EXPLANATORY MEMORANDUM TO

THE INFRASTRUCTURE PLANNING (MISCELLANEOUS PRESCRIBED PROVISIONS) (AMENDMENT) REGULATIONS 2013

2013 No. 520

1. This Explanatory Memorandum has been prepared by the Department for Communities and Local Government (DCLG) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument relates to the grant of development consent for nationally significant infrastructure projects under the Planning Act 2008. The purpose of this instrument is to reduce the number of non-planning consents which are administered by consenting bodies outside the development consent process, thus streamlining the development consent process by bringing these consents fully within the development consent regime. This is achieved by removing certain consents from the list contained in the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Currently, under section 120 of the Planning Act 2008 ("the 2008 Act"), a Development Consent Order for a nationally significant infrastructure project can remove the need to obtain a number of consents that would otherwise be required for development, including planning permission, Green Belt consent, Listed Building consent and Scheduled Monument consent.

4.2 A Development Consent Order may also remove, on a case-by-case basis, the need separately to obtain other non-planning consents. This power is constrained by section 150 of the 2008 Act, which provides that certain prescribed consents can only be removed if the relevant consenting body agrees. These consents, of which there are 42, are listed in the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010.

4.3 The Department for Communities and Local Government aims to simplify the process for obtaining development consent under the 2008 Act. One part of this is the removal from the list of prescribed consents those that

are out of date, having been subsumed within more recent legislation, or are highly unlikely to be required for nationally significant infrastructure development. This instrument implements that proposal by reducing the list of prescribed consents in respect of England. The number of prescribed consents for Wales will remain the same.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Delivering economic growth is the over-riding priority for the Government, and improving the efficiency and speed of the planning process is a crucial part of creating the conditions for sustainable local growth. One element of the September 2012 package of reforms to housing and planning was to consider how to further streamline the nationally significant infrastructure planning regime by broadening the scope of the 'one stop shop' for non-planning consents, alongside other improvements to the service.

7.2 The nationally significant infrastructure regime is governed by the Planning Act 2008 (as amended by the Localism Act 2011). A developer wishing to construct a nationally significant infrastructure project must first apply to the Secretary of State (through the Planning Inspectorate) for consent to do so. Following examination, the Examining Authority (i.e. the Planning Inspectorate) makes a recommendation to the relevant Secretary of State who determines whether to grant or refuse development consent. There is a strong emphasis on the developer carrying out detailed pre-application work, including consultation with a wide range of prescribed consultees, before an application is submitted.

7.3 The Development Consent Order automatically removes the need to separately obtain a number of consents that would otherwise be required for development including planning permission, Green Belt consents, Listed Building consent and Scheduled Monument consent. There are a number of other non-planning consents that are currently dealt with outside a Development Consent Order which are the responsibility of other Departments and Government Agencies. A Development Consent Order may remove the need to obtain these non-planning consents from other consenting bodies on a case by case basis, but only if the relevant consenting body agrees. This mechanism is set out in section 150 of the 2008 Act.

7.4 Following on from the 2008 Act, the non-planning consents system was reviewed in 2010 as part of the Penfold Review. This led to a programme of work to remove unnecessary consents and simplify others; reform the

remits and working practices of the bodies granting or advising on development consents; set a clear timescale for deciding development consent applications; and make it easier to apply for development consents. The Department of Communities and Local Government has built on this work by developing proposals to simplify the process of obtaining development consent by expanding and improving a 'one stop shop' concept for non-planning consents.

7.5 This included a proposal to streamline the list of section 150 consents, seeking mainly to remove those which are either out of date, having been subsumed within more recent legislation, or are highly unlikely to be required for nationally significant infrastructure development. We identified 16 such consents (from a total list of 42 separate consents).

8. Consultation outcome

8.1 The Government consulted on 'Nationally Significant Infrastructure: Expanding and Improving the 'one stop shop' for 6 weeks from 22nd November 2012. 46 responses were received. The overall response to the "proposal to streamline the list of consents that are administered by consenting bodies outside of the Development Consent Order process" was positive, with a wide range of private sector, voluntary, local authority and trade bodies welcoming the proposed streamlining and reduction of bureaucracy. The Government has published a response to the consultation, available at https://www.gov.uk/government/consultations/nationally-significant-infrastructure-planning-expanding-and-improving-the-one-stop-shop-approach-for-consents.We intend to implement these changes through new regulations, which if approved will come into effect from 6 April.

9. Guidance

9.1 The Department for Communities and Local Government publishes guidance alongside the relevant regulations on section 150 consents (Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010). The Department conducted a 'Light Touch Review' of the full suite of guidance documents to support the nationally significant infrastructure planning regime during the summer 2012. It published revised guidance on the pre-application process, including section 150 consents. This can be found at Planning Act 2008: guidance on the pre-application process.

10. Impact

10.1 The impact on business is that there is an expected positive impact for promoters of nationally significant infrastructure projects, as the change will streamline the current list of non-planning consents administered outside the Development Consent Order. The impact is likely to be small, however, as the streamlining will remove those consents which are out of date or highly unlikely to relate to nationally significant infrastructure. There is no expected impact on charities or voluntary bodies.

10.2 There is no expected impact on the public sector.

10.3 An Impact Assessment was published as part of the original consultation and is available at https://www.gov.uk/government/consultations/nationally-significant-infrastructure-planning-expanding-and-improving-the-one-stop-shop-approach-for-consents.

11. Regulating small business

11.1 The legislation applies to, but will have no impact on, small businesses. The vast majority of nationally significant infrastructure projects relate to multi-million pound projects with very significant capital costs. Given the costs associated with such developments, the Department takes the view that only a major developer is likely to submit an application for a development on such a scale that it would be classified as nationally significant.

12. Monitoring & review

12.1 The Department for Communities and Local Government will continue to keep the list of non-planning consents administered outside of the development consent process under review. A review of the Planning Act regime is currently being planned for 2014 and will be conducted by the Department for Communities and Local Government.

13. Contact

Sue Lovelock at the Department for Communities and Local Government can answer any queries regarding the instrument.

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