

# **GROWTH AND INFRASTRUCTURE ACT 2013**

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## **EXPLANATORY NOTES**

### **OVERVIEW OF THE STRUCTURE**

9. This outlines the main purpose of each of the Act's substantive provisions.

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

- Section 1 provides applicants for planning permission with the option to apply directly to the Secretary of State if a council has been designated on the basis of not performing adequately in determining planning applications.
- Section 2 broadens the powers of the Secretary of State to award costs between the parties at planning appeals and certain other planning proceedings, and to recover the Secretary of State's own costs from the parties.
- Section 3 broadens the powers of the Secretary of State to award costs between the parties at Compulsory Purchase Order inquiries. These inquiries are generally conducted on behalf of the Secretary of State by Inspectors in the Planning Inspectorate. It provides consistency with the Town and Country Planning Act 1990 ("the 1990 Act").
- Section 4 allows the Secretary of State to provide in a development order which gives planning permission for change of use, that the local authority or the Secretary of State may approve certain matters relating to the new use of the land; and it allows such an order to provide, as respects permitted development within the curtilage of a dwelling house in England, that the local authority may consider the impact of the development on the amenity of neighbouring properties. It also provides that a local planning authority can decline to determine repeat applications for such approvals.
- Section 5 amends the primary legislative framework that governs what local authorities can and cannot ask for in support of a planning application to ensure that such requests are reasonable and relate to matters that are likely to be material planning considerations.
- Section 6 removes the powers in England for the Secretary of State to intervene in and reject local development orders and a requirement on local planning authorities to report on them. It introduces a new requirement that where a local planning authority in England adopts a local development order they must submit a copy of the order to the Secretary of State after the order is adopted.
- Section 7 provides for applications and appeals to modify or discharge the affordable housing elements of agreements entered into under section 106 of the 1990 Act to make developments viable.
- Section 8 removes an anomaly whereby currently general consents for the disposal of land by local authorities can be given under the Local Government Act 1972 for less than best consideration but cannot be given under the 1990 Act where land is held for planning.
- Section 9 adds the need to promote economic growth as another consideration to be taken into account in making regulations under section 109 of the Communications Act 2003.

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- Section 10 and Schedule 3 change the current regime of fixed reviews of mineral planning permissions every 15 years to give mineral planning authorities in England local discretion over when reviews are required, subject to provision that the interval between any two such reviews cannot be shorter than under the current regime.
- Sections 11 and 12 enable the stopping up or diversion of highways and public paths under the 1990 Act to commence before planning permission has been granted in all cases. This will speed up the development process as at present the applicant must, in most cases, wait until planning permission has been granted before initiating the process.
- Section 13 amends section 31 of the Highways Act 1980 to facilitate the process for landowners to make statements and declarations to counter rights of way claims, aligning it with the equivalent process in relation to town and village greens.
- Section 14 amends the Commons Act 2006 (“the 2006 Act”) so as to reduce the period within which a town or village green application can be made (after the requisite 20 years of recreational use “as of right” has ceased) from two years to one year.
- Section 15 amends the 2006 Act so as to allow landowners to deposit a map and statement to protect their land from registration as a town or village green, whilst allowing access to the land.
- Section 16 excludes the right to apply to register land as a town or village green under section 15(1) of the 2006 Act where any of a number of specified events occurs.
- Section 17 amends an existing power to allow regulations to prescribe more flexible fees in relation to applications under Part 1 of the 2006 Act, including applications to register land as a town or village green.

***Other infrastructure provisions***

- Section 18 repeals section 14 of the Energy Act 1976 that requires developers or operators to give written notice to the Secretary of State for proposals to establish or convert electricity generating stations to be fuelled by natural gas or petroleum.
- Section 19 amends the Gas Act 1986 to clarify that licences under that Act for gas transporters (companies licensed to operate a gas grid) may contain certain conditions requiring gas transporters to make payments to other persons holding licences under Part 1 of that Act, including other gas transporters and gas interconnectors.
- Sections 20 and 21 provide powers to vary consents for energy infrastructure projects granted under section 36 of the Electricity Act 1989 and to make associated directions deeming planning permission to be granted under section 90 of the Town and Country Planning Act 1990 where such variation occurs.
- Section 22 inserts a new section in the Planning Act 2008. The new section is concerned with projects granted consent under pre-Planning Act legislation where the consents concerned have been varied or replaced under that legislation. The intention of this new section is to avoid any suggestion that as well as the varied or replaced pre-Planning Act consents, changes to such projects also require development consent under the Planning Act.
- Section 23 removes the need for three separate certification and consent procedures. These issues can be dealt with as part of the examination process for an application for development consent.
- Section 24 repeals provisions under the Planning Act 2008 applying special parliamentary procedure where land belonging to a local authority or a statutory undertaker is compulsorily acquired. It also removes the requirement for the Secretary of State to issue a certificate once satisfied that an order under that Act authorising compulsory acquisition of land, or rights over land, forming part of a common, open space or fuel or field garden allotment should not be subject to special parliamentary procedure. It also provides additional circumstances

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in which the Secretary of State may determine that an order authorising acquisition of open space will not be subject to that procedure.

- Section 25 makes modifications to special parliamentary procedure by amending the Statutory Orders (Special Procedure Act) 1945 to ensure that orders under the Planning Act 2008 (“the 2008 Act”), the Acquisition of Land Act 1981, and specified provisions in a number of other Acts, which are subject to special parliamentary procedure because they authorise compulsory acquisition of land falling into a special category, will be subject to this procedure only to the extent that these authorise acquisition of that land.
- Section 26 amends the scope of the planning regime for nationally significant infrastructure under the 2008 Act to include significant commercial and business development.
- Section 27 amends the provisions in the 2008 Act dealing with development consent orders for nationally significant highways projects so that section 144(2) only applies to such orders that authorise the charging of tolls and not to orders that authorise other road user charges. It also removes an existing limitation on the ability of development consent orders under the 2008 Act to provide for the transfer and appropriation of roads.
- Section 28 gives the Mayor of London the power to delegate his decisions on whether to ‘call-in’ planning applications of potential strategic importance for his own determination; and similarly to delegate decisions on whether to grant permission in cases where an application has been called-in.

***Economic measures***

- Section 29 postpones the next non-domestic rating revaluation in England from 2015 to 2017, providing business with increased certainty over their business rates and allowing them to focus on delivering growth.
- Section 30 amends the Local Government Finance Act 1988 by inserting a new section 54A which allows the Welsh Ministers to make an order postponing the date on which the new non-domestic rating lists in Wales should be compiled from 1 April 2015 to 1 April in 2016, 2017, 2018, 2019 or 2020 and ensures that new lists must then be compiled every five years thereafter.
- Section 31 creates a new employment status of employee shareholder in order to increase the range of employment options companies may use as they grow and adapt their workforce.