

2009 No. 849

TOWN AND COUNTRY PLANNING, ENGLAND

**The Planning (Consequential Provisions) Act 1990 (Appointed
Day No. 2 and Transitional Provision) (England) Order 2009**

Made - - - -

1st April 2009

The Secretary of State, in exercise of the powers conferred by paragraph 1(3) and (4) of Schedule 4 to the Planning (Consequential Provisions) Act 1990^(a), makes the following Order:

Citation, application and interpretation

1.—(1) This Order may be cited as the Planning (Consequential Provisions) Act 1990 (Appointed Day No. 2 and Transitional Provision) Order 2009.

(2) This Order applies in relation to England only.

(3) In this Order “Schedule 4” means Schedule 4 to the Planning (Consequential Provisions) Act 1990.

Further partial commencement of provisions conferring powers to award costs

2.—(1) Subject to paragraphs (2) and (3), 6th April 2009 is the day appointed under paragraph 1(3)(a) of Schedule 4 for the purposes of paragraphs 3 to 16 of that Schedule^(b).

(2) Paragraph (1) has effect only for the purposes of proceedings which do not give rise to an inquiry or hearing.

(3) Paragraph (1) does not have effect for the purposes of awards of costs in relation to proceedings under section 259 of the Town and Country Planning Act 1990^(c) (confirmation of orders made by other authorities).

Transitional provision

3. Nothing in article 2 shall apply in relation to any proceedings occasioned by—

- (a) an application referred or an appeal made to the Secretary of State before 6th April 2009, or
- (b) an order or notice submitted or sent to the Secretary of State before that date for confirmation or approval.

(a) 1990 c. 11.

(b) The Planning (Consequential Provisions) Act 1990 (Appointed Day No 1 and Transitional Provisions) Order 1991 (S.I. 1991/2698) was also made pursuant to paragraph 1(3) and (4) of Schedule 4.

(c) 1990 c. 8. There are amendments to section 259 which are not relevant to this Order.

Signed by authority of the Secretary of State

Kay Andrews

Parliamentary Under Secretary of State

1st April 2009

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 6th April 2009 as the day on which paragraphs 3 to 16 of Schedule 4 to the Planning (Consequential Provisions) Act 1990 partially cease to have effect. Those paragraphs made transitory modifications to various provisions of the principal planning legislation. The effect is that on the appointed day, section 322 of the Town and Country Planning Act 1990 (c. 8) (orders as to costs of parties where no local inquiry held) and paragraph 6 of Schedule 6 to that Act (amongst other provisions) come further partially into force. The latter provision gives inspectors the same power to award costs as the Secretary of State has under section 322. The provisions are specifically commenced in this Order for the purposes of awards of costs by the Secretary of State or inspectors in relation to proceedings which are dealt with on the basis of representations in writing.

The Order also makes corresponding provision in relation to the equivalent powers to award costs in the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and in the Planning (Hazardous Substances) Act 1990 (c. 10).

The commencement does not apply where proceedings under section 259 of the Town and Country Planning Act 1990 are dealt with on the basis of representations in writing.

The transitional provisions in article 3 of the Order ensure that the new power to award costs in a case where the matter is dealt with on the basis of representations in writing is not available where the matter which gave rise to the proceedings was initiated before 6th April 2009, or in the case of a referred application, was not called in before that date.

An impact assessment has been prepared in relation to this Order. This will be available on the Communities and Local Government website at www.communities.gov.uk and copies may be obtained from PSID, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU (telephone 020 7944 6530).

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