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STATUTORY INSTRUMENTS

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**2010 No. 490**

**The Conservation of Habitats and Species Regulations 2010**

**PART 6**

**ASSESSMENT OF PLANS AND PROJECTS**

**CHAPTER 8**

**LAND USE PLANS**

*Interpretation of Chapter 8*

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**107.**—(1) In this Chapter—

“the 1999 Act” means the Greater London Authority Act 1999<sup>(1)</sup>;

“the 2004 Planning Act” means the Planning and Compulsory Purchase Act 2004<sup>(2)</sup>;

“the 2005 Order” means the Planning and Compulsory Purchase Act 2004 (Commencement No. 3 and Consequential and Transitional Provisions) (Wales) Order 2005<sup>(3)</sup>;

“the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009<sup>(4)</sup>;

“land use plan” means—

- (a) the regional strategy under Part 5 (regional strategy) of the 2009 Act;
- (b) the spatial development strategy under section 334 (the spatial development strategy) of the 1999 Act;
- (c) a local development document as provided for in Part 2 (local development) of the 2004 Planning Act other than a statement of community involvement under section 18<sup>(5)</sup> (statement of community involvement) of that Act;
- (d) a local development plan as provided for in Part 6 (Wales) of the 2004 Planning Act;
- (e) the Wales Spatial Plan under section 60<sup>(6)</sup> (Wales Spatial Plan) of the 2004 Planning Act;
- (f) an alteration or replacement of a structure plan, unitary development plan, local plan, minerals local plan, or waste local plan under Part 2<sup>(7)</sup> (development plans) of the TCPA

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(1) 1999 c. 29.

(2) 2004 c. 5.

(3) S.I. 2005/1229 (W.87) (C.56), amended by S.I. 2005/2722 (W.193) (C.110).

(4) 2009 c. 20.

(5) Section 18 was amended by the Planning Act 2008 (c. 29), section 180(1) and (4) and Schedule 13.

(6) Section 60 was amended by the Government of Wales Act 2006 (c. 32), paragraph 66 of Schedule 10 and Schedule 12.

(7) Sections 32 to 40 in Part 2 of the TCPA 1990 were substituted by the Planning and Compensation Act 1991 (c. 34), paragraph 17 of Schedule 4; Part 2 of the TCPA 1990 was repealed by the 2004 Planning Act, Schedule 9, subject to transitional provisions contained in Schedule 8 to that Act.

1990 to the extent permitted by Schedule 8 (transitional provisions) to the 2004 Planning Act; or

- (g) a unitary development plan as provided for in Part 2 of the TCPA 1990 to the extent permitted by article 4 (transitional provisions) of the 2005 Order<sup>(8)</sup>;

“plan-making authority” means—

- (a) responsible regional authorities as defined in section 72 (responsible regional authorities) of the 2009 Act;
- (b) the Mayor of London when exercising powers under subsection (1) or (2) of section 341 (alteration or replacement) of the 1999 Act;
- (c) an authority which, by virtue of Part 1 (planning authorities) of the TCPA 1990 or an order under subsection (2) of section 29 (joint committees) of the 2004 Planning Act, is a local planning authority;
- (d) the Secretary of State when exercising powers under—
- (i) section 21 (intervention by Secretary of State) or section 27 (Secretary of State’s default power) of the 2004 Planning Act, or
- (ii) section 19 (approval of a unitary development plan), subsection (4) of section 35A<sup>(9)</sup> (calling in of proposal for approval by the Secretary of State) or section 45 (approval of proposals by the Secretary of State) of the TCPA 1990 to the extent permitted by Schedule 8 to the 2004 Planning Act; or
- (e) the Welsh Ministers when exercising powers under—
- (i) section 60(3), section 65 (intervention by Assembly) or subsection (4) of section 71 (Assembly’s default power) of the 2004 Planning Act, or
- (ii) section 19 of the TCPA 1990 to the extent permitted by article 4 of the 2005 Order; and

“regional strategy” has the same meaning as in section 70 (regional strategy) of the 2009 Act.

(2) References in this Chapter to giving effect to a land use plan are to—

- (a) the publication, under subsection (5) of section 78 (approval of revision by Secretary of State) of the 2009 Act, of a revision of a regional strategy;
- (b) the approval, under section 21(9) or 27(4) of the 2004 Planning Act, of a local development document;
- (c) the adoption, under section 23 (adoption of local development documents) of the 2004 Planning Act, of a local development document other than a statement of community involvement under section 18 of that Act;
- (d) the publication, under section 341 of the 1999 Act, of alterations of the spatial development strategy or a new spatial development strategy to replace it;
- (e) the publication, under section 60 of the 2004 Planning Act, of a revision of the Wales Spatial Plan;
- (f) the adoption, under section 67 (adoption of local development plan) of the 2004 Planning Act, of a local development plan;
- (g) the approval, under section 65(9) or 71(4) of the 2004 Planning Act, of a local development plan;

<sup>(8)</sup> Article 4 contains transitional provisions; it was revoked by [S.I. 2005/2722 \(W.193\) \(C.110\)](#), but that S.I. was amended by [S.I. 2006/842 \(W.77\)](#) with the effect that the transitional provisions in Article 4 of the 2005 Order continue to apply in relation to the local planning authorities in Wales listed in the Schedule to [S.I. 2005/2722](#).

<sup>(9)</sup> Section 35A was inserted by the Planning and Compensation Act 1991 (c. 34), paragraph 17 of Schedule 4.

- (h) the adoption, under section 35(1) (adoption of proposals), or approval under section 35A(4) of the TCPA 1990, of an alteration or replacement of a structure plan to the extent permitted by paragraph 2(2) of Schedule 8 to the 2004 Planning Act;
- (i) the adoption, under section 15(**10**) (adoption of unitary development plans by local planning authority) and that provision as applied by subsection (2) of section 21(**11**) (alteration or replacement of unitary development plans) of the TCPA 1990, of an alteration or replacement of a unitary development plan to the extent permitted by paragraph 4 of Schedule 8 to the 2004 Planning Act;
- (j) the approval, under section 19 and that provision as applied by section 21(2) of the TCPA 1990, of an alteration or replacement of a unitary development plan to the extent permitted by paragraph 4 of Schedule 8 to the 2004 Planning Act;
- (k) the adoption, under section 43(**12**) (adoption of proposals) or approval under section 45 of the TCPA 1990, of an alteration or replacement of a local plan, minerals local plan or waste local plan to the extent permitted by paragraph 9, 10 or 14 of Schedule 8 to the 2004 Planning Act;
- (l) the adoption, under section 15 of the TCPA 1990, of a unitary development plan to the extent permitted by article 4 of the 2005 Order; or
- (m) the approval, under section 19 of the TCPA 1990, of a unitary development plan to the extent permitted by article 4 of the 2005 Order.

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(10) Section 15(1) was substituted by the Planning and Compensation Act 1991 (c. 34), paragraph 6 of Schedule 4.

(11) Section 21 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 12(2) of Schedule 4 and Schedule 19.

(12) Section 43 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 19(1) of Schedule 4.