

## SCHEDULES

### SCHEDULE 2

Section 36

#### AMENDMENTS CONSEQUENTIAL ON DEVELOPMENT CONSENT REGIME

##### *Green Belt (London and Home Counties) Act 1938 (c. xciii)*

- 1 The Green Belt (London and Home Counties) Act 1938 is amended as follows.
- 2 In section 10 (restriction on erection of buildings) after subsection (1) insert—
  - “(1A) Subsection (1) of this section is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).”
- 3 In section 11 (saving for lines, pipes, sewers etc.) after subsection (1) insert—
  - “(1A) The proviso to subsection (1) of this section is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).”
- 4 In section 12 (erection of buildings for certain statutory purposes) after subsection (1) insert—
  - “(1A) Subsection (1) of this section is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).”

##### *Pipe-lines Act 1962 (c. 58)*

- 5 The Pipe-lines Act 1962 is amended as follows.
- 6 (1) Section 1 (cross-country pipe-lines not to be constructed without authorisation) is amended as follows.
  - (2) After subsection (1) insert—
    - “(1ZA) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).”
  - (3) In subsection (1A)(b) for “pipe-line which is the subject of a pipe-line construction authorisation” substitute “nationally significant pipe-line”.
  - (4) After subsection (1A) insert—
    - “(1B) For the purposes of subsection (1A), a pipe-line is a nationally significant pipe-line if—
      - (a) its construction has been authorised by a pipe-line construction authorisation, or

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- (b) development consent under the Planning Act 2008 is required for its construction by virtue of section 14(1)(g) of that Act, and has been granted.”

- 7 In section 66(1) (general interpretation provisions) in the definition of “diversion”—
- (a) after paragraph (a) insert—
    - “(aa) if no such authorisation is required, beyond the limits of lateral diversion permitted by development consent under the Planning Act 2008 relating to that pipe-line, or”;
  - (b) in paragraph (b) after “no such authorisation” insert “or consent”.

*Harbours Act 1964 (c. 40)*

- 8 The Harbours Act 1964 is amended as follows.
- 9 In section 14 (harbour revision orders) after subsection (1) insert—
- “(1A) Subsection (1) is subject to—
    - (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
    - (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).”
- 10 In section 16 (harbour empowerment orders) after subsection (3) insert—
- “(3A) Subsections (1) to (3) are subject to—
    - (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
    - (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).”

*Gas Act 1965 (c. 36)*

- 11 The Gas Act 1965 is amended as follows.
- 12 In section 4 (storage authorisation orders) after subsection (2) insert—
- “(2A) So far as relating to development within section 17(2), (3) or (5) of the Planning Act 2008—
    - (a) subsection (1) is subject to section 33(2) of that Act (exclusion of powers to authorise development for which development consent required), and
    - (b) subsection (2) is subject to section 33(1) of that Act (exclusion of requirement for other consents for development for which development consent required).
  - (2B) So far as relating to the use of strata for the storage of gas, subsections (1) and (2) are subject to section 120(9) of the Planning Act 2008 (exclusion of power to include ancillary provision in orders).”
- 13 In section 5 (control of mining and other operations in gas storage area and protective area) after subsection (2) insert—

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“(2A) Subsection (2) does not apply so far as the controlled operations are authorised by an order granting development consent under the Planning Act 2008.”

14 (1) Section 6 (controlled operations: carrying out of works to remedy a default) is amended as follows.

(2) In subsection (1)—

- (a) for “without the consent of the Minister” substitute “in breach of section 5(2)”,
- (b) for “failure to comply with any conditions subject to which the Minister’s consent to the carrying out of any controlled operations has been granted” substitute “relevant failure to comply”, and
- (c) after “foregoing section” insert “or in circumstances involving a relevant failure to comply”.

(3) In subsection (5) for the words from “failed” to the end substitute “was responsible for the relevant failure to comply.”

(4) After subsection (8) insert—

“(9) In this section “relevant failure to comply” means—

- (a) in a case where the Minister’s consent to the carrying out of controlled operations has been obtained under section 5, a failure to comply with any conditions subject to which the Minister’s consent was granted;
- (b) in a case where the carrying out of controlled operations has been authorised by an order granting development consent under the Planning Act 2008, a breach of the terms of the order or other failure to comply with the terms of the order.”

#### *Energy Act 1976 (c. 76)*

15 In section 14 of the Energy Act 1976 (fuelling of new and converted power stations) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for notice to be given of development for which development consent required).”

#### *Ancient Monuments and Archaeological Areas Act 1979 (c. 46)*

16 The Ancient Monuments and Archaeological Areas Act 1979 is amended as follows.

17 In section 2(1) (offence of executing works affecting scheduled monuments without authorisation) after “authorised under this Part of this Act” insert “or by development consent”.

18 In section 28(2) (offence of damaging ancient monuments: exception for authorised works) after “order under section 3)” insert “or for which development consent has been granted”.

19 In section 37 (exemptions from offence under section 35) after subsection (1) insert—

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“(1A) Section 35 does not apply to the carrying out of any operations for which development consent has been granted.”

20 In section 61(1) (interpretation of Act) at the appropriate place insert—

““development consent” means development consent under the Planning Act 2008;”.

*Highways Act 1980 (c. 66)*

21 The Highways Act 1980 is amended as follows.

22 In section 10 (general provision as to trunk roads) after subsection (2) insert—

“(2A) Subsection (2) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).”

23 In section 14 (powers as respects roads that cross or join trunk roads etc.) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).”

24 In section 16 (general provision as to special roads) after subsection (3) insert—

“(3A) Subsection (3) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm schemes in relation to highways for which development consent required).”

25 In section 18 (supplementary orders relating to special roads) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).”

26 In section 106 (orders and schemes providing for construction of bridges over or tunnels under navigable waters) after subsection (4) insert—

“(4A) Subsections (1) and (3) are subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders or schemes in relation to highways for which development consent required).”

27 In section 108 (power to divert navigable watercourses) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).”

28 In section 110 (power to divert non-navigable watercourses and to carry out other works) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).”

29 (1) Section 329(1) (further provision as to interpretation of Act) is amended as follows.

- (2) In the definition of “special road” after “section 16 above” insert “or by virtue of an order granting development consent under the Planning Act 2008”.
- (3) In the definition of “trunk road” after “section 10 above” insert “or an order granting development consent under the Planning Act 2008,”.
- 30 For section 337 (saving for obligation to obtain planning permission) substitute—

**“337 Saving for obligation to obtain planning permission or development consent**

Nothing in this Act authorises—

- (a) the carrying out of any development of land for which permission is required by virtue of section 57 of the Town and Country Planning Act 1990 and which is not authorised by permission granted or deemed to be granted under or for the purposes of Part 3 of that Act; or
- (b) the carrying out of any development for which development consent is required under the Planning Act 2008 and for which development consent has not been granted under that Act.”

*Electricity Act 1989 (c. 29)*

- 31 The Electricity Act 1989 is amended as follows.
- 32 (1) Section 36 (consent for construction etc. of generating stations) is amended as follows.
- (2) In subsection (1) after “subsections” insert “(1A) to”.
- (3) After subsection (1) insert—
- “(1A) So far as relating to the construction or extension of a generating station, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).
- (1B) So far as relating to the operation of a generating station, subsection (1) does not apply if the operation is authorised by an order granting development consent under the Planning Act 2008.”
- 33 (1) Section 37 (consent for overhead lines) is amended as follows.
- (2) In subsection (1) for “subsection (2)” substitute “subsections (1A) to (2)”.
- (3) After subsection (1) insert—
- “(1A) So far as relating to the installation of an electric line, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).
- (1B) So far as relating to keeping an electric line installed, subsection (1) does not apply if keeping the line installed is authorised by an order granting development consent under the Planning Act 2008.”

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

34 TCPA 1990 is amended as follows.

35 In section 57 (planning permission required for development) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for planning permission etc. for development for which development consent required).”

36 (1) Section 211 (preservation of trees in conservation areas) is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent.”

(3) After subsection (5) insert—

“(5A) Subsection (5) does not apply so far as the act in question is authorised by an order granting development consent.”

37 In section 336(1) (interpretation) at the appropriate place insert—

““development consent” means development consent under the Planning Act 2008;”.

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

38 The Listed Buildings Act is amended as follows.

39 (1) Section 7 (restriction on works affecting listed buildings) is amended as follows.

(2) At the beginning insert “(1)”.

(3) After “authorised” insert “under section 8”.

(4) At the end insert—

“(2) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).”

40 In section 59(3) (offence relating to acts causing or likely to result in damage to listed building: exceptions) after paragraph (b) insert “; or

(c) of works for which development consent has been granted under the Planning Act 2008.”

41 In section 74 (control of demolition in conservation areas) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).”

*Planning (Hazardous Substances) Act 1990 (c. 10)*

42 The Hazardous Substances Act is amended as follows.

- 43 In section 9(2)(c) (determination of applications for hazardous substances consent: material considerations) after “planning permission” insert “or development consent”.
- 44 In section 10(1) (conditions on grant of hazardous substances consent) after “planning permission” insert “or development consent”.
- 45 (1) Section 12 (deemed hazardous substances consent: government authorisation) is amended as follows.
- (2) After subsection (2A) insert—
- “(2B) On making an order granting development consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.”
- (3) For subsection (3) substitute—
- “(3) Before giving a direction under any of subsections (1) to (2B), the person having power to give the direction must consult the Health and Safety Commission.”
- (4) In subsection (6)—
- (a) for “government department or the Secretary of State” substitute “person”, and
- (b) after “directions” insert “given by the person”.
- 46 In section 14(2)(b) (power to revoke or modify hazardous substances consent)—
- (a) after “planning permission” insert “or development consent”;
- (b) after “the permission” insert “or development consent”.
- 47 In section 39(1) (interpretation) at the appropriate place insert—
- ““development consent” means development consent under the Planning Act 2008;”.

#### *New Roads and Street Works Act 1991 (c. 22)*

- 48 The New Roads and Street Works Act 1991 is amended as follows.
- 49 In section 6 (toll orders) after subsection (1) insert—
- “(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).”

#### *Water Industry Act 1991 (c. 56)*

- 50 In section 167(1) of the Water Industry Act 1991 (compulsory works orders)—
- (a) after “water undertaker” insert “whose area is wholly or partly in Wales”, and
- (b) after “functions” insert “in relation to an area in Wales”.

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*Transport and Works Act 1992 (c. 42)*

51 The Transport and Works Act 1992 is amended as follows.

52 In section 1 (orders as to railways, tramways etc.) after subsection (1) insert—

“(1A) Subsection (1) is subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).”

53 In section 3 (orders as to inland waterways etc.) after subsection (1) insert—

“(1A) Subsection (1) is subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).”

*Town and Country Planning (Scotland) Act 1997 (c. 8)*

54 The Town and Country Planning (Scotland) Act 1997 is amended as follows.

55 In section 28 (planning permission required for development) after subsection (1) insert—

“(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for planning permission etc. for development for which development consent required).”

56 In section 160(6) (tree preservation orders: exemptions) after paragraph (b) insert—

“(ba) it is authorised by an order granting development consent.”

57 (1) Section 172 (preservation of trees in conservation areas) is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent.”

(3) After subsection (5) insert—

“(5A) Subsection (5) does not apply so far as the act in question is authorised by an order granting development consent.”

58 In section 277(1) (interpretation) at the appropriate place insert—

““development consent” means development consent under the Planning Act 2008;”.

*Planning (Hazardous Substances) (Scotland) Act 1997 (c. 10)*

59 The Planning (Hazardous Substances) (Scotland) Act 1997 is amended as follows.

60 In section 7(2)(c) (determination of applications for hazardous substances consent: material considerations) after “planning permission” insert “or development consent”.



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- 61 In section 8(1) (conditions on grant of hazardous substances consent) after “planning permission” insert “or development consent”.
- 62 (1) Section 10 (deemed hazardous substances consent: government authorisation) is amended as follows.
- (2) After subsection (2A) insert—
- “(2B) On making an order granting development consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.”
- (3) For subsection (3) substitute—
- “(3) Before giving a direction under any of subsections (1) to (2B), the person having power to give the direction must consult the Health and Safety Commission.”
- (4) In subsection (6)—
- (a) for the words from “government” to “Ministers” substitute “person”, and
- (b) after “directions” insert “given by the person”.
- 63 In section 12(2)(b) (power to revoke or modify hazardous substances consent)—
- (a) after “planning permission” insert “or development consent”, and
- (b) after “the permission” insert “or development consent”.
- 64 In section 38(1) (interpretation) at the appropriate place insert—
- ““development consent” means development consent under the Planning Act 2008.”.

#### *Housing and Regeneration Act 2008 (c. 17)*

- 65 In section 13(5) of the Housing and Regeneration Act 2008 (power of Secretary of State to make designation orders) in the definition of “permitted purposes” at the end insert “, and
- (d) Part 8 of the Planning Act 2008.”.

#### *Crossrail Act 2008 (c. 18)*

- 66 (1) Section 48 of the Crossrail Act 2008 (application of Act to extensions) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Development consent under the Planning Act 2008 is not required for—
- (a) an extension of Crossrail, or
- (b) the provision, otherwise than as part of an extension of Crossrail, of a railway facility for use for the purposes of or in connection with Crossrail.”
- (3) In subsection (1) for paragraphs (a) and (b) substitute “a matter mentioned in subsection (A1)(a) or (b).”

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- (4) In subsection (2) for “(1)” substitute “(A1)”.
- (5) In subsection (5) for “(1)” substitute “(A1)”.