for the Broads) for “106B” substitute “ 106BC ”.
- 3            (1) Section 106 (planning obligations) is amended as follows.
- (2) In subsection (1) (which defines “planning obligation” for the purposes of that section and sections 106A and 106B) for “and 106B” substitute “ to 106C ”.
- (3) In subsection (12) (sections 106 to 106B to be subject to regulations for charging on land of sums payable in connection with planning obligations) for “and 106B” substitute “ to 106BC ”.
- 4            (1) Section 106A (modification and discharge of planning obligations) is amended as follows.
- (2) In subsection (1) (planning obligation to be modified or discharged by agreement or in accordance with sections 106A and 106B)—
- (a) after “in accordance with” insert “ —(i) ”, and
- (b) after “section 106B” insert “, or
- (ii) sections 106BA and 106BC.”
- (3) In subsection (8) (effect of determination that planning obligation is to have effect subject to modifications), after “determine” insert “ under this section ”.
- 5            (1) Section 106B (appeals in relation to applications under section 106A) is amended as follows.
- (2) In the heading, after “Appeals” insert “ in relation to applications under section 106A ”.
- (3) In subsection (1)(b) (application of section) after “determine” insert “ under section 106A ”.
- 6            (1) Section 106C (legal challenges relating to development consent obligations) is amended as follows.
- (2) In subsection (1) (challenges to Secretary of State's failure to give notice under section 106A(7)), after “106A(7)” in both places insert “ or 106BA(9) ”.
- (3) After subsection (1) insert—
- “(1A) If no period is prescribed under section 106BA(9), the period of 6 weeks referred to in subsection (1)(b) that applies in relation to proceedings for failure to give notice as mentioned in subsection (9) of section 106BA begins with the expiry of the period mentioned in that subsection that applies in the applicant's case.”
- (4) In subsection (2) (challenges to Secretary of State's determination that planning obligation is to continue to have effect without modification), in paragraph (b), after “106A(7)” insert “ or 106BA(9) ”.
- (5) After subsection (2) insert—
- “(3) A court may entertain proceedings for questioning a determination by the Secretary of State on an application under section 106BA that a planning obligation shall be modified otherwise than in accordance with the application only if—
- (a) the proceedings are brought by a claim for judicial review, and

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- (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 106BA(9).”
- 7 In section 319A (determination by Secretary of State of procedure by which certain types of proceedings are to be considered), in subsection (7) (proceedings to which the section applies), after paragraph (b) insert—
- “(ba) an appeal under section 106BC (appeals in relation to applications for modification or discharge of affordable housing requirements);”.
- 8 (1) Section 333 (regulations and orders) is amended as follows.
- (2) In subsection (4) (power to make orders under Act exercisable by statutory instrument), after “87,” insert “ 106BA(14), ”.
- (3) After subsection (5) insert—
- “(5ZA) No order may be made under section 106BA(14) unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.”
- 9 (1) Schedule 6 (determination of certain appeals by person appointed by Secretary of State) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1) (power of Secretary of State to prescribe classes of appeals under specified provisions to be determined by person appointed), after “106B,” insert “ 106BC, ”, and
- (b) after sub-paragraph (2) insert—
- “(2A) If no classes of appeals under section 106BC are prescribed by regulations under sub-paragraph (1), all appeals under that section are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.”
- (3) In paragraph 2(1)(aa) (person appointed in relation to appeals under section 106B to have the same powers and duties as Secretary of State under that section), after “106B” insert “ or 106BC ”.
- 10 In Part 1 of Schedule 16 (provisions of the Planning Acts to which sections 314 to 319 apply), in the entry for Sections 106 to 106B, for “106B” substitute “ 106BC ”.

## SCHEDULE 3

Section 10

### PERIODIC REVIEW OF MINERAL PLANNING PERMISSIONS

- 1 Schedule 14 to the Environment Act 1995 (periodic review of mineral planning permissions) is amended as follows.

#### Commencement Information

**I52** Sch. 3 para. 1 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 2 Before paragraph 1 insert—

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*“Power to carry out periodic reviews*

- A1 The mineral planning authority for an area in England may, in accordance with the provisions of this Schedule, cause one or more periodic reviews to be carried out of the mineral permissions relating to a mining site.”

**Commencement Information**

**I53** Sch. 3 para. 2 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 3 In paragraph 1 (duty to carry out periodic reviews), after “The mineral planning authority” insert “ for an area in Wales ”.

**Commencement Information**

**I54** Sch. 3 para. 3 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 4 In paragraph 2(1) (interpretation), for the definition of “first review date” substitute—

““first review date”—

- (a) in relation to a mineral planning authority for an area in England, has the meaning given by paragraph 2A below, and
- (b) in relation to a mineral planning authority for an area in Wales, has the meaning given by paragraph 2B below;”.

**Commencement Information**

**I55** Sch. 3 para. 4 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 5 After paragraph 2 insert—

*“The first review date: mineral planning authorities in England*

- 2A (1) In the application of this Schedule in relation to a mineral planning authority for an area in England, “first review date” means the date set by the authority in accordance with sub-paragraph (2) below as the first review date for the purposes of the first periodic review of the mineral permissions relating to a mining site.
- (2) That date may not be earlier than the relevant date found under paragraph 3 below in relation to the site.
- (3) This paragraph is subject to paragraphs 3A and 5 below (power to specify different relevant date, and postponement of first review date).

*The first review date: mineral planning authorities in Wales*

- 2B (1) In the application of this Schedule in relation to a mineral planning authority for an area in Wales, “first review date” in relation to a mining site means the relevant date found under paragraph 3 below in relation to the site.

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- (2) This paragraph is subject to paragraphs 3A and 5 below (power to specify different relevant date, and postponement of first review date).”

**Commencement Information**

**I56** Sch. 3 para. 5 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 6 (1) Paragraph 3 (the first review date) is amended as follows.
- (2) Before sub-paragraph (1) insert—
- “(A1) This paragraph has effect for the purposes of paragraphs 2A and 2B above.”
- (3) For “first review date” in each place substitute “ relevant date ”.
- (4) For the italic heading immediately before that paragraph substitute “ The relevant date for the purposes of a first periodic review ”.

**Commencement Information**

**I57** Sch. 3 para. 6 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 7 In paragraph 3A (power to specify a first review date by order), for “first review date” in each place substitute “ relevant date ”.

**Commencement Information**

**I58** Sch. 3 para. 7 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 8 (1) Paragraph 4 (service of notice of first periodic review) is amended as follows.
- (2) Before sub-paragraph (1) insert—
- “(A1) This paragraph applies—
- (a) where a mineral planning authority for an area in England determines that it will carry out a periodic review of the mineral permissions relating to a mining site, and that periodic review is the first periodic review of the permissions relating to that site, and
- (b) in relation to the first periodic review by a mineral planning authority for an area in Wales of the mineral permissions relating to a mining site.”
- (3) In sub-paragraph (1)—
- (a) omit “of the mineral permissions relating to a mining site”, and
- (b) for “that site” substitute “ the site to which the review relates ”.

**Commencement Information**

**I59** Sch. 3 para. 8 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

- 9 (1) Paragraph 12 (second and subsequent periodic reviews) is amended as follows.
- (2) Before sub-paragraph (1) insert—

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“(A1) This paragraph applies—

- (a) where a mineral planning authority for an area in England determines that it will carry out a periodic review of the mineral permissions relating to a mining site, and that periodic review is the second or a subsequent periodic review of the permissions relating to that site, and
- (b) in relation to the second or any subsequent periodic review by a mineral planning authority for an area in Wales of the mineral permissions relating to a mining site.

(A2) In the application of this paragraph in relation to a mineral planning authority for an area in England “the review date” means the date set by the authority as the review date for the purposes of the periodic review.

(A3) That date may not be earlier than the relevant date found under sub-paragraph (1) below in relation to the site.

(A4) In the application of this paragraph in relation to a mineral planning authority for an area in Wales “the review date” means the relevant date found under sub-paragraph (1) below in relation to the site.”

(3) In sub-paragraph (1), for “ “review date”” substitute “relevant date” .

(4) In sub-paragraph (2)—

- (a) omit the “and” at the end of paragraph (a), and
- (b) at the end of paragraph (b) insert “, and
- (c) paragraph 4(A1) were omitted.”

#### **Commencement Information**

**I60** Sch. 3 para. 9 in force at 25.6.2013 by S.I. 2013/1488, art. 3(d)

## SCHEDULE 4

Section 16

### NEW SCHEDULE 1A TO THE COMMONS ACT 2006

In the Commons Act 2006, after Schedule 1 insert—

#### “SCHEDULE 1A

Section 15C

#### EXCLUSION OF RIGHT UNDER SECTION 15

#### ***Trigger events***

1. An application for planning permission in relation to the land which would be determined under section 70 of the 1990 Act is first publicised in accordance with requirements imposed by a development order by virtue of section 65(1) of that Act.

#### ***Terminating events***

- (a) The application is withdrawn.
- (b) A decision to decline to determine the application is made under section 70A of the 1990 Act.
- (c) In circumstances where planning permission is refused, all means

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2. An application for planning permission made in relation to the land under section 293A of the 1990 Act is first publicised in accordance with subsection (8) of that section.
3. A draft of a development plan document which identifies the land for potential development is published for consultation in accordance with regulations under section 17(7) of the 2004 Act.
4. A development plan document which identifies the land for potential development is adopted under section 23(2) or (3) of the 2004 Act.
5. A proposal for a neighbourhood development plan which identifies the land for potential development is published by a local planning authority for consultation in accordance with regulations under paragraph 4(1) of Schedule 4B to the 1990 Act as it applies by virtue of section 38A(3) of the 2004 Act.
6. A neighbourhood development plan which identifies the land for potential development is made under section 38A of the 2004 Act.
- of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.
- (d) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.
- (a) The application is withdrawn.
- (b) In circumstances where planning permission is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.
- (c) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.
- (a) The document is withdrawn under section 22(1) of the 2004 Act.
- (b) The document is adopted under section 23(2) or (3) of that Act (but see paragraph 4 of this Table).
- (a) The document is revoked under section 25 of the 2004 Act.
- (b) A policy contained in the document which relates to the development of the land in question is superseded by another policy by virtue of section 38(5) of that Act.
- (a) The proposal is withdrawn under paragraph 2(1) of Schedule 4B to the 1990 Act (as it applies by virtue of section 38A(3) of the 2004 Act).
- (b) The plan is made under section 38A of the 2004 Act (but see paragraph 6 of this Table).
- (a) The plan ceases to have effect.
- (b) The plan is revoked under section 61M of the 1990 Act (as it applies by virtue of section 38C(2) of the 2004 Act).
- (c) A policy contained in the plan which relates to the development of the land in question is superseded by another

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policy by virtue of section 38(5) of the 2004 Act.

7. A development plan for the purposes of section 27 or 54 of the 1990 Act, or anything treated as contained in such a plan by virtue of Schedule 8 to the 2004 Act, continues to have effect (by virtue of that Schedule) on the commencement of section 16 of the Growth and Infrastructure Act 2013 and identifies the land for potential development.

The plan ceases to have effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.

8. A proposed application for an order granting development consent under section 114 of the 2008 Act in relation to the land is first publicised in accordance with section 48 of that Act.

- (a) The period of two years beginning with the day of publication expires.
- (b) The application is publicised under section 56(7) of the 2008 Act (but see paragraph 9 of this Table).

9. An application for such an order in relation to the land is first publicised in accordance with section 56(7) of the 2008 Act.

- (a) The application is withdrawn.
- (b) In circumstances where the application is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.
- (c) In circumstances where an order granting development consent in relation to the land is made, the period within which the development to which the consent relates must be begun expires without the development having been begun.

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### *Interpretation*

In this Schedule—

“the 1990 Act” means the Town and Country Planning Act 1990;

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004;

“the 2008 Act” means the Planning Act 2008.

### *Notes*

1 For the purposes of this Schedule, all means of challenging a decision in legal proceedings in the United Kingdom are to be treated as exhausted and the decision is to be treated as upheld if, at any stage in the proceedings, the time normally allowed for the making of an appeal or further appeal or the taking of any other step to challenge the decision expires without the appeal having been made or (as the case may be) the other step having been taken.

2 Paragraph 7 of the first column of the Table does not apply in relation to a part of a development plan for the purposes of section 27 or 54 of the 1990 Act which consists of—

- (a) Part 1 of a unitary development plan or alterations to such a Part, or



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(b) a structure plan or alterations to such a plan.”

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