



# PINS NOTE 05/2015r5

To:	All Examining Inspectors; all Major Applications & Plans; all salaried Inspectors.
Relevancy:	Various parts of the Act apply to national Infrastructure, but parts may also apply to other planning, transport and related casework.
Date of Issue:	19 February 2015
Currency:	Review on 19 August 2015
Last Updated:	7 April 2016 – Annex F added, relating to The Infrastructure Act 2015 (Commencement No. 5) Regulations 2016, bringing into force the remaining provisions under S50 of the Act on 6 April 2016.

## INFRASTRUCTURE ACT 2015

### Action

1. The Infrastructure Act<sup>1</sup> received Royal Assent on [12 February](#). Inspectors should be aware of the provisions of the Act laid out in paragraph 3 below and the commencement of provisions (see attached Annexes) that may affect the work of the Inspectorate.

### Background

2. In July 2013 the Government published Action for Roads<sup>2</sup>, which began the process of implementing the roads reforms announced in the spending plans for roads up to 2020-21<sup>3</sup>, resulting in the DfT consultation published in October 2013<sup>4</sup>. The outcome of that consultation, together with various other consultations and proposals<sup>5</sup>, resulted in the [Infrastructure Bill](#), which was introduced in the House of Lords in June 2014. The main provisions of the Act cover the change in status of the Highways Agency to be a government-owned company to manage strategic roads in England; to introduce provisions for cycling and walking investment strategy; provisions for further environmental control of flora and fauna; various planning changes (including changes to the infrastructure regime

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<sup>1</sup> Infrastructure Act 2015 (ch.7); [Explanatory Notes](#).

<sup>2</sup> [Action for roads: a network for the 21<sup>st</sup> century \(Cm 8679\)](#), DfT, July 2013

<sup>3</sup> [Investing in Britain's Future \(Cm 8669\)](#), HM Treasury, June 2013

<sup>4</sup> [Consultation on transforming the Highways Agency into a government-owned company](#), DfT, October 2013.

<sup>5</sup> [Law Commission's consultation on Wildlife Law](#); [DCLG consultation on review of the Nationally Significant Infrastructure Planning Regime](#); [DECC consultation on underground drilling access](#); The [Community Energy Strategy](#) and the [Wood Review of UK Offshore Oil and Gas Recovery](#).

and deemed discharge of planning conditions); make provisions concerning community energy projects and recovery of fossil fuels.

### **Main provisions:**

3. The Infrastructure Act 2015 sets out the following provisions:

- Part 1, Sections 1-20: makes provision for the appointment of 'strategic highways companies' to manage strategic roads in England in place of the Highways Agency (the intention is for one company to be known as 'Highways England'); provisions for Road Investment Strategies; Route Strategies; monitoring and compliance; and asset transfer schemes.
- Schedule 1, Part 1: amendments to the Highways Act 1980 to allow one or more strategic highways companies to become highway authorities, and where appointed the company's powers will include those of the SoS, including the power to construct, maintain and improve highways and to acquire land for those purposes.
- Schedule 1, Part 2: other enactments to amend various transport and other legislation to apply the roles of the strategic highways companies to the former Highways Agency e.g. Road Traffic Regulation Act 1984; Town and Country Planning Act 1990 (the 1990 Act); Environmental Protection Act 1990; New Roads and Street Works Act 1991; Transport Act 2000 and other related legislation.
- Schedule 2: describes the procedure for setting and varying a Road Investment Strategy under section 3.
- Schedule 3: sets out further provisions for transfer schemes made under section 15.
- Part 2, Section 21: places a duty on SoS to set a Cycling and Walking Investments Strategy for England and to review every 5 years.
- Part 3, Section 22: extends the powers of the British Transport Police.
- Part 4, Sections 23-25: provides for new powers in the Wildlife and Countryside Act 1981 to require landowners to take action on invasive, non-native species or permit others to enter land and carry out action through the use of species control agreements/orders.
- Part 5, Sections 26-28: makes changes to the NSIP regime and consequent amendments to the Planning Act 2008 to enable the examining authority to be appointed earlier in the process; to enable examination panels to be conducted by two persons; and discretionary powers regarding changes to, and revocation of development consent orders.

- Part 5, Section 29: amends the 1990 Act to allow the SoS to provide development orders for the deemed discharge of planning condition where a decision by the LPA has not been made within the specified time period.
- Part 5, Section 30 and Schedule 4: enables the SoS to make provisions under the 1990 Act for Mayoral Development Orders granting planning permission for development on sites in Greater London.
- Part 5, Sections 31-33: provides for the Homes and Communities Agency (HCA) and the Greater London Authority (GLA) to take on the new role as the land disposal agency in England, by amending the Housing and Regeneration Act 2008 and the Greater London Authority Act 1999 respectively.
- Part 5, Sections 34-36 and Schedule 5: makes provisions concerning the transfer of responsibility for local land charges from local authorities to the Chief Land Registrar (CLR) and other powers for the Land Registry.
- Part 5, Section 37: establishes the powers for the SoS or Welsh Ministers to make provisions in the building regulations for off-site abatement for carbon dioxide emissions to move towards the zero carbon emissions standard for new dwellings in England from 2016.
- Part 6, Sections 38-39 and schedule 6: contains provisions for the SoS to make regulations giving individuals and/or communities the right to purchase a stake in a local project to generate renewable electricity (applies to offshore and onshore projects).
- Part 6, Section 40: inserts new powers in the Commissioners for Revenue and Customs Act 2005 to take part in the Extractive Industries Transparency Initiative (EITI) for data transparency in the industry.
- Part 6, Sections 41-50 and Schedule 7: introduces a series of measures to maximise the economic recovery of UK petroleum; provide for a better resourced and more proactive regulator; improved asset stewardship; provide more constructive collaboration between operators; provide better implementation of industry strategies. Of particular interest will be sections 43-44 which provides for the right to use deep-level land<sup>6</sup> for petroleum and geothermal energy exploitation. Section 45-46 provides for payments to landowners and notice requirements respectively. Section 50 provides for safeguarding measures<sup>7</sup> for onshore hydraulic fracturing proposals to be inserted into the Petroleum Act 1998.
- Part 6, Section 51: amends the Energy Act 2008 to establish provisions to make regulations to encourage establishment of

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<sup>6</sup> Land at a depth of at least 300 metres below surface level.

<sup>7</sup> Required to be in place in before a well consent can be granted – includes requirement for protection of groundwater source areas and other 'protected areas'.

schemes for renewable heat generation by opening up the market to administer schemes and to allow for further powers in relation to payments for schemes.

- Part 6, Section 52: amends the Electricity Act 1989 to enable SoS to make regulations to allow for electricity distributors to exercise further reimbursement powers where certain conditions are met.
- Part 6, Section 53: allows for consequential provision to make regulations in connection with any provision under Part 5 of the Act other than section 40.
- Part 7, Section 54: inserts powers to abolish Public Works Loan Commissioners under the Public Bodies Act 2011.
- Part 8: Sections 55-58: contains general provisions for regulations and orders; extent; commencement and short title.

4. The majority of the provisions apply to England and Wales, although some (see Explanatory Notes 10-19) also apply to Scotland and Northern Ireland. Details of initial commencement of the provisions of the Act are laid out in the attached Annex A – some provisions will apply from the date of Royal Assent, some 2 months after and the rest by commencement orders. The note will be updated when commencement orders are laid in respect of the remaining provisions as follows:

Annex B – The Infrastructure Act 2015 (Commencement No. 1) Regulations 2015.

Annex C – The Infrastructure Act 2015 (Commencement No. 2 and Transitional Provisions) Regulations 2015.

Annex D – The Infrastructure Act 2015 (Commencement No. 3) Regulations 2015.

Annex E – The Infrastructure Act 2015 (Commencement No. 4) Regulations 2015.

Annex F – The Infrastructure Act 2015 (Commencement No. 5) Regulations 2016

5. Please contact XXXX if you have any queries on this Note.

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Director of Knowledge and Professional Standards

### **Infrastructure Act 2015 Commencement Provisions**

The following sections of the Infrastructure Act 2015 came into force in relation to England and Wales (where indicated) on 12 February 2015 under the provisions of [section 57](#):

Part 1	E & W	Strategic Highways Companies – in so far as it confers powers to make regulations <sup>8</sup> .
Part 5, Section 28	E	Changes to, and revocation of Development Consent Orders – in so far as it confers powers to make regulations.
Part 5, Section 29	E	Deemed discharge of planning conditions.
Part 5, Section 30 and Schedule 4	E	Mayoral Development Orders – in so far as they confer powers to make provision by regulations or by development order under the 1990 Act.
Part 5, Section 33	E	Expenditure of Greater London Authority on housing or regeneration.
Part 6, Section 51	E & W	Renewable Heat Incentives
Part 6, Section 53	E & W	Consequential provisions under Part 5.
Part 8	E & W	General provisions.

The following sections of the Infrastructure Act 2015 come into force in relation to England and Wales (where indicated) on 12 April 2015 under the provisions of [section 57](#):

Part 3	E & W	Powers of the British Transport Police
Part 5, Section 31	E & W	Property etc transfers to the HCA and GLAA.
Part 5, Section 32	E & W	Easements etc affecting land.
Part 5, Section 34 & Schedule 5	E & W	Transfer of responsibility for local land charges to Land Registry.
Part 5, Section 35	E & W	Conferral of additional powers on the Land Registry.
Part 5, Section 36	E & W	Transfer of power to nominate member of Rule Committee.
Part 6, Section 40	E & W	The Extractive Industries Transparency Initiative.

<sup>8</sup> Section 19 confers powers to make consequential and transitional regulations in connection with the implementation of Part 1 of the Act - the package of regulations consists of: i) The Appointment of a Strategic Highways Company Order 2015 (SI 2015/376); ii) [The Infrastructure Act 2015 \(Strategic Highways Companies\) \(Consequential, Transitional and Savings Provisions\) Regulations 2015 \(SI 2015/377\)](#); and iii) [The Delegation of Functions \(Strategic Highways Companies\) \(England\) Regulations 2015 \(SI 2015/378\)](#).

Part 6, Sections 43-48	E & W	Petroleum and geothermal energy in deep-level land.
Part 6, Section 49	E & W	Advice on likely impact of onshore petroleum on the carbon budget.

**The Infrastructure Act 2015 (Commencement No. 1) Regulations 2015, SI 2015/481 (C.26)**

The following provisions of The Infrastructure Act 2015 come into force in relation to England and Wales (where indicated) on 5 March 2015 under regulation 2:

Part 1	E & W	Strategic Highways Companies (for remaining purposes)
Part 4, Section 24	E	Native and non-native species etc (in so far as it relates to England)
Part 4, Section 25	E	Part 4: Supplementary (insofar as it relates to England)

The following provisions of The Infrastructure Act 2015 come into force in relation to England and Wales (where indicated) on 12 April 2015 under regulation 3:

Part 4, Section 23	E	Environmental Control of animal and plant species (insofar as it relates to England)
Part 6, Section 41	E & W	Maximising economic recovery of UK petroleum
Part 6, Section 42	E & W	Levy on holders of certain energy industry licences
Schedule 7	E & W	The licensing levy

**The Infrastructure Act 2015 (Commencement No. 2 and Transitional Provisions) Regulations 2015, SI 2015/758 (C.41)**

The following provision of The Infrastructure Act 2015 comes into force in relation to England and Wales (where indicated) on 12 April 2015 under regulation 2:

Part 5, Section 26	E & W	Timing of appointment of examining authority
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The following provision of The Infrastructure Act 2015 comes into force in relation to England and Wales (where indicated) on 14 July 2015 under regulation 3:

Part 5, Section 28	E & W	Changes to, and revocation of development consent orders <sup>9</sup> .
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**Transitional Provisions**

- i) Under regulation 4(2) the amendments made by section 26 of the Act do not apply to applications for development consent order under section 37 of the 2008 Act made to the Secretary of State before 12 April 2015;
- ii) Under regulation 4(3) the amendments made by section 28 of the Act do not apply to applications for a change to a development consent order under paragraph 3(1) of Schedule 6 to the 2008 Act made to the Secretary of State before 14 July 2015.

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<sup>9</sup> Section 28 confers powers to make consequential and transitional regulations in connection with the implementation of Part 5 of the Act in relation to NSIPs - the regulations are: [The Infrastructure Planning \(Changes to, and Revocation of, Development Consent Orders\) \(Amendment\) Regulations 2015 \(SI 2015/760\)](#).



**[The Infrastructure Act 2015 \(Commencement No. 3\) Regulations 2015, SI 2015/1543 \(C.88\)](#)**

The following provisions of The Infrastructure Act 2015 come into force in relation to England on 31 July 2015 under regulation 2:

Part 2	E	Cycling and Walking investment strategies
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**[The Infrastructure Act 2015 \(Commencement No. 4\) Regulations 2015, SI 2015/1576\(C.90\)](#)**

The following provisions of The Infrastructure Act 2015 come into force in relation to England on 30 July 2015 under regulation 2:

Part 6, Section 50	E	Onshore hydraulic fracturing: safeguards (in part) <sup>10</sup>
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<sup>10</sup> S50 only in relation to insertion of provisions in the Petroleum Act 1998 of Section 4B(4), (5), (6) & (7) – to define and lay [draft regulations](#) on 'protected areas' by 31 July 2015.

**The Infrastructure Act 2015 (Commencement No. 5) Regulations 2016, SI 2016/455(C.23)**

The following provisions of The Infrastructure Act 2015 come into force in relation to England on 6 April 2016 under regulation 2:

Part 6, Section 50	E	Onshore hydraulic fracturing: safeguards (in so far as it is not already in force)
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