



# Planning Act 2008

## 2008 CHAPTER 29

### PART 3

#### NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

##### *General*

#### **14 Nationally significant infrastructure projects: general**

(1) In this Act “nationally significant infrastructure project” means a project which consists of any of the following—

- (a) the construction or extension of a generating station;
- (b) the installation of an electric line above ground;
- (c) development relating to underground gas storage facilities;
- (d) the construction or alteration of an LNG facility;
- (e) the construction or alteration of a gas reception facility;
- (f) the construction of a pipe-line by a gas transporter;
- (g) the construction of a pipe-line other than by a gas transporter;
- (h) highway-related development;
- (i) airport-related development;
- (j) the construction or alteration of harbour facilities;
- (k) the construction or alteration of a railway;
- (l) the construction or alteration of a rail freight interchange;
- (m) the construction or alteration of a dam or reservoir;
- (n) development relating to the transfer of water resources;
- (o) the construction or alteration of a waste water treatment plant [<sup>F1</sup>or of infrastructure for the transfer or storage of waste water] ;
- (p) the construction or alteration of a hazardous waste facility [<sup>F2</sup>;
- (q) development relating to a radioactive waste geological disposal facility.]

(2) Subsection (1) is subject to sections 15 to [<sup>F3</sup>30A] .

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- (3) The Secretary of State may by order—
- (a) amend subsection (1) to add a new type of project or vary or remove an existing type of project;
  - (b) make further provision, or amend or repeal existing provision, about the types of project which are, and are not, within subsection (1).
- (4) An order under subsection (3)(b) may amend this Act.
- (5) The power conferred by subsection (3) may be exercised to add a new type of project to subsection (1) only if—
- (a) a project of the new type is a project for the carrying out of works in one or more of the fields specified in subsection (6), and
  - (b) the works are to be carried out wholly in one or more of the areas specified in subsection (7).
- (6) The fields are—
- (a) energy;
  - (b) transport;
  - (c) water;
  - (d) waste water;
  - (e) waste.
- (7) The areas are—
- (a) England;
  - (b) waters adjacent to England up to the seaward limits of the territorial sea;
  - (c) in the case of a project for the carrying out of works in the field of energy, a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.

#### Textual Amendments

- F1** Words in s. 14(1)(o) added (23.6.2012) by [The Infrastructure Planning \(Waste Water Transfer and Storage\) Order 2012 \(S.I. 2012/1645\)](#), arts. 1(1), **2(2)** (with art. 3)
- F2** S. 14(1)(q) inserted (27.3.2015) by [The Infrastructure Planning \(Radioactive Waste Geological Disposal Facilities\) Order 2015 \(S.I. 2015/949\)](#), arts. 1(1), **2(2)(a)**
- F3** Word in s. 14(2) substituted (27.3.2015) by [The Infrastructure Planning \(Radioactive Waste Geological Disposal Facilities\) Order 2015 \(S.I. 2015/949\)](#), arts. 1(1), **2(2)(b)**

#### Commencement Information

- I1** S. 14 partly in force; s. 14 in force for certain purposes at Royal Assent see s. 241
- I2** S. 14(1)(a)-(1) (2)-(7) in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(a)** (with art. 6)
- I3** S. 14(1)(o) in force at 6.4.2011 for E.W. by [S.I. 2011/705](#), **art. 2**
- I4** S. 14(1)(p) in force at 1.10.2011 by [S.I. 2011/2054](#), **art. 2(a)**

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## Energy

### 15 Generating stations

- (1) The construction or extension of a generating station is within section 14(1)(a) only if the generating station is or (when constructed or extended) is expected to be within subsection (2) or (3).
- (2) A generating station is within this subsection if—
  - (a) it is in England or Wales,
  - [<sup>F4</sup>(aa) it does not generate electricity from wind,]
  - (b) it is not an offshore generating station, and
  - (c) its capacity is more than 50 megawatts.
- (3) A generating station is within this subsection if—
  - (a) it is an offshore generating station, and
  - (b) its capacity is more than 100 megawatts.
- [<sup>F5</sup>(3A) A generating station is within this subsection if—
  - (a) it is in Wales,
  - (b) it does not generate electricity from wind, and
  - (c) its capacity is more than 350 megawatts.
- (3B) A generating station is within this subsection if—
  - (a) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
  - (b) its capacity is more than 350 megawatts.]
  - (4) An “offshore” generating station is a generating station that is—
    - (a) in waters in or adjacent to England or Wales up to the seaward limits of the territorial sea, or
    - (b) in a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
  - [<sup>F6</sup>(5) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.]

#### Textual Amendments

- F4** S. 15(2)(aa) inserted (5.3.2016) by [The Infrastructure Planning \(Onshore Wind Generating Stations\) Order 2016 \(S.I. 2016/306\)](#), arts. 1(2), 3 (with arts. 5-8)
- F5** S. 15(3A)(3B) inserted (31.3.2017 for specified purposes, 1.4.2018 for specified purposes) by [Wales Act 2017 \(c. 4\)](#), ss. 39(4), 71(2)(e) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, reg. 3(h)
- F6** S. 15(5) inserted (31.3.2017 for specified purposes, 1.4.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), ss. 39(6), 71(2)(e) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, regs. 3(h), 5(a)

#### Commencement Information

- I5** S. 15 in force at 1.3.2010 by S.I. 2010/101, art. 4(a) (with art. 6)

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## 16 Electric lines

- (1) The installation of an electric line above ground is within section 14(1)(b) only if (when installed) the electric line will be—
- (a) wholly in England,
  - (b) wholly in Wales,
  - (c) partly in England and partly in Wales, or
  - (d) partly in England and partly in Scotland, subject to subsection (2).

- (2) In the case of an electric line falling within subsection (1)(d), the installation of the line above ground is within section 14(1)(b) only to the extent that (when installed) the line will be in England.

- (3) The installation of an electric line above ground is not within section 14(1)(b)—

- (a) if the nominal voltage of the line is expected to be less than 132 kilovolts, <sup>F7</sup>...

- <sup>F8</sup>(aa) if the length of the line (when installed) will be less than two kilometres,

- (ab) if—

- (i) the line will replace an existing line,
- (ii) the nominal voltage of the line is expected to be greater than the nominal voltage of the existing line (but see subsection (3A)),
- (iii) the height above the surface of the ground of any support for the line will not exceed the height of the highest existing support or support which is being replaced by more than 10 per cent, and
- (iv) where the line is to be installed in a different position from the existing line, the distance between any new support and the existing line will not exceed 60 metres and the existing line will be removed within twelve months from the date on which the installation of the line which replaces it is complete,]

- (b) to the extent that (when installed) the line will be within premises in the occupation or control of the person responsible for its installation <sup>F9</sup>, or

- (c) if section 37(1) of the Electricity Act 1989 (consent required for overhead lines) does not apply to it by virtue of the Overhead Lines (Exemption) (England and Wales) Regulations 2009 ( [S.I. 2009/640](#) ), as amended by the Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010. ]

<sup>F10</sup>(3A) Paragraph (ab)(ii) of subsection (3) (condition that nominal voltage of line expected to be greater than nominal voltage of existing line) does not apply if any part of the line (when installed) will be within a European site or an SSSI.]

<sup>F11</sup>(3B) The installation of an electric line above ground is not within section 14(1)(b) if the line is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force and the nominal voltage of the line is expected to be no greater than 132 kilovolts.

- (3C) ““Devolved Welsh generating station”” means a generating station that—

- (a) is in Wales and—

- (i) generates electricity from wind, or
- (ii) has a capacity of 350 megawatts or less; or

- (b) is in waters adjacent to Wales up to the seaward limits of the territorial sea or in the Welsh zone and has a capacity of 350 megawatts or less.

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(3D) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.]

[<sup>F12</sup>(4) In this section—

“European site” has the same meaning as in the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490);

“existing line” means an electric line which—

- (a) has been installed or is kept installed above ground in accordance with a consent granted under section 37(1) of the Electricity Act 1989 or an order granting development consent; or
- (b) has been installed above ground and is an electric line to which section 37(1) of the Electricity Act 1989 does not apply by virtue of—
  - (i) paragraph 5(4) or (5) of Schedule 17 to that Act, or
  - (ii) the Overhead Lines (Exemption) (England and Wales) Regulations 2009 (S.I. 2009/640), as amended by the Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010;

“premises” includes any land, building or structure;

“SSSI” means a site of special scientific interest notified under sections 28 to 28D of the Wildlife and Countryside Act 1981.]

#### Textual Amendments

- F7** Word in s. 16(3)(a) omitted (1.3.2010) by [The Overhead Lines \(Exempt Installations\) Order 2010 \(S.I. 2010/277\)](#), arts. 1, **2(a)**
- F8** S. 16(3)(aa)(ab) inserted (18.6.2013) by [The Planning Act 2008 \(Nationally Significant Infrastructure Projects\) \(Electric Lines\) Order 2013 \(S.I. 2013/1479\)](#), arts. 1, **2(a)** (with art. 3)
- F9** S. 16(3)(c) and word inserted (1.3.2010) by [The Overhead Lines \(Exempt Installations\) Order 2010 \(S.I. 2010/277\)](#), arts. 1, **2(b)**
- F10** S. 16(3A) inserted (18.6.2013) by [The Planning Act 2008 \(Nationally Significant Infrastructure Projects\) \(Electric Lines\) Order 2013 \(S.I. 2013/1479\)](#), arts. 1, **2(b)** (with art. 3)
- F11** S. 16(3B)-(3D) inserted (31.3.2017 for specified purposes, 1.4.2019 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), ss. **42(4)**, 71(2)(e) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, reg. 5(a)
- F12** S. 16(4) substituted (18.6.2013) by [The Planning Act 2008 \(Nationally Significant Infrastructure Projects\) \(Electric Lines\) Order 2013 \(S.I. 2013/1479\)](#), arts. 1, **2(c)** (with art. 3)

#### Commencement Information

- I6** S. 16 in force at 1.3.2010 by [S.I. 2010/101](#), art. **4(a)** (with art. 6)

## 17 Underground gas storage facilities

- (1) Development relating to underground gas storage facilities is within section 14(1)(c) only if the development is within subsection (2), (3) or (5).
- (2) Development is within this subsection if—
  - (a) it is the carrying out of operations for the purpose of creating underground gas storage facilities in England, or
  - (b) it is starting to use underground gas storage facilities in England, and the condition in subsection (4) is met in relation to the facilities.

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- (3) Development is within this subsection if—
- (a) it is starting to use underground gas storage facilities in Wales,
  - (b) the facilities are facilities for the storage of gas underground in natural porous strata,
  - (c) the proposed developer is a gas transporter, and
  - (d) the condition in subsection (4) is met in relation to the facilities.
- (4) The condition is that—
- (a) the working capacity of the facilities is expected to be at least 43 million standard cubic metres, or
  - (b) the maximum flow rate of the facilities is expected to be at least 4.5 million standard cubic metres per day.
- (5) Development is within this subsection if—
- (a) it is the carrying out of operations for the purpose of altering underground gas storage facilities in England, and
  - (b) the effect of the alteration is expected to be—
    - (i) to increase by at least 43 million standard cubic metres the working capacity of the facilities, or
    - (ii) to increase by at least 4.5 million standard cubic metres per day the maximum flow rate of the facilities.
- (6) “Underground gas storage facilities” means facilities for the storage of gas underground in cavities or in porous strata.
- (7) In this section—
- “maximum flow rate”, in relation to underground gas storage facilities, means the maximum rate at which gas is able to flow out of the facilities, on the assumption that—
- (a) the facilities are filled to maximum capacity, and
  - (b) the rate is measured after any processing of gas required on its recovery from storage;
- “working capacity”, in relation to underground gas storage facilities, means the capacity of the facilities for storage of gas underground, ignoring any capacity for storage of cushion gas.
- (8) In subsection (7) “cushion gas” means gas which is kept in underground gas storage facilities for the purpose of enabling other gas stored there to be recovered from storage.

**Commencement Information**

**I7** S. 17 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(a\)](#) (with [art. 6](#))

**18 LNG facilities**

- (1) The construction of an LNG facility is within section 14(1)(d) only if (when constructed) the facility will be in England and—
- (a) the storage capacity of the facility is expected to be at least 43 million standard cubic metres, or

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- (b) the maximum flow rate of the facility is expected to be at least 4.5 million standard cubic metres per day.
- (2) The alteration of an LNG facility is within section 14(1)(d) only if the facility is in England and the effect of the alteration is expected to be—
  - (a) to increase by at least 43 million standard cubic metres the storage capacity of the facility, or
  - (b) to increase by at least 4.5 million standard cubic metres per day the maximum flow rate of the facility.
- (3) “LNG facility” means a facility for—
  - (a) the reception of liquid natural gas from outside England,
  - (b) the storage of liquid natural gas, and
  - (c) the regasification of liquid natural gas.
- (4) In this section—
  - “maximum flow rate”, in relation to a facility, means the maximum rate at which gas is able to flow out of the facility, on the assumption that—
    - (a) the facility is filled to maximum capacity, and
    - (b) the rate is measured after regasification of the liquid natural gas and any other processing required on the recovery of the gas from storage;
  - “storage capacity” means the capacity of the facility for storage of liquid natural gas.
- (5) The storage capacity of an LNG facility is to be measured as if the gas were stored in regasified form.

#### **Commencement Information**

**18** S. 18 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(a\)](#) (with [art. 6](#))

## **19 Gas reception facilities**

- (1) The construction of a gas reception facility is within section 14(1)(e) only if (when constructed)—
  - (a) the facility will be in England and will be within subsection (4), and
  - (b) the maximum flow rate of the facility is expected to be at least 4.5 million standard cubic metres per day.
- (2) The alteration of a gas reception facility is within section 14(1)(e) only if—
  - (a) the facility is in England and is within subsection (4), and
  - (b) the effect of the alteration is expected to be to increase by at least 4.5 million standard cubic metres per day the maximum flow rate of the facility.
- (3) “Gas reception facility” means a facility for—
  - (a) the reception of natural gas in gaseous form from outside England, and
  - (b) the handling of natural gas (other than its storage).
- (4) A gas reception facility is within this subsection if—
  - (a) the gas handled by the facility does not originate in England, Wales or Scotland,

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- (b) the gas does not arrive at the facility from Scotland or Wales, and
  - (c) the gas has not already been handled at another facility after its arrival in England.
- (5) “Maximum flow rate” means the maximum rate at which gas is able to flow out of the facility.

**Commencement Information**

**I9** S. 19 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(a\)](#) (with [art. 6](#))

**20 Gas transporter pipe-lines**

- (1) The construction of a pipe-line by a gas transporter is within section 14(1)(f) only if (when constructed) each of the conditions in subsections (2) to (5) is expected to be met in relation to the pipe-line.
- (2) The pipe-line must be wholly or partly in England.
- (3) Either—
- (a) the pipe-line must be more than 800 millimetres in diameter and more than 40 kilometres in length, or
  - (b) the construction of the pipe-line must be likely to have a significant effect on the environment.
- (4) The pipe-line must have a design operating pressure of more than 7 bar gauge.
- (5) The pipe-line must convey gas for supply (directly or indirectly) to at least 50,000 customers, or potential customers, of one or more gas suppliers.
- (6) In the case of a pipe-line that (when constructed) will be only partly in England, the construction of the pipe-line is within section 14(1)(f) only to the extent that the pipe-line will (when constructed) be in England.
- (7) “Gas supplier” has the same meaning as in Part 1 of the Gas Act 1986 (c. 44) (see section 7A(11) of that Act).

**Commencement Information**

**I10** S. 20 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(a\)](#) (with [art. 6](#))

**21 Other pipe-lines**

- (1) The construction of a pipe-line other than by a gas transporter is within section 14(1) (g) only if (when constructed) the pipe-line is expected to be—
- (a) a cross-country pipe-line,
  - (b) a pipe-line the construction of which would (but for section 33(1) of this Act) require authorisation under section 1(1) of the Pipe-lines Act 1962 (c. 58) (cross-country pipe-lines not to be constructed without authorisation), and
  - (c) within subsection (2).
- (2) A pipe-line is within this subsection if one end of it is in England or Wales and—

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- (a) the other end of it is in England or Wales, or
  - (b) it is an oil or gas pipe-line and the other end of it is in Scotland.
- (3) For the purposes of section 14(1)(g) and the previous provisions of this section, the construction of a diversion to a pipe-line is treated as the construction of a separate pipe-line.
- (4) But if—
- (a) the pipe-line to be diverted is itself a nationally significant pipe-line, and
  - (b) the length of the pipe-line which is to be diverted has not been constructed,
- the construction of the diversion is treated as the construction of a cross-country pipe-line, whatever the length of the diversion.
- (5) For the purposes of subsection (4), a pipe-line is a nationally significant pipe-line if—
- (a) development consent is required for its construction by virtue of section 14(1)(g), and has been granted, or
  - (b) its construction has been authorised by a pipe-line construction authorisation under section 1(1) of the Pipe-lines Act 1962 (c. 58).
- (6) “Diversion” means a lateral diversion of a length of a pipe-line (whether or not that pipe-line has been constructed) where the diversion is beyond the permitted limits.
- (7) The permitted limits are the limits of lateral diversion permitted by any of the following granted in respect of the construction of the pipe-line—
- (a) development consent;
  - (b) authorisation under the Pipe-lines Act 1962;
  - (c) planning permission.

#### Commencement Information

**III** S. 21 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(b\)](#) (with [art. 6](#))

### Transport

#### <sup>F13</sup>22 Highways

- (1) Highway-related development is within section 14(1)(h) only if the development is—
- (a) construction of a highway in a case within subsection (2),
  - (b) alteration of a highway in a case within subsection (3), or
  - (c) improvement of a highway in a case within subsection (5).
- (2) Construction of a highway is within this subsection only if—
- (a) the highway will (when constructed) be wholly in England,
  - (b) the Secretary of State <sup>F14</sup>or a strategic highways company] will be the highway authority for the highway, and
  - (c) the area of development is greater than the relevant limit set out in subsection (4).
- (3) Alteration of a highway is within this subsection only if—
- (a) the highway is wholly in England,

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- (b) the Secretary of State [<sup>F15</sup>or a strategic highways company] is the highway authority for the highway, and
  - (c) the area of development is greater than the relevant limit set out in subsection (4).
- (4) For the purposes of subsections (2)(c) and (3)(c) the relevant limit —
- (a) in relation to the construction or alteration of a motorway, is 15 hectares,
  - (b) in relation to the construction or alteration of a highway, other than a motorway, where the speed limit for any class of vehicle is expected to be 50 miles per hour or greater, is 12.5 hectares, and
  - (c) in relation to the construction or alteration of any other highway is 7.5 hectares.
- (5) Improvement of a highway is within this subsection only if—
- (a) the highway is wholly in England,
  - (b) the Secretary of State [<sup>F16</sup>or a strategic highways company] is the highway authority for the highway, and
  - (c) the improvement is likely to have a significant effect on the environment.
- (6) Highway-related development does not fall within section 14(1)(h) if—
- (a) an order mentioned in section 33(4) has been made in relation to the development before 1 March 2010,
  - (b) a further order is needed in relation to the development, and
  - (c) not more than 7 years have elapsed since the making of the earlier order.
- (7) Alteration of a highway is not within section 14(1)(h) if
- (a) planning permission has been granted for a development,
  - (b) the alteration is necessary as a result of the development, and
  - (c) the developer has asked for the alteration to be made to the highway.
- (8) Alteration of a highway is not within section 14(1)(h) if—
- (a) an order mentioned in section 33(4) has been made in relation to local highway works,
  - (b) the alteration is necessary as a result of the local highway works, and
  - (c) the local highway authority responsible for the local highway works has asked for the alteration to be made to the highway.
- (9) In this section—
- “area of development” —
  - (a) in relation to construction of a highway, means the land on which the highway is to be constructed and any adjoining land expected to be used in connection with its construction;
  - (b) in relation to alteration of a highway, means the land on which the part of the highway to be altered is situated and any adjoining land expected to be used in connection with its alteration;
  - “local highway authority” has the meaning given by section 329(1) of the Highways Act 1980;
  - “local highway works” means works carried out by or on behalf of a local highway authority in relation to a highway for which it is the highway authority (and the local highway authority is referred to in this section as “responsible” for those works);

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“motorway” means a highway which is a special road in accordance with section 16 of the Highways Act 1980.]

[<sup>F17</sup>“strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.]

#### Textual Amendments

- F13** S. 22 substituted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **3** (with art. 5)
- F14** Words in s. 22(2)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 153(2)**; [S.I. 2015/481](#), reg. 2(a)
- F15** Words in s. 22(3)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 153(2)**; [S.I. 2015/481](#), reg. 2(a)
- F16** Words in s. 22(5)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 153(2)**; [S.I. 2015/481](#), reg. 2(a)
- F17** Words in s. 22(9) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 153(3)**; [S.I. 2015/481](#), reg. 2(a)

## 23 Airports

- (1) Airport-related development is within section 14(1)(i) only if the development is—
  - (a) the construction of an airport in a case within subsection (2),
  - (b) the alteration of an airport in a case within subsection (4), or
  - (c) an increase in the permitted use of an airport in a case within subsection (7).
- (2) Construction of an airport is within this subsection only if (when constructed) the airport—
  - (a) will be in England or in English waters, and
  - (b) is expected to be capable of providing services which meet the requirements of subsection (3).
- (3) Services meet the requirements of this subsection if they are—
  - (a) air passenger transport services for at least 10 million passengers per year, or
  - (b) air cargo transport services for at least 10,000 air transport movements of cargo aircraft per year.
- (4) Alteration of an airport is within this subsection only if—
  - (a) the airport is in England or in English waters, and
  - (b) the alteration is expected to have the effect specified in subsection (5).
- (5) The effect is—
  - (a) to increase by at least 10 million per year the number of passengers for whom the airport is capable of providing air passenger transport services, or
  - (b) to increase by at least 10,000 per year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services.
- (6) “Alteration”, in relation to an airport, includes the construction, extension or alteration of—
  - (a) a runway at the airport,
  - (b) a building at the airport, or

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- (c) a radar or radio mast, antenna or other apparatus at the airport.
- (7) An increase in the permitted use of an airport is within this subsection only if—
- (a) the airport is in England or in English waters, and
  - (b) the increase is within subsection (8).
- (8) An increase is within this subsection if—
- (a) it is an increase of at least 10 million per year in the number of passengers for whom the airport is permitted to provide air passenger transport services, or
  - (b) it is an increase of at least 10,000 per year in the number of air transport movements of cargo aircraft for which the airport is permitted to provide air cargo transport services.
- (9) In this section—
- “air cargo transport services” means services for the carriage by air of cargo;
  - “air passenger transport services” means services for the carriage by air of passengers;
  - “air transport movement” means a landing or take-off of an aircraft;
  - “cargo” includes mail;
  - “cargo aircraft” means an aircraft which is—
    - (a) designed to transport cargo but not passengers, and
    - (b) engaged in the transport of cargo on commercial terms;
  - “English waters” means waters adjacent to England up to the seaward limits of the territorial sea;
  - “permitted” means permitted by planning permission or development consent.

**Commencement Information**

**I12** S. 23 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 4(b)** (with **art. 6**)

**24 Harbour facilities**

- (1) The construction of harbour facilities is within section 14(1)(j) only if (when constructed) the harbour facilities—
- (a) will be in England or Wales or in waters adjacent to England or Wales up to the seaward limits of the territorial sea, and
  - (b) are expected to be capable of handling the embarkation or disembarkation of at least the relevant quantity of material per year.
- (2) The alteration of harbour facilities is within section 14(1)(j) only if—
- (a) the harbour facilities are in England or Wales or in waters adjacent to England or Wales up to the seaward limits of the territorial sea, and
  - (b) the effect of the alteration is expected to be to increase by at least the relevant quantity per year the quantity of material the embarkation or disembarkation of which the facilities are capable of handling.
- (3) “The relevant quantity” is—
- (a) in the case of facilities for container ships, 500,000 TEU;

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- (b) in the case of facilities for ro-ro ships, 250,000 units;
  - (c) in the case of facilities for cargo ships of any other description, 5 million tonnes;
  - (d) in the case of facilities for more than one of the types of ships mentioned in paragraphs (a) to (c), an equivalent quantity of material.
- (4) For the purposes of subsection (3)(d), facilities are capable of handling an equivalent quantity of material if the sum of the relevant fractions is one or more.
- (5) The relevant fractions are—
- (a) to the extent that the facilities are for container ships—

$$\frac{x}{500,000}$$

where x is the number of TEU that the facilities are capable of handling;

- (b) to the extent that the facilities are for ro-ro ships—

$$\frac{y}{250,000}$$

where y is the number of units that the facilities are capable of handling;

- (c) to the extent that the facilities are for cargo ships of any other description—

$$\frac{z}{5,000,000}$$

where z is the number of tonnes of material that the facilities are capable of handling.

- (6) In this section—
- “cargo ship” means a ship which is used for carrying cargo;
  - “container ship” means a cargo ship which carries all or most of its cargo in containers;
  - “ro-ro ship” means a ship which is used for carrying wheeled cargo;
  - “TEU” means a twenty-foot equivalent unit;
  - “unit” in relation to a ro-ro ship means any item of wheeled cargo (whether or not self-propelled).

#### Commencement Information

**I13** S. 24 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(b\)](#) (with [art. 6](#))

## 25 Railways

- (1) Construction of a railway is within section 14(1)(k) only if—

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- (a) the railway will (when constructed) be wholly in England,
  - (b) the railway will (when constructed) be part of a network operated by an approved operator,
  - [<sup>F18</sup>(ba) the railway will (when constructed) include a stretch of track that—
    - (i) is a continuous length of more than 2 kilometres, and
    - (ii) is not on land that was operational land of a railway undertaker immediately before the construction work began or is on land that was acquired at an earlier date for the purpose of constructing the railway,] and
  - (c) the construction of the railway is not permitted development.
- (2) Alteration of a railway is within section 14(1)(k) only if—
- (a) the part of the railway to be altered is wholly in England,
  - (b) the railway is part of a network operated by an approved operator,
  - [<sup>F19</sup>(ba) the alteration of the railway will include laying a stretch of track that—
    - (i) is a continuous length of more than 2 kilometres, and
    - (ii) is not on land that was operational land of a railway undertaker immediately before the alteration work began or is on land that was acquired at an earlier date for the purpose of the alteration,] and
  - (c) the alteration of the railway is not permitted development.
- [<sup>F20</sup>(2A) Construction or alteration of a railway is not within section 14(1)(k) to the extent that it takes place on the operational land of a railway undertaker unless that land was acquired for the purpose of the construction or alteration.]
- (3) Construction or alteration of a railway is not within section 14(1)(k) to the extent that the railway forms part (or will when constructed form part) of a rail freight interchange.
- (4) “Approved operator” means a person who meets the conditions in subsections (5) and (6).
- (5) The condition is that the person must be—
- (a) a person who is authorised to be the operator of a network by a licence granted under section 8 of the Railways Act 1993 (c. 43) (licences for operation of railway assets), or
  - (b) a wholly-owned subsidiary of a company which is such a person.
- (6) The condition is that the person is designated, or is of a description designated, in an order made by the Secretary of State.
- (7) In this section—
- “network” has the meaning given by section 83(1) of the Railways Act 1993 (c. 43);
  - [<sup>F21</sup>“operational land” has the same meaning as in the TCPA 1990;]
  - “permitted development” means development in relation to which planning permission is granted by article 3 of the Town and Country Planning (General Permitted Development) Order 1995;
  - [<sup>F21</sup>“railway undertaker” has the same meaning as in Part 17 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995;]
  - “wholly-owned subsidiary” has the same meaning as in the Companies Act 2006 (c. 46) (see section 1159 of that Act).

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- (8) <sup>F22</sup>In the definition of “permitted development” in subsection (7), the reference] to the Town and Country Planning (General Permitted Development) Order 1995 is to that Order as it has effect immediately before the day on which this section comes fully into force.

#### Textual Amendments

- F18** S. 25(1)(ba) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(2)** (with art. 5)
- F19** S. 25(2)(ba) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(3)** (with art. 5)
- F20** S. 25(2A) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(4)** (with art. 5)
- F21** Words in s. 25(7) inserted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(5)** (with art. 5)
- F22** Words in s. 25(8) substituted (25.7.2013) by [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013 \(S.I. 2013/1883\)](#), arts. 1(2), **4(6)** (with art. 5)

#### Commencement Information

- I14** S. 25 partly in force; s. 25 in force for certain purposes at Royal Assent see s. 241
- I15** S. 25 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 4(b)** (with art. 6)

## 26 Rail freight interchanges

- (1) The construction of a rail freight interchange is within section 14(1)(l) only if (when constructed) each of the conditions in subsections (3) to (7) is expected to be met in relation to it.
- (2) The alteration of a rail freight interchange is within section 14(1)(l) only if—
- following the alteration, each of the conditions in subsections (3)(a) and (4) to (7) is expected to be met in relation to it, and
  - the alteration is expected to have the effect specified in subsection (8).
- (3) The land on which the rail freight interchange is situated must—
- be in England, and
  - be at least 60 hectares in area.
- (4) The rail freight interchange must be capable of handling—
- consignments of goods from more than one consignor and to more than one consignee, and
  - at least 4 goods trains per day.
- (5) The rail freight interchange must be part of the railway network in England.
- (6) The rail freight interchange must include warehouses to which goods can be delivered from the railway network in England either directly or by means of another form of transport.
- (7) The rail freight interchange must not be part of a military establishment.
- (8) The effect referred to in subsection (2)(b) is to increase by at least 60 hectares the area of the land on which the rail freight interchange is situated.

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(9) In this section—

“goods train” means a train that (ignoring any locomotive) consists of items of rolling stock designed to carry goods;

“military establishment” means an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence.

(10) The following terms have the meanings given by section 83(1) of the Railways Act 1993—

“network”;

“rolling stock”;

“train”.

#### Commencement Information

**I16** S. 26 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 4\(b\)](#) (with [art. 6](#))

VALID FROM 01/01/2018

### *Water*

#### **27 Dams and reservoirs**

(1) The construction of a dam or reservoir is within section 14(1)(m) only if—

- (a) the dam or reservoir (when constructed) will be in England,
- (b) the construction will be carried out by one or more water undertakers, and
- (c) the volume of water to be held back by the dam or stored in the reservoir is expected to exceed 10 million cubic metres.

(2) The alteration of a dam or reservoir is within section 14(1)(m) only if—

- (a) the dam or reservoir is in England,
- (b) the alteration will be carried out by one or more water undertakers, and
- (c) the additional volume of water to be held back by the dam or stored in the reservoir as a result of the alteration is expected to exceed 10 million cubic metres.

(3) “Water undertaker” means a company appointed as a water undertaker under the Water Industry Act 1991 (c. 56).

#### Commencement Information

**I17** S. 27 in force at 1.1.2018 for E. by [S.I. 2017/1078](#), [art. 2\(c\)](#)

#### **28 Transfer of water resources**

(1) Development relating to the transfer of water resources is within section 14(1)(n) only if—

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- (a) the development will be carried out in England by one or more water undertakers,
  - (b) the volume of water to be transferred as a result of the development is expected to exceed 100 million cubic metres per year,
  - (c) the development will enable the transfer of water resources—
    - (i) between river basins in England,
    - (ii) between water undertakers' areas in England, or
    - (iii) between a river basin in England and a water undertaker's area in England, and
  - (d) the development does not relate to the transfer of drinking water.
- (2) In this section—
- “river basin” means an area of land drained by a river and its tributaries;
  - “water undertaker” means a company appointed as a water undertaker under the Water Industry Act 1991;
  - “water undertaker's area” means the area for which a water undertaker is appointed under that Act.

#### Commencement Information

**I18** S. 28 in force at 1.1.2018 for E. by [S.I. 2017/1078](#), [art. 2\(d\)](#)

### *Waste water*

## **29 Waste water treatment plants**

- (1) The construction of a waste water treatment plant is within section 14(1)(o) only if the treatment plant (when constructed)—
- (a) will be in England, and
  - (b) is expected to have a capacity exceeding a population equivalent of 500,000.
- [<sup>F23</sup>(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.]
- (2) The alteration of a waste water treatment plant is within section 14(1)(o) only if—
- (a) the treatment plant is in England, and
  - (b) the effect of the alteration is expected to be to increase by more than a population equivalent of 500,000 the capacity of the plant.
- [<sup>F24</sup>(2A) The alteration of infrastructure for the transfer or storage of waste water is within section 14(1)(o) only if—

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- (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.]
- (3) “Waste water” includes domestic waste water, industrial waste water and urban waste water.
- (4) The following terms have the meanings given by regulation 2(1) of the Urban Waste Water Treatment (England and Wales) Regulations 1994 (S.I. 1994/2841)—
- “domestic waste water”;
  - “industrial waste water”;
  - “population equivalent”;
  - “urban waste water”.

#### Textual Amendments

- F23** S. 29(1A) inserted (23.6.2012) by [The Infrastructure Planning \(Waste Water Transfer and Storage\) Order 2012 \(S.I. 2012/1645\)](#), arts. 1(1), **2(3)(a)** (with art. 3)
- F24** S. 29(2A) inserted (23.6.2012) by [The Infrastructure Planning \(Waste Water Transfer and Storage\) Order 2012 \(S.I. 2012/1645\)](#), arts. 1(1), **2(3)(b)** (with art. 3)

#### Commencement Information

- I19** S. 29 in force at 6.4.2011 by [S.I. 2011/705](#), **art. 2**

### *Waste*

#### **30 Hazardous waste facilities**

- (1) The construction of a hazardous waste facility is within section 14(1)(p) only if—
- (a) the facility (when constructed) will be in England,
  - (b) the main purpose of the facility is expected to be the final disposal or recovery of hazardous waste, and
  - (c) the facility is expected to have the capacity specified in subsection (2).
- (2) The capacity is—
- (a) in the case of the disposal of hazardous waste by landfill or in a deep storage facility, more than 100,000 tonnes per year;
  - (b) in any other case, more than 30,000 tonnes per year.
- (3) The alteration of a hazardous waste facility is within section 14(1)(p) only if—
- (a) the facility is in England,
  - (b) the main purpose of the facility is the final disposal or recovery of hazardous waste, and

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- (c) the alteration is expected to have the effect specified in subsection (4).
- (4) The effect is—
  - (a) in the case of the disposal of hazardous waste by landfill or in a deep storage facility, to increase by more than 100,000 tonnes per year the capacity of the facility;
  - (b) in any other case, to increase by more than 30,000 tonnes per year the capacity of the facility.
- (5) The following terms have the same meanings as in the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894) (see regulation 5 of those regulations)—
  - “disposal”;
  - “hazardous waste”;
  - “recovery”.
- (6) “Deep storage facility” means a facility for the storage of waste underground in a deep geological cavity.

**Commencement Information**

**I20** S. 30 in force at 1.10.2011 by [S.I. 2011/2054](#), [art. 2\(a\)](#)

[<sup>F25</sup>**30A Radioactive waste geological disposal facilities**

- (1) A radioactive waste geological disposal facility means a facility which meets the conditions in subsection (2).
- (2) The conditions are that—
  - (a) the main purpose of the facility is expected to be the final disposal of radioactive waste,
  - (b) the part of the facility where radioactive waste is to be disposed of is expected to be constructed at a depth of at least 200 metres beneath the surface of the ground or seabed, and
  - (c) the natural environment which surrounds the facility is expected to act, in combination with any engineered measures, to inhibit the transit of radionuclides from the part of the facility where radioactive waste is to be disposed of to the surface.
- (3) Development is within section 14(1)(q) only if the development is within subsection (4) or (6) of this section.
- (4) Development is within this subsection if—
  - (a) it is the construction of one or more boreholes, and the carrying out of any associated excavation, construction or building work,
  - (b) the borehole or boreholes will be constructed, and any associated excavation, construction or building work will be carried out, in England or waters adjacent to England up to the seaward limits of the territorial sea, and
  - (c) the conditions in subsection (5) are met in relation to each borehole.
- (5) The conditions are that—
  - (a) the borehole is expected to be constructed to a depth of at least 150 metres beneath the surface of the ground or seabed, and

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- (b) the main purpose of constructing the borehole is to obtain information, data or samples to determine the suitability of a site for the construction or use of a radioactive waste geological disposal facility.
- (6) Development is within this subsection if—
- (a) it is the construction of a radioactive waste geological disposal facility, and
  - (b) the facility (when constructed) will be in England or waters adjacent to England up to the seaward limits of the territorial sea.
- (7) In this section—
- “disposal” in relation to radioactive waste means emplacement in an appropriate facility without the intention to retrieve;
  - “radioactive waste” has the same meaning as in [<sup>F26</sup>the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)] (see paragraph 3(1) of Part 2 of Schedule 23 to those regulations).]

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**Textual Amendments**

**F25** S. 30A inserted (27.3.2015) by [The Infrastructure Planning \(Radioactive Waste Geological Disposal Facilities\) Order 2015 \(S.I. 2015/949\)](#), arts. 1(1), **2(3)**

**F26** Words in s. 30A(7) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 17** (with regs. 1(3), 77-79, Sch. 4)

**Status:**

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**Changes to legislation:**

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