

SCHEDULES

SCHEDULE 7

Section 32.

PLANNING IN ENGLAND AND WALES: MINOR AND CONSEQUENTIAL AMENDMENTS

Agricultural Land (Removal of Surface Soil) Act 1953 (c. 10)

- 1 In section 2(3) of the Agricultural Land (Removal of Surface Soil) Act 1953 for the words from “it was determined” to the end there is substituted “a certificate was issued under section 192 of the Town and Country Planning Act 1990 that the operations would be lawful.”

Local Government Act 1972 (c. 70)

- 2 In Part III of Schedule 12A to the Local Government Act 1972, in the definition of “protected informant”, for “172(3)” there is substituted “171A”.

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 3 In section 7(5) of the Local Government (Miscellaneous Provisions) Act 1976 paragraph (a)(iii) is omitted.

Rent (Agriculture) Act 1976 (c. 80)

- 4 In section 33(4) of the Rent (Agriculture) Act 1976 for the words from “section 63(2)(b)” to the end there is substituted “section 73A of the Town and Country Planning Act 1990”.

Local Government, Planning and Land Act 1980 (c. 65)

- 5 In Part I of Schedule 29 to the Local Government, Planning and Land Act 1980, the following are inserted at the appropriate places among the provisions of the principal Act there listed: 171C, 173A, 187A, 187B, 196A to 196C and 324(1)(b) and (c) and (7).

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

- 6 In section 33 of the Local Government (Miscellaneous Provisions) Act 1982, in subsection (1) for paragraphs (a) to (c) there is substituted—
- “(a) is executed for the purpose of securing the carrying out of works on land in the council’s area in which the other person has an interest, or
 - (b) is executed for the purpose of regulating the use of or is otherwise connected with land in or outside the council’s area in which the other person has an interest,

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and which is neither executed for the purpose of facilitating nor connected with the development of the land in question.”

Housing Act 1988 (c. 50)

7 In section 67(3A) of the Housing Act 1988 after “104” there is inserted “171C, 171D”.

The principal Act

8 The principal Act is amended as follows.

Part I

- 9 (1) In section 5(1) for “300 and 324(1)(b) and (c) and (7)” there is substituted “and 300”.
- (2) In section 5(3)—
- (a) for “sections 36 to 49, 50(6) to (9), 51” there is substituted “Part II, sections”,
 - (b) for “64 to 72” there is substituted “65, 69 to 72”,
 - (c) for “81” there is substituted “79”,
 - (d) after “106” there is inserted “to 106B, 171C”,
 - (e) after “173” there is inserted “173A”,
 - (f) after “184” there is inserted “187A, 187B”,
 - (g) for “215” there is substituted “214, 215”,
 - (h) after “299” there is inserted “299A”, and
 - (i) for “316(1) to (3) and 324(1)(a)” there is substituted “316 and 324(1) and (7)”.

Part III

- 10 (1) In section 56, in subsection (3) after “87(4)” there is inserted “89”.
- (2) In subsection (4) of that section after paragraph (a) there is inserted—
- “(aa) any work of demolition of a building;”.
- 11 Section 63 is omitted.
- 12 Section 64 is omitted.
- 13 In section 69—
- (a) in subsection (1) “made to that authority”, and
 - (b) in subsection (3) “made to the authority”,
- are omitted.
- 14 In section 70(3) for “sections 65, 66 and 67” there is substituted “section 65”.
- 15 In section 71(4) for the definitions of “agricultural holding” and “owner” there is substituted—
- ““prescribed” means prescribed by a development order”.
- 16 (1) After section 73 there is inserted—

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“73A Planning permission for development already carried out

- (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
- (2) Subsection (1) applies to development carried out—
 - (a) without planning permission;
 - (b) in accordance with planning permission granted for a limited period; or
 - (c) without complying with some condition subject to which planning permission was granted.
- (3) Planning permission for such development may be granted so as to have effect from—
 - (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.”

17 In section 74(2) “section 71 of this Act and” is omitted.

18 In section 77(4) for “65(2) and (9), 66, 67, 70, 71(1) and (2), 72(1) and (5) and 73” there is substituted “70, 72(1) and (5), 73 and 73A” and at the end there is inserted “and a development order may apply, with or without modifications, to an application so referred any requirements imposed by such an order by virtue of section 65 or 71”.

19 In section 79(4) for “66, 67, 70, 71(2), 72(1) and (5) and 73” there is substituted “70, 72(1) and (5), 73 and 73A” and at the end there is inserted “and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71”.

20 In section 91(4)(b), for the words from “granted” to the end there is substituted “granted for development carried out before the grant of that permission”.

21 In section 102, for subsections (4) and (5) there is substituted—

“(4) The planning permission which may be granted by an order under this section includes planning permission, subject to such conditions as may be specified in the order, for development carried out before the date on which the order was submitted to the Secretary of State under section 103.

- (5) Planning permission for such development may be granted so as to have effect from—
 - (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.”

Part VII

22 In section 174(6) “in writing” is omitted.

23 For section 176(1) and (2) there is substituted—

“(1) On an appeal under section 174 the Secretary of State may—

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- (a) correct any defect, error or misdescription in the enforcement notice;
or
 - (b) vary the terms of the enforcement notice,
- if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.”
- 24 (1) In section 177(1)—
- (a) for paragraph (a) there is substituted—
 - “(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;” and
 - (b) for paragraph (c) there is substituted—
 - “(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - (b) references to the local planning authority were references to the Secretary of State.
- (1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194”.
- (2) For section 177(3) there is substituted—
- “(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.”
- (3) In section 177(5) for “for the development to which the notice relates” there is substituted “in respect of the matters stated in the enforcement notice as constituting a breach of planning control”.
- 25 In section 178(2) “(as defined in section 172(3))” is omitted.
- 26 For section 180 there is substituted—

“180 Effect of planning permission, etc., on enforcement or breach of condition notice

- (1) Where, after the service of—
 - (a) a copy of an enforcement notice; or
 - (b) a breach of condition notice,planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
- (2) Where after a breach of condition notice has been served any condition to which the notice relates is discharged, the notice shall cease to have effect so far as it requires any person to secure compliance with the condition in question.
- (3) The fact that an enforcement notice or breach of condition notice has wholly or partly ceased to have effect by virtue of this section shall not affect the liability of any person for an offence in respect of a previous failure to comply, or secure compliance, with the notice.”

- 27 In section 181—
 - (a) in subsections (1)(a), (4)(b) and (5)(b) for “demolition”, in each place where it occurs, there is substituted “removal”;
 - (b) in subsections (3), (4) and (5) for “demolished”, in each place where it occurs, there is substituted “removed”; and
 - (c) in subsection (5)(b) for “any of the provisions of section 179(1) to (5)” there is substituted “section 179(2)”.
- 28 In section 184—
 - (a) in subsection (4)(b) for “compliance period” there is substituted “period for compliance with the enforcement notice”;
 - (b) in subsection (5) for the words from “included” to the end there is substituted “relevant activities”;
 - (c) in subsection (8) for “172(6)” there is substituted “172”.
- 29 In section 186—
 - (a) in subsection (1)(b) for the words from “matters” to the end there is substituted “any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity”; and
 - (b) in subsection (1)(c) the words from “or for its retention” to “granted” are omitted;
 - (c) in subsection (2) for the words from “so much” to the end there is substituted “the prohibition of such of the activities prohibited by the stop notice as cease to be relevant activities”.
- 30 In section 188—
 - (a) after subsection (1)(b) there is inserted “and
 - (c) to breach of condition notices”, and the “and” immediately preceding paragraph (b) is omitted;
 - (b) in subsection (2)(a) for “or stop notice” there is substituted “stop notice or breach of condition notice”, and

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- (c) in subsection (2)(b) after “stop notices” there is inserted “and breach of condition notices”.
- 31 Section 190(4) is omitted.
- 32 In section 195—
- (a) in subsection (1) for “an established use certificate” there is substituted “a certificate under section 191 or 192”,
- (b) in subsection (2) for “an established use certificate” there is substituted “a certificate under section 191 or, as the case may be, 192”, and
- (c) for subsection (4) there is substituted—
- “(4) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the use, operations or other matter in question.”
- 33 In section 196—
- (a) in subsection (1) “an application referred to him under section 192(5) or” is omitted and for “applicant or appellant (as the case may be)” there is substituted “appellant”,
- (b) in subsection (2) for “an established use certificate on such a reference or” there is substituted “a certificate under section 191 or 192 on”,
- (c) in subsection (3) “application or” is omitted,
- (d) in subsection (4) for “established use certificates” there is substituted “certificates under section 191 or 192”, and
- (e) subsections (5) to (7) are omitted.

Part VIII

- 34 In section 198(4)(a) “to 68” is omitted.
- 35 In section 216(6) for “£40” there is substituted “one-tenth of level 3 on the standard scale”.
- 36 Section 219(6) is omitted.
- 37 In section 220(3)(a) “to 68” is omitted.
- 38 In section 224(3) for “£40” there is substituted “one-tenth of level 3 on the standard scale”.

Part X

- 39 Section 250(2) is omitted.

Part XI

- 40 Section 266(3) is omitted.

Part XII

- 41 In section 284(3)(g) the words from “on an application” to “or” are omitted.
- 42 In section 285—
- (a) in subsection (1) “Subject to the provisions of this section” is omitted;

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- (b) in subsection (2) “(6 to (8)” is omitted; and
 - (c) subsections (5) and (6) are omitted.
- 43 In section 286—
- (a) in subsection (1), paragraph (b) is omitted and in paragraph (c) for “an established use certificate under section 192” there is substituted “a certificate under section 191 or 192”, and
 - (b) in subsection (2), after “183” there is inserted “or a breach of condition notice under section 187A”.
- 44 Section 290 is omitted.

Part XIII

- 45 (1) In section 296, in subsection (1)(c) after “VII” there is inserted “except sections 196A and 196B”.
- (2) In subsection (2)(a) of that section for “172” there is substituted “171C, 172, 173A, 183, 187A, 187B”.
- 46 (1) Section 299 is amended as follows.
- (2) In subsection (1) for “determination under section 64” there is substituted “certificate under section 192”.
- (3) In subsection (2) for “or determination” there is substituted “or certificate”.
- (4) For subsection (4) there is substituted—
- “(4) Any application made by virtue of this section for a certificate under section 192 shall be determined as if the land were not Crown land.”
- (5) In subsection (5)(a) for “determinations” there is substituted “certificates”.
- (6) In subsection (6) for “determination” there is substituted “certificate”.

Part XIV

- 47 In section 306(2)(b) and (3) after “VII”, in both places where it occurs, there is inserted “except sections 196A and 196B”.

Part XV

- 48 After section 316 there is inserted—

“316A Local planning authorities as statutory undertakers

In relation to statutory undertakers who are local planning authorities, section 283 and the provisions specified in that section shall have effect subject to such exceptions and modifications as may be prescribed.”

- 49 For section 319 there is substituted—

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“319 The Isles of Scilly

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) An order under this section may in particular provide for the exercise by the Council of the Isles of Scilly of any functions exercisable by a local planning authority or mineral planning authority.
- (3) Before making an order under this section the Secretary of State shall consult with that Council.”

50 (1) Section 325 is amended as follows.

- (2) In subsection (1)(a) after “authority” there is inserted “and state the purpose of his entry”.
- (3) In subsection (2), for “level 2” there is substituted “level 3”.
- (4) In subsection (4), for “premises” there is substituted “land”.

51 At the end of section 329 there is inserted—

“(4) This section is without prejudice to section 233 of the Local Government Act 1972 (general provisions as to service of notices by local authorities).”

52 (1) Section 336 is amended as follows.

(2) In subsection (1)—

- (a) after the definition of “authority to whom Part II of the 1959 Act applies” there is inserted—

““breach of condition notice” has the meaning given in section 187A;

“breach of planning control” has the meaning given in section 171A”;

- (b) at the end of the definition of “buildings or works” there is inserted “and references to the removal of buildings or works include demolition of buildings and filling in of trenches”; and

- (c) for the definition of “building operations” there is substituted—

““building operations” has the meaning given by section 55”;

- (d) the definition of “established use certificate” is omitted,

- (e) in the definition of “owner” the words “(except in sections 66, 67 and 71)” are omitted,

- (f) after the definition of “the planning Acts” there is inserted—

““planning contravention notice” has the meaning given in section 171C”, and

- (g) in the definition of “planning permission” the words from “and in construing” to the end are omitted.

- (3) In subsection (9) for “in Part V of Schedule 16” there is substituted “of Parts III, VII and VIII” and “(1) to (3)” is omitted.

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- (4) In subsection (10) for “sections 324(2) and” there is substituted “section”.

Schedules

- 53 (1) Schedule 1 is amended as follows.
- (2) For paragraph 3(1)(b) and (c) there is substituted—
“*(b)* applications for a certificate under section 191 or 192”.
- (3) In paragraph 4(2) for “such application relating” there is substituted “application for planning permission, for a certificate under section 191 or 192 or for consent to the display of advertisements under section 220, relating in each case”.
- (4) In paragraph 7(1) for “sections 70 and 71” there is substituted “section 70”.
- (5) For paragraph 8 there is substituted—
- “8 (1) A local planning authority who have the function of determining applications for planning permission shall, if requested to do so by the council of any parish or community situated in their area, notify the council of—
- (a) any relevant planning application; and
- (b) any alteration to that application accepted by the authority.
- (2) In sub-paragraph (1) “a relevant planning application” means an application which—
- (a) relates to land in the parish or community; and
- (b) is an application for—
- (i) planning permission; or
- (ii) approval of a matter reserved under an outline planning permission within the meaning of section 92.
- (3) Any request made for the purposes of sub-paragraph (1) shall be in writing and state that the council wishes to be notified of all relevant applications or all applications of a description specified in the request.
- (4) An authority shall comply with the duty to notify a council of an application by—
- (a) sending the council a copy of the application; or
- (b) indicating to the council the nature of the development which is the subject of the application and identifying the land to which it relates,
- and any notification falling within paragraph (b) shall be in writing.
- (5) An authority shall comply with their duty to notify a council of an alteration by—
- (a) sending a copy of the alteration to the council; or
- (b) informing the council in writing of its general effect,
- but they need not notify a council of an alteration which in their opinion is trivial.
- (6) A development order may require a local planning authority which is dealing with an application of which a council is entitled to be notified—

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- (a) to give the council an opportunity to make representations to them as to the manner in which the application should be determined;
 - (b) to take into account any such representations;
 - (c) to notify the council of the terms of their decision or, where the application is referred to the Secretary of State, the date when it was so referred and, when notified to them, the terms of his decision.”
- (6) In paragraph 11(1)(b), after “serving” there is inserted “planning contravention notices under section 171C or” and after “section 183” there is inserted “or breach of condition notices under section 187A”.
- (7) After paragraph 12 there is inserted—
- “12A The functions of a local planning authority under section 187B are exercisable by any body having the function of taking enforcement action in respect of the breach in question”.
- (8) In paragraph 20, in sub-paragraph (1), for “100(3), 104(3) or 202(1)” there is substituted “100(3), 104(3), 196A(3), 202(1) or 214B(6)”.
- (9) For sub-paragraph (3) of that paragraph there is substituted—
- “(3) In relation to land in the area of a joint planning board, a person entering into a planning obligation under section 106 or 299A may identify the council of the county in which the land is situated as the authority by whom the obligation is enforceable.”
- 54 (1) Schedule 6 is amended as follows.
- (2) In paragraph 1(1), after “78” there is inserted “106B”.
- (3) In paragraph 2—
- (a) in sub-paragraph (1)(a), for “subsections (1) and (4)” there is substituted “subsections (1), (4) and (6A)”;
 - (b) after that sub-paragraph there is inserted—
 - “(aa) in relation to an appeal under section 106B, as he has under that section”;
 - (c) in sub-paragraph (1)(b), after “(2)” there is inserted “to (2A)”;
 - (d) in sub-paragraph (1)(c) “and subsection (5) of section 196” is omitted;
 - (e) in sub-paragraph (1)(d) for “and (8)” there is substituted “to (8A)”;
 - (f) in sub-paragraph (2) after “79(2)” there is inserted “106B(4)”;
 - (g) in sub-paragraph (8) “or 290” is omitted.
- (4) In paragraphs 3(2) and 4(2) after “under” there is inserted “any provision of a development order made by virtue of”.
- 55 In Schedule 8, in paragraphs 3(2) and 4(5)(a) for “section 71(1) or (2)” there is substituted “any provision of a development order made by virtue of section 71(2)(a)”.
- 56 In Schedule 13, in paragraph 5, for “functions of a government department, local authority or statutory undertakers” there is substituted “such functions as are mentioned in paragraph 1(a)(i) or (ii).”

- 57 (1) Schedule 16 is amended as follows.
- (2) In Part I—
- (a) in the entry relating to sections 61 to 64 for “to 64” there is substituted “and 62”,
 - (b) after the entry for section 70 there is inserted—
“Section 70A.”,
 - (c) after the entry relating to section 72(1) to (4) there is inserted—
“Section 73A.”,
 - (d) in the entry relating to section 77, “(2) and (9), 66 and 67” is omitted,
 - (e) in the entry relating to sections 78 and 79, the words from “with” to the end are omitted,
 - (f) for the entry relating to section 106 there is substituted—
“Sections 106 to 106B.”,
 - (g) after the entry relating to section 190 there is inserted—
“Section 192.
Sections 196A to 196C.”,
 - (h) after the entry relating to section 211(4) there is inserted—
“Sections 214A to 214D.”,
 - (i) in the entry relating to section 285, “except subsections (5) and (6)” is omitted,
 - (j) in the entry relating to section 296, for “sections 65 to 68” there is substituted “section 65”, and
 - (k) for the entry relating to section 316 there is substituted—
“Sections 316 and 316A.”
- (3) In Part II—
- (a) for the entries relating to sections 65 and 68 there is substituted—
“Section 65.”,
 - (b) in the entry for section 79 for “and” there is substituted “to”,
 - (c) after the entry relating to section 166 there is inserted—
“Sections 171A to 171D.”,
 - (d) for the entry relating to section 187 there is substituted—
“Sections 187 to 187B.”
- (4) In Part III—
- (a) for the first three entries there is substituted—
“Sections 109 to 112.”,
 - (b) the entries relating to sections 312(2) and 324(4) are omitted, and
 - (c) for the entry relating to sections 327 and 328 there is substituted—

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“Section 328.”

(5) Parts IV and V are omitted.

(6) In Part VI—

(a) for the entries relating to sections 65 to 68 there is substituted—

“Section 65.”,

(b) in the entry relating to section 71 for “and (2)” there is substituted “(2) and (2A)”,

(c) for the entry relating to sections 290 and 291 there is substituted—

“Section 291.”, and

(d) in the entry relating to section 296 for “sections 65 to 68” there is substituted “section 65”.

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

58 In section 59(4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 for “£40” there is substituted “one-tenth of level 3 on the standard scale”.

59 For section 67(8) of that Act there is substituted—

“(8) In this section references to planning permission do not include references to planning permissions falling within section 73A of the principal Act.”

60 For section 73(2) of that Act there is substituted—

“(2) In this section references to planning permission do not include references to planning permissions falling within section 73A of the principal Act.”

61 For paragraph 3 of Schedule 4 to that Act (distribution of functions: National Parks) there is substituted—

“3 Where an application for listed building consent under section 10 relating to land in a National Park falls to be determined by a county planning authority, that authority—

(a) shall send a copy of the application, as soon as practicable and in any event not later than seven days after they have received it, to the district planning authority for the area in which the land to which the application relates is situated; and

(b) shall before determining the application consult the district planning authority.”