

Town and Country Planning Act 1990 c. 8

s. 90 Development with government authorisation.



Law In Force

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Subjects

Planning

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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.~~

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(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.~~

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(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.

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(3) The provisions of this Act (except [section 100ZA](#) and [Part 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.

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(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](#).

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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 1 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))