

Town and Country Planning Act 1990

1990 CHAPTER 8

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An Act to consolidate certain enactments relating to town and country planning (excluding special controls in respect of buildings and areas of special architectural or historic interest and in respect of hazardous substances) with amendments to give effect to recommendations of the Law Commission.

[24th May 1990]

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:—

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Notes

- ¹ Act modified by Planning (Consequential Provisions) Act 1990 (c.11), s. 5, Sch. 3 paras. 13, 14 Act amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9), ss. 72(2), 91(4) Act excluded by Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9), s. 50(4)(a)

Extent

Preamble: England, Wales

PART I

PLANNING AUTHORITIES

 Law In Force

1.— Local planning authorities: general.

(1) In a non-metropolitan county—

- (a) the council of a county is the county planning authority for the county, and
- (b) the council of a district is the district planning authority for the district,

and references in the planning Acts to a local planning authority in relation to a non-metropolitan county shall be construed, subject to any express provision to the contrary, as references to both the county planning authority and the district planning authorities.

Notes

- ¹ Act modified by Planning (Consequential Provisions) Act 1990 (c.11), s. 5, Sch. 3 paras. 13, 14 Act amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9), ss. 72(2), 91(4) Act excluded by Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9), s. 50(4)(a)

Amendments Pending

Pt III s. 89: words inserted by Housing and Planning Act 2016 c. 22 Sch. 12 para. 24 (Not yet in force)

Commencement

Pt III s. 89: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt III s. 89(1)-(2): England, Wales

Deemed planning permission



Law In Force

90.— Development with government authorisation.

(1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority [or National Park authority]¹, or by statutory undertakers who are not a local authority [or National Park authority]¹, that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

[(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 [or the Welsh Ministers]³ 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 [or the Welsh Ministers]³ 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.

] ²

[(2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.] ⁴

(3) The provisions of this Act (except [section 100ZA and] ⁵ [Part] ⁶ XII) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this section as if it had been granted by the Secretary of State on an application referred to him under section 77 [(so that section 71ZA applies as if references to the decision notice were to the direction)] ⁷.

- (4) For the purposes of this section development is authorised by a government department if—
- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;
 - (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;
 - (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;
 - (d) authority is given by the department—
 - (i) for the borrowing of money for the purpose of the development, or
 - (ii) for the application for that purpose of any money not otherwise so applicable;
 or
 - (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants;

and references in this section to the authorisation of a government department shall be construed accordingly.

[(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.] ⁸

Notes

¹ Words inserted by Environment Act 1995 c. 25 Sch.10 para.32(4) (November 23, 1995)

² S.90(2) and (2ZA) substituted for s.90(2) by Growth and Infrastructure Act 2013 c. 27 s.21(2) (July 31, 2013)

³ Words inserted by Wales Act 2017 c. 4 Pt 2 s.39(13) (April 1, 2018: insertion has effect on April 1, 2018 as SI 2017/1179 reg.3(h) for the purposes of 2017 c.4 Sch.1 subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1, 6 and 8; April 1, 2019 as SI 2017/1179 reg.5(a) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1, 6 and 8 otherwise)

⁴ Added by Transport and Works Act 1992 c. 42 Pt I s.16(1) (January 1, 1993)

⁵ Words inserted by Neighbourhood Planning Act 2017 c. 20 Sch.3 para.5 (October 1, 2018 as SI 2018/567 reg.3(b))

- ⁶ Substituted by Planning and Compensation Act 1991 c. 34 Sch.6 para.12 (September 25, 1991 subject to transitional provisions specified in SI 1991/2067 Sch.2 Part II)
- ⁷ Words inserted by Planning (Wales) Act 2015 anaw. 4 Pt 6 s.33(3) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; March 1, 2016 in relation to developments of national significance and secondary consents; March 16 subject to transitional provisions specified in SI 2016/52 art.12 otherwise)
- ⁸ S.90(5)-(7) substituted for s.90(5) by Growth and Infrastructure Act 2013 c. 27 s.21(3) (July 31, 2013)

Amendments Pending

Pt III s. 90: words inserted by Housing and Planning Act 2016 c. 22 Sch. 12 para. 24 (Not yet in force)

Commencement

Pt III s. 90: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt III s. 90(1)-(7): England, Wales

Duration of planning permission



Law In Force With Amendments Pending

91.— General condition limiting duration of planning permission.

(1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—

- (a) [the applicable period,] ¹ beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or
- (b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.

(2) The period mentioned in subsection (1)(b) shall be a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.

(3) If planning permission is granted without the condition required by subsection (1), it shall [(subject to subsections (3ZA) and (3ZB))] ² be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the [expiration of the applicable period, beginning with the date of the grant] ³ .

[(3ZA) Subsection (3ZB) applies if—

- (a) a section 73 permission is granted for the development of land in Wales, but without the condition required by subsection (1), and
- (b) the previous permission was granted, or deemed to have been granted (whether by virtue of this section or otherwise) subject to a condition as to the time within which development was to be begun.