

4 Acquisition of land

- (1) An area plan may designate any land specified therein as an area selected for comprehensive treatment by development, redevelopment or improvement, or partly by one and partly by another method.
- (2) If an area is designated under this section by an area plan, the plan shall —
 - (a) describe the treatment which is proposed by the Cabinet Office; and
 - ~~(b) — specify the period, which shall not exceed 5 years beginning with the date on which the plan is adopted, within which that treatment is to begin.~~
 - (b) specify –**
 - (i) the period within which that treatment is to begin; or**
 - (ii) that the period in subsection (2A) applies.**
- (2A) The period referred to in subsection (2)(b)(ii) is a period of 10 years beginning with the date on which the plan is adopted.**
- (3) Where any land is for the time being designated by an area plan under this section, the Cabinet Office may acquire that land or any part thereof by agreement or compulsorily; and —
 - (a) for the purposes of the Acquisition of Land Act 1984 the area plan, this section and the resolution of Tynwald authorising the acquisition shall be deemed to be the special Act; but
 - (b) no resolution of Tynwald under section 2(1) of that Act authorising the acquisition may be passed after the expiration of the period specified under subsection (2)(b).

6 Meaning of “development”

- (1) Subject to the following provisions of this section, in this Act “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- (2) For the purposes of this section —
 - (a) the use as 2 or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;
 - (aa) the temporary siting of a moveable structure on land involves a material change in its use;**
 - (b) the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if —
 - (i) the superficial area of the deposit is extended, or
 - (ii) the height of the deposit is extended and exceeds the level of the land adjoining the site;
 - (c) subject to subsection (3)(d), the afforestation of land involves a material change in its use;

- (d) ~~the following are engineering operations constituting development~~ **engineering operations include** —
- (i) the material alteration of any existing means of access to land from a road;
 - (ii) the provision of a new means of access, **and**
 - (iii) the execution of any road works preliminary or incidental to the erection of a building;
 - (iv) **hardstanding of domestic gardens;**
- ~~(e) the following are building operations constituting development~~
- ~~(i) the demolition of a building which is attached to another building, where the other building is not also demolished; and~~
 - ~~(ii) the demolition of part of a building, where the rest of the building is not also demolished.~~
- (e) **building operations include—**
- (i) **repairs to buildings;**
 - (ii) **rebuilding;**
 - (iii) **painting of the exterior of buildings;**
 - (iv) **the demolition of all or part of a building including cases where that building is attached to another building and no part of that other building is also demolished.**
- (3) The following operations shall not be taken for the purposes of this Act to involve development —
- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which —
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building;
 and are not works for the alteration of a building by providing additional space in it underground;
 - (aa) **the carrying out on land within the boundaries of a highway of any works exclusively required for its maintenance: “highway” means a highway maintainable at public expense for the purposes of the *Highways Act 1986*;**
 - (ab) **the carrying out of any works for sole the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose but only where such a street or other land is reinstated to substantially the same condition it was in prior to those works taking place;**
 - (ac) **the carrying out on land within the boundaries of a watercourse of any works exclusively required for its maintenance: “watercourse” means a watercourse within the meaning of the *Flood Risk Management Act 2013*;**
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- (b) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
- (c) the use of any land for purposes of agriculture and the use for any of those purposes of any building occupied together with land so used;
- (d) the use by the Department of any land for the purpose of forestry (including afforestation) and the use for that purpose of any building occupied together with land so used;
- (e) in the case of buildings or other land which are used for a purpose of a class specified for the purpose of this paragraph in an order made by the Department, the use of the buildings or land or, subject to the provisions of the order, any part of the buildings or land, for any other purpose of the same class; and
- (f) operations of a description specified for the purpose of this paragraph in an order made by the Department.

8 Development orders

- (1) The Cabinet Office must by order (in this Act called a “development order”) provide for the grant of planning approval.
- (2) A development order may itself grant planning approval —
 - (a) for development specified in the order, or
 - (b) for development of a class specified in the order.²⁶
- (2A) In relation to cases for which a development order does not itself grant planning approval, the Department may make an order (“a development procedure order”) specifying the procedure to be followed on an application to the Department for the grant of planning approval.
- (3) A development order may be made either —
 - (a) as a general order applicable, except so far as the order otherwise provides, to all land, or
 - (b) as a special order applicable only to such land or descriptions of land as may be specified in the order.
- (3A) Without prejudice to the generality of subsection (3), where planning approval is given by a development order for development of a specified class, the order may enable the Department to direct that the approval shall not apply either—**
 - (a) in relation to development in a particular area, or**
 - (b) in relation to any particular development.**
- (4) Planning approval granted by a development order may be granted either unconditionally or subject to such conditions **(including prior approval)** or limitations as may be specified in the order; and in particular may require the approval of the Department to the design or external appearance of buildings.
- (4A) Without limiting subsection (4), conditions or limitations that may be imposed include those in respect of —**

- (a) **the character and appearance of an area;**
 - (b) **historical, architectural, traditional artistic or archaeological features of any building within the development;**
 - (c) **the local environment or local amenity;**
 - (d) **road safety and the flow of traffic on public highways;**
 - (e) **public safety or convenience.**
- (4B) **The conditions referred to in subsection (4) may include a condition requiring the approval, before the development commences (“prior approval”), of the Department to be obtained in respect of —**
- (a) **specified parts of the development;**
 - (b) **specified uses of any part of the land which is the subject of the development; or**
 - (c) **both.**
- (5) If a development order grants planning approval under subsection (2)(b), the order may enable the Cabinet Office to direct that the order is not to apply —
- (a) in relation to development in a particular area, or
 - (b) in relation to any particular development.
- (6) Planning approval may be granted —
- (a) in respect of buildings or works constructed or carried out, or a use instituted, without planning approval or in accordance with planning approval granted for a limited period, and so as to take effect from the date on which the buildings or works were constructed or carried out or the use was instituted, or from the end of that period, as the case may be; or
 - (b) for the retention of buildings or works, or the continuance of the use of land, without complying with some condition subject to which a previous planning approval was granted.
- (6A) A development order may make provision for the procedure for the determination of applications required by a condition imposed on the grant of planning approval by or under the order.
- (7) The Department may by order provide for the granting of planning approval, in such cases as are specified in the order, by a local authority on behalf of the Department; and (subject to any provision to the contrary made by the order) in relation to any application for planning approval which falls to be determined by a local authority in accordance with the order, references in this Act to the Department shall, where the context so requires, be construed as references to the local authority.

10 Determination of planning applications

- (1) Where an application is made to the D...
- (6) A development procedure order may make provision for —
- (a) the conduct of proceedings relating to such applications;....
 - (e) the procedure for the determination of applications for such approval as is mentioned in paragraph (d) or any other approval required by a condition **(including**
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prior approval) imposed on the grant of planning approval by or under a development order or a development procedure order; and

14 The Protected Buildings Register

- (1) The Protected Buildings Register, a register of buildings of special architectural or historic interest, previously maintained by the Department of Infrastructure, is to be maintained, after the coming into operation of the Transfer of Planning and Building Control Functions Order 2015, by the Department.
- (2) In considering whether to enter a building in the register the Department may take into account not only the building itself but also —
 - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
 - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a manmade object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.
- (2A) An entry for a building may provide that an object or structure (whether fixed to a building or not) or any part or feature of a building, is not of special architectural or historical interest.**
- (3) Schedule 2 shall have effect with respect to the compilation and amendment of the register **and entries in it.**
- (4) The Department shall make the register available for inspection by any person at its office free of charge at all reasonable times, and shall supply a copy of any entry in the register to any person on payment of such reasonable charge (if any) as the Department may determine.

19 Control of demolition in conservation areas

43 Rights of entry

- (1) Any person d....

43B Fees for planning applications etc.

- (1) This section applies in respect of fees or charges not otherwise provided for in this Act.**
- (2) The Department may by order make provision for the payment of a fee or charge to it in respect of—**
 - (a) the performance by it of any of its functions under this Act;**
 - (b) anything done by it which is calculated to facilitate or is conducive or incidental to the performance of any such function;**
 - (c) any application for planning approval deemed to be made under Schedule 4;**
 - (d) any application for planning approval which is deemed to be made to it under—**
 - (i) any provision of this Act other than Schedule 4; or**
 - (ii) any order or regulations made under this Act.**

- (3) An Order under this section may in particular—
- (a) make provision as to when a fee or charge payable under the order is to be paid;
 - (b) make provision as to who is to pay a fee or charge payable under the order;
 - (c) make provision as to how a fee or charge payable under the order is to be calculated including by reference to the percentage change in any relevant index;
 - (d) make provision as to who is to make the calculation;
 - (e) prescribe circumstances in which a fee or charge payable under the order is to be remitted or refunded (wholly or in part);
 - (f) prescribe circumstances in which no fee or charge is to be paid;
 - (g) make provision as to the effect of paying or failing to pay a fee or charge in accordance with the order.
- (4) An order under this section may —
- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
 - (b) in the case of an order made by virtue of paragraph (a), amend, repeal or revoke any provision made by or under this Act or by or under any other Act.
- (5) If the Department calculate the amount of fees or charges in pursuance of provision made by an order under subsection (2) it must secure that, taking one financial year with another, the income from the fees or charges does not exceed the cost of performing the function or doing the thing (as the case may be).
- (6) A financial year is the period of 12 months beginning with [X] April.
- (7) “Relevant index” means any of the following –
- (a) the retail prices index;
 - (b) the consumer prices index;
 - (c) any similar general index of prices published by the Board of the UK Statistics Authority.

44 Tynwald control of orders and regulations

- (1) Development orders, orders under sections 2A(10), 6(3)(e) or (f), **43B**, 45A(7) and regulations under this Act may not come into operation unless they are approved by Tynwald.

45 Interpretation

- (1) In this Act —

...

“prescribed” means prescribed by regulations;

“prior approval” means the approval of the [Department] which must be obtained under a condition of a development order before development under the order commences in respect of —

- (a) specified parts of the development;
- (b) specified uses of any part of the land which is the subject of the development; or
- (c) both (a) and (b);

“the register” means the Protected Buildings Register maintained under section 14(1);

“registered building” means a building for the time being entered in the register;

“registered building” means all or part of a building of architectural or historical interest for the time being entered in the register;

(3) A reference in a public document...

(4) For the purposes of this Act, a building shall be treated as including any object or structure —

(a) fixed to the building;

(b) not fixed to the building but within its curtilage, and which forms part of the land and has done so since before 1 January 1983.».

SCHEDULE 2

THE PROTECTED BUILDINGS REGISTER

1. Before entering any building in the register, or amending the register by removing a building from it **or otherwise amending an entry in respect of a building**, the Department shall consult such persons or bodies of persons as appear to it appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

2. (1) ~~As soon as may be after a building has been entered in the register, or the register has been amended by the removal of a building from it, the Department shall serve a notice on the owner and the occupier of the building stating that it has been entered in or removed from the register.~~

Where —

(a) a building has been entered in the register;

(b) an entry in the register in respect of a building has been removed; or

(c) such an entry has otherwise been amended,

the Department must, as soon as reasonably practicable, serve a notice on the owner and the occupier of the building of that fact

~~(2) The owner or the occupier of, and any other person having an interest in, a building which has been entered in the register may apply to the Department to remove the building from the register —~~

~~(a) within the prescribed period after service on him of a notice under sub-paragraph (1);~~

~~(b) after the expiration of the prescribed period after the decision on a previous request under this subsection in relation to the building.~~

Regulations

3. Regulations shall make provision with respect to —

(a) entries in and amendments of the register, and

~~(b) applications under paragraph 2 and the determination of such~~

applications;

and may make provision for the exercise of functions with respect to those matters, and appeals against decisions in relation thereto.