

**2012 No.**

**INFRASTRUCTURE PLANNING**

**The Infrastructure Planning (Waste Water Transfer and Storage)  
Order 2012**

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

The Secretary of State, in exercise of the powers conferred by sections 14(3) and (4) and 232(3)(b) of the Planning Act 2008(a), makes the following Order.

A draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament in accordance with section 232(6) of that Act.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 and comes into force on the day after the day on which it is made.

(2) In this Order, “the Act” means the Planning Act 2008.

**Amendments to the Act**

2.—(1) The Act is amended as follows.

(2) In section 14 (nationally significant infrastructure projects: general), in subsection (1), at the end of paragraph (o), add “or of infrastructure for the transfer or storage of waste water;”.

(3) In section 29 (waste water treatment plants) —

(a) after subsection (1), insert —

“(1A) The construction of infrastructure for the transfer or storage of waste water is within section 14(1)(o) only if —

(a) the works will be carried out wholly in England and the infrastructure will (when constructed) be wholly in England,

(b) the main purpose of the infrastructure will be—

(i) the transfer of waste water for treatment, or

(ii) the storage of waste water prior to treatment,

or both, and

(c) the infrastructure is expected to have a capacity for the storage of waste water exceeding 350,000 cubic metres.”;

(b) after subsection (2), insert —

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(a) 2008 c.29; relevant amendments are made by the Localism Act 2011 (c. 20).

“(2A) The alteration of infrastructure for the transfer or storage of waste water is within section 14(1)(o) only if—

- (a) the works will be carried out wholly in England and the part of the infrastructure to be altered is wholly in England,
- (b) the main purpose of the infrastructure is —
  - (i) the transfer of waste water for treatment, or
  - (ii) the storage of waste water prior to treatment,or both, and
- (c) the effect of the alteration is expected to be to increase the capacity of the infrastructure for the storage of waste water by more than 350,000 cubic metres.”.

### Supplementary provision

3.—(1) For the purpose of any requirement of any provision specified in paragraph (2), where a project is a nationally significant infrastructure project, by virtue of the amendments made by article 2 of this Order, the Secretary of State may treat anything done before the date on which this Order comes into force as compliance with that requirement, if it would have complied with that requirement had it been done after that date.

(2) The provisions referred to in paragraph (1) are any provision of —

- (a) Chapter 2 of Part 5 of the Act;
- (b) the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(a); or
- (c) the Infrastructure Planning (Application: Prescribed Forms and Procedure) Regulations 2009(b).

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

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(a) S.I. 2009/2263.  
(b) S.I. 2009/2264.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Regulation 2 amends the Planning Act 2008 (“the 2008 Act”). In section 14(1), it extends the categories of infrastructure project which are nationally significant for the purposes of the 2008 Act by adding to them, subject to section 29 of the 2008 Act (see section 14(2)), the construction or alteration of infrastructure for the transfer or storage of waste water, but it also limits these additional categories by limitations inserted in section 29. These limitations in section 29 provide criteria for determining whether any particular project for the construction or alteration of such infrastructure is to be treated as a nationally significant infrastructure project.

Regulation 3 makes supplementary provision in relation to ongoing infrastructure projects that as a result of the amendments to the 2008 Act made by this Order, become treated as nationally significant. Anything done by a promoter of such a project prior to the commencement of this Order may be treated by the Secretary of State as compliance with specified provisions of the 2008 Act, if it would have amounted to such compliance if it had been done after this Order came into force.

The 2008 Act is amended by Chapter 6 of Part 6 of the Localism Act 2011, which comes into force on 1st April 2012, by virtue of article 7 of the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012 (S.I. 2012/628). Section 128 of the Localism Act 2011 abolishes the Infrastructure Planning Commission, and Schedule 13 transfers its functions to the Secretary of State.

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DRAFT STATUTORY INSTRUMENTS

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