Draft Regulations laid before Parliament under section 232(7) of the Planning Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. XXX

INFRASTRUCTURE PLANNING

The Infrastructure Planning (Decisions) Regulations 2010

Made - - - -	*xxx*
Coming into force - -	*1st March 2010*

The Secretary of State, in exercise of the powers conferred by sections 104(2)(c) and 105(2)(b) of the Planning Act 2008(**1**), makes the following Regulations, a draft of which has been laid before Parliament in accordance with section 232(7) of that Act and approved by resolution of each House of Parliament:

Citation and commencement

1. These Regulations may be cited as the Infrastructure Planning (Decisions) Regulations 2010 and shall come into force on 1st March 2010.

Interpretation

2. In these Regulations—

"the Act" means the Planning Act 2008;

"application" means an application under the Act for an order granting development consent;

"conservation area" means an area for the time being designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (designation of conservation areas)(**2**) and in Scotland under section 61 of the Planning (Listed Buildings and Conservations Areas)(Scotland) Act 1997(**3**);

"hazardous substances" are those defined as such by regulation 3 of the Planning (Hazardous Substances) Regulations 1992(**4**) and in Scotland by regulation 3 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993(**5**);

(**1**) 2008 c.29. For the meaning of "prescribed", see section 235.
(**2**) 1990 c.9.
(**3**) 1997 c.9.
(**4**) S.I. 1992/656. Relevant amendments were made by S.I. 1999/981 and 2009/1901.
(**5**) S.I. 1993/323.

"listed building" has the same meaning as that given by section 1 of the Planning (Listed Building and Conservation Areas) Act 1990 (listing of buildings of special architectural or historic interest) and in Scotland in section 1 of the Planning (Listed Buildings and Conservations Areas) (Scotland) Act 1997; and

"scheduled monument" means a monument included in the schedule of monuments compiled by the Secretary of State under section 1 of the Ancient Monuments and Archaeological Areas Act 1979(**6**).

Listed buildings, conservation areas and scheduled monuments

3.—(1) When deciding an application which affects a listed building or its setting, the decision-maker(**7**) must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

(2) When deciding an application relating to a conservation area, the decision-maker must have regard to the desirability of preserving or enhancing the character or appearance of that area.

(3) When deciding an application for development consent which affects or is likely to affect a scheduled monument or its setting, the decision-maker must have regard to the desirability of preserving the scheduled monument or its setting.

Deemed consents under section 34 of the Coast Protection Act 1949

4.—(1) This regulation applies in relation to an application where the decision-maker is considering whether to include in an order granting development consent a provision deeming consent under section 34 of the Coast Protection Act 1949(**8**) to have been given, by virtue of section 148 of the Act.

(2) When deciding an application to which this regulation applies, the decision-maker must have regard to—

(a) whether the development (whether being carried out or subsequently) causes or is likely to result in obstruction or danger to navigation; and if so,

(b) the nature and extent of any such obstruction or danger to navigation.

Deemed licences under the Food and Environment Protection Act 1985

5.—(1) This regulation applies in relation to an application where the decision-maker is considering whether to include in an order granting development consent a provision deeming a licence to have been issued under Part 2 of the Food and Environment Protection Act 1985(**9**), by virtue of section 149 of the Act.

(2) When deciding an application to which this regulation applies, the decision-maker must have regard to the need to—

(a) protect the marine environment, the living resources which it supports and human health; and

(b) prevent interference with legitimate uses of the sea.

(3) Without prejudice to the generality of paragraph (2), where it appears to the decision-maker that the application has been made with the view to the disposal of substances or articles, the decision-

(**6**) 1979 c.46. Section 1 was amended by the National Heritage Act 1983 (c.47), section 33 and paragraph 25 of Schedule 4.
(**7**) For the definition of "decision-maker" see section 103 of the Act.
(**8**) 1949 c.74. Section 34 was amended by the Statute Law Revisions Act 1953 (c.5) and the Merchant Shipping Act 1988 (c.12), section 36.
(**9**) 1985 c.48. Part 2 was amended by the Water Act 1989 (c.15), the Environmental Protection Act 1990 (c.43), the Statute Law (Repeals) Act (c.50), the Petroleum Act 1998 (c.17), the Food Standards Act 1999 (c.28), the Energy Act 2008 (c.32) and S.I. 1999/1756.