



# Planning (Wales) Act 2015

**2015 anaw 4**

An Act of the National Assembly for Wales to make provision about national, strategic and local development planning in Wales; to make provision for certain applications for planning permission and certain other applications to be made to the Welsh Ministers; to make other provision about development management and applications for planning permission; to make provision about planning enforcement, appeals and certain other proceedings; to amend the Commons Act 2006; and for connected purposes. {6 July 2015}

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## **PART 1**

### **INTRODUCTION**

#### **1 Overview of this Act**

- (1) This Part provides an overview of this Act.
- (2) Part 2 of this Act makes provision about sustainable development in the exercise of functions relating to development planning and applications for planning permission.
- (3) Part 3 of this Act is about development planning in Wales. It makes provision—
  - (a) for the preparation and revision of a National Development Framework for Wales;
  - (b) for the designation of strategic planning areas, the establishment of strategic planning panels and the preparation of strategic development plans;
  - (c) about the status of the National Development Framework for Wales and strategic development plans;
  - (d) about local development plans (including provision about the duration of plans, withdrawal of plans and directions to prepare joint plans);
  - (e) for joint planning boards to exercise development planning functions.

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- (4) Part 3 also makes provision about the constitution and financial arrangements of strategic planning panels.
- (5) Part 4 of this Act makes provision about—
  - (a) consultation to be carried out by a prospective applicant for planning permission;
  - (b) pre-application services that are to be provided by a local planning authority or the Welsh Ministers.
- (6) Part 5 of this Act is about the making of certain applications to the Welsh Ministers. It makes provision—
  - (a) for applications for planning permission for development of national significance in Wales to be made to the Welsh Ministers instead of a local planning authority;
  - (b) for certain other applications to be made to either the Welsh Ministers or a local planning authority.
- (7) Part 5 also makes provision—
  - (a) for certain functions of the Welsh Ministers, in respect of applications made to them, to be exercised by an appointed person;
  - (b) for further amendments to existing legislation in connection with the making of applications to the Welsh Ministers.
- (8) Part 6 of this Act is about development management and associated matters. It makes provision about—
  - (a) requirements relating to planning applications, including provision for appeals where a local planning authority give notice that an application is not valid;
  - (b) notices of decisions to grant planning permission;
  - (c) notification of beginning development for which permission has been granted;
  - (d) the duration of planning permission;
  - (e) consultation in respect of applications for approval of reserved matters and certain other applications;
  - (f) arrangements to be made by local planning authorities for discharging their functions relating to planning applications.
- (9) Part 6 also—
  - (a) applies to Wales existing statutory provision about circumstances in which a local planning authority may decline to determine a retrospective application;
  - (b) makes provision about the stopping up of public paths;
  - (c) makes provision about the functions of joint planning boards and about the power of the Welsh Ministers to establish joint planning boards.
- (10) Part 7 of this Act is about enforcement, appeals and certain other planning proceedings. It makes provision—
  - (a) enabling local planning authorities to issue enforcement warning notices;
  - (b) about circumstances in which a person who appeals against an enforcement notice is deemed to have applied for planning permission;
  - (c) about circumstances in which a person may not appeal against the refusal of an application for planning permission or against an enforcement notice;
  - (d) preventing the variation of certain applications once notice of an appeal has been served;

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- (e) for appeals against notices in respect of land adversely affecting amenity to be made to the Welsh Ministers;
  - (f) about the procedure for certain proceedings and the payment and award of costs.
- (11) Part 8 is about town and village greens. It makes provision—
- (a) restricting the circumstances in which applications to register land as a town or village green may be made;
  - (b) about the determination of fees in relation to applications.
- (12) Part 9 contains provisions that apply generally for the purposes of this Act (including provision about the making of subordinate legislation by the Welsh Ministers and about the interpretation and coming into force of the Act).

## PART 2

### SUSTAINABLE DEVELOPMENT

#### 2 Sustainable development

- (1) This section applies to the exercise by the Welsh Ministers, a local planning authority in Wales or any other public body—
- (a) of a function under Part 6 of PCPA 2004 in relation to the National Development Framework for Wales, a strategic development plan or a local development plan;
  - (b) of a function under Part 3 of TCPA 1990 in relation to an application for planning permission made (or proposed to be made) to the Welsh Ministers or to a local planning authority in Wales.
- (2) The function must be exercised, as part of carrying out sustainable development in accordance with the [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales.
- (3) In complying with subsection (2), a public body must take into account guidance issued by the Welsh Ministers (including relevant guidance issued under section 14 of the [Well-being of Future Generations \(Wales\) Act 2015](#)).
- (4) In this section, “public body” has the meaning given by section 6 of the [Well-being of Future Generations \(Wales\) Act 2015](#).
- (5) Nothing in this section, as it applies in relation to functions under Part 3 of TCPA 1990, alters—
- (a) whether regard is to be had to any particular consideration under subsection (2) of section 70 of that Act (determination of applications for planning permission), or
  - (b) the weight to be given to any consideration to which regard is had under that subsection.
- (6) In section 39 of PCPA 2004 (sustainable development)—
- (a) in subsection (1), omit paragraph (c);
  - (b) in subsection (3), omit paragraph (b).

## PART 3

### DEVELOPMENT PLANNING

#### *National Development Framework for Wales*

### 3 Preparing and revising the National Development Framework for Wales

In PCPA 2004, for section 60 (and the cross-heading before it) substitute—

#### *“National Development Framework*

##### **60 National Development Framework for Wales**

- (1) There must be a plan, prepared and published by the Welsh Ministers, to be known as the National Development Framework for Wales.
- (2) The Framework must set out such of the policies of the Welsh Ministers in relation to the development and use of land in Wales as the Welsh Ministers consider appropriate.
- (3) The Framework may specify that development of a particular description, in a particular area or location, is to constitute development of national significance for the purposes of section 62D of the principal Act (development of national significance: applications to be made to Welsh Ministers).
- (4) The Framework must give reasons for—
  - (a) the policies that it sets out, and
  - (b) any provision that it makes as mentioned in subsection (3).
- (5) The Framework must explain how, in preparing the Framework, the Welsh Ministers have taken into account relevant policies set out in—
  - (a) any marine plan adopted and published by them under Part 3 of the Marine and Coastal Access Act 2009, and
  - (b) the Wales Transport Strategy published under section 2 of the Transport (Wales) Act 2006.
- (6) The Framework must specify the period for which it is to have effect.
- (7) A plan ceases to be the National Development Framework for Wales on the expiry of the period specified under subsection (6).

##### **60A Preparation of Framework: statement of public participation**

- (1) The Welsh Ministers must prepare and publish a statement of public participation setting out their policies relating to the consultation to be carried out in preparing the National Development Framework for Wales.
- (2) In particular, the statement must include provision about—
  - (a) the form that the consultation will take,
  - (b) when the consultation will take place, and

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- (c) the steps that will be taken to involve members of the public in the preparation of the Framework.
- (3) The statement must provide that, as part of the consultation, the Welsh Ministers will—
  - (a) publish a draft of the Framework, and
  - (b) allow a period of 12 weeks beginning with the publication of the draft Framework during which any person may make representations with regard to the draft.
- (4) The Welsh Ministers may revise the statement, and must publish the statement as revised.

### **60B Procedure for preparation and publication of Framework**

- (1) Before publishing the National Development Framework for Wales, the Welsh Ministers must—
  - (a) prepare a draft of the Framework,
  - (b) carry out an appraisal of the sustainability of the policies set out in the draft, and
  - (c) carry out consultation in accordance with the statement of public participation.
- (2) The appraisal under subsection (1)(b) must include an assessment of the likely effects of the policies in the draft Framework on the use of the Welsh language.
- (3) If, after complying with subsection (1), the Welsh Ministers wish to proceed with the draft of the Framework (with or without changes), they must lay before the National Assembly for Wales—
  - (a) the draft, and
  - (b) a report which—
    - (i) summarises the representations they received during the consultation carried out under subsection (1)(c), and
    - (ii) explains how they have taken the representations into account.
- (4) The Welsh Ministers must have regard to—
  - (a) any resolution passed by the National Assembly for Wales with regard to the draft Framework during the Assembly consideration period, and
  - (b) any recommendation made by a committee of the National Assembly with regard to the draft during that period.
- (5) After the expiry of the Assembly consideration period, the Welsh Ministers—
  - (a) may publish the National Development Framework for Wales in the terms of the draft laid under subsection (3), or
  - (b) if they propose to make changes to that draft, may—
    - (i) lay before the National Assembly for Wales an amended draft of the Framework, and
    - (ii) publish the National Development Framework for Wales in the terms of the amended draft.
- (6) If any resolution was passed or any recommendation was made as mentioned in subsection (4), the Welsh Ministers must also, not later than the day on

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which the Framework is published, lay before the National Assembly for Wales a statement explaining how they have had regard to the resolution or recommendation.

- (7) In this section, “the Assembly consideration period” means the period of 60 days beginning with the day on which a draft of the Framework is laid before the National Assembly for Wales under subsection (3), disregarding any time when the National Assembly is dissolved or is in recess for more than four days.

### **60C Review and revision of Framework**

- (1) The Welsh Ministers must keep the National Development Framework for Wales under review.
- (2) The Welsh Ministers may revise the Framework at any time, and must publish the Framework as revised.
- (3) Sections 60A and 60B apply for the purposes of the revision of the Framework, as if references to the Framework (or a draft of the Framework) were references to the Framework as revised (or a draft of the Framework as revised).
- (4) Subsection (5) applies if the Welsh Ministers, having published a draft of a revised Framework in accordance with the statement of public participation, decide not to proceed with the revision of the Framework.
- (5) The Welsh Ministers must—
  - (a) publish notice of their decision and the reasons for it, and
  - (b) if a draft of a revised Framework has been laid before the National Assembly for Wales under section 60B(3), lay a copy of the notice before the National Assembly.
- (6) Subsection (7) applies if—
  - (a) a review period ends, and
  - (b) the Welsh Ministers have not, within that period—
    - (i) published a revised Framework, or
    - (ii) laid a draft revised Framework before the National Assembly for Wales under section 60B(3).
- (7) As soon as reasonably practicable after the end of the review period, the Welsh Ministers must publish and lay before the National Assembly for Wales a statement—
  - (a) setting out their assessment of whether the Framework should be revised and giving reasons for that assessment, and
  - (b) if they consider that the Framework should be revised, setting out a timetable for its revision.
- (8) For the purposes of subsections (6) and (7)—
  - (a) the first review period—
    - (i) begins with the day on which the Framework is first published, and
    - (ii) ends with the fifth anniversary of the day on which the Framework is first published or, if earlier, with the day on which a revised Framework is published;

- (b) each subsequent review period—
  - (i) begins with the day after the last day of the preceding review period, and
  - (ii) ends with the fifth anniversary of the last day of the preceding review period or, if earlier, with the day on which a revised Framework is published.”

### *Strategic planning*

## **4 Designating strategic planning areas and establishing strategic planning panels**

- (1) In PCPA 2004, after section 60C (as inserted by section 3) insert—

### *“Strategic planning*

#### **60D Power to designate strategic planning area and establish strategic planning panel**

- (1) The Welsh Ministers may by regulations—
  - (a) designate an area in Wales as a strategic planning area for the purposes of this Part, and
  - (b) establish a strategic planning panel for that area.
- (2) A strategic planning area must comprise—
  - (a) all of the area of one local planning authority, and
  - (b) all or part of the area of at least one other local planning authority.
- (3) The Welsh Ministers must not make regulations under this section unless—
  - (a) they have given a direction under section 60E(1) to a local planning authority all or part of whose area is included in the strategic planning area to be designated by the regulations,
  - (b) either—
    - (i) a proposal for an area to be designated has been submitted in accordance with section 60E(6), or
    - (ii) the period for complying with section 60E(6) has ended without a proposal being submitted, and
  - (c) they have carried out any consultation required by section 60F(1).
- (4) Paragraphs (a) and (b) of subsection (3) do not apply in relation to regulations that revoke or amend previous regulations under this section.
- (5) Schedule 2A contains provisions about strategic planning panels.

#### **60E Preparation and submission of proposal for strategic planning area**

- (1) The Welsh Ministers may direct one or more local planning authorities to submit a proposal for an area to be designated as a strategic planning area under section 60D.
- (2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.

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- (3) In this section, the “responsible authority” means—
- (a) where a direction under subsection (1) is given to a single local planning authority, that authority;
  - (b) where a direction under subsection (1) is given to two or more local planning authorities, those authorities acting jointly.
- (4) The responsible authority must prepare a proposal for an area to be designated as a strategic planning area.
- (5) Before submitting the proposal to the Welsh Ministers, the responsible authority must consult—
- (a) each local planning authority, other than one to which the direction under subsection (1) was given, for an area all or part of which is included in the proposed strategic planning area, and
  - (b) any other persons specified in, or of a description specified in, the direction.
- (6) The responsible authority must submit to the Welsh Ministers—
- (a) the proposal, and
  - (b) a report about the consultation carried out under subsection (5).
- (7) A proposal submitted under subsection (6)(a) must include—
- (a) a map showing the boundaries of the area which the responsible authority propose should be designated as a strategic planning area,
  - (b) a statement of the reasons for proposing that area, and
  - (c) any other information specified by the Welsh Ministers in the direction given under subsection (1).
- (8) The responsible authority must comply with subsection (6)—
- (a) before the end of any period specified in the direction;
  - (b) if no period is specified in the direction, before the end of six months beginning with the day on which the direction is given.
- (9) The Welsh Ministers may agree to extend the period for complying with subsection (6) in a particular case.
- (10) The responsible authority must comply with any requirements set out in the direction as to—
- (a) how the consultation required by subsection (5) must be carried out;
  - (b) the form and content of the report about the consultation;
  - (c) how the proposal and the report must be submitted under subsection (6).
- (11) Subsection (12) applies if the Welsh Ministers, having given a direction under subsection (1), decide not to designate a strategic planning area.
- (12) The Welsh Ministers must give notice of their decision and the reasons for it—
- (a) to the responsible authority, and
  - (b) if a proposal has been submitted under subsection (6), to each authority within subsection (5)(a).



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### **60F Consultation by Welsh Ministers before making certain regulations under section 60D**

- (1) If the Welsh Ministers propose to make regulations under section 60D to which this section applies, they must consult—
  - (a) each relevant local planning authority, and
  - (b) any other persons they consider appropriate.
- (2) This section applies to regulations under section 60D if the Welsh Ministers have given a direction under section 60E(1) and—
  - (a) the boundaries of the strategic planning area that would be designated by the regulations are different from the boundaries of the area proposed under section 60E(6) pursuant to the direction, or
  - (b) the period for complying with section 60E(6) has ended without a proposal being submitted.
- (3) This section also applies to regulations under section 60D revoking or amending previous regulations under that section.
- (4) A local planning authority is a relevant local planning authority in relation to regulations to which this section applies if all or part of the authority's area is included in—
  - (a) the strategic planning area that would be designated by the regulations, or
  - (b) a strategic planning area designated by previous regulations under section 60D that would be revoked or amended by the regulations.

### **60G Provision of information to Welsh Ministers**

A local planning authority must provide the Welsh Ministers with any information that the Welsh Ministers request for the purpose of exercising their functions under sections 60D to 60F.”

- (2) For further provisions about strategic planning panels, see Schedule 1.

## **5 Strategic planning areas: survey**

In PCPA 2004, after section 60G (as inserted by section 4) insert—

### **“60H Strategic planning area: survey**

- (1) A strategic planning panel must keep under review the matters which may be expected to affect the development of its strategic planning area or the planning of the development of that area.
- (2) Subsections (2) to (5) of section 61 apply in relation to a strategic planning panel as they apply in relation to a local planning authority.
- (3) In subsections (2) to (5) of section 61 as they apply by virtue of subsection (2)—
  - (a) references to a local planning authority are to be construed as references to a strategic planning panel;

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- (b) references to a neighbouring area are to be construed as references to a neighbouring strategic planning area.”

## 6 Preparing and revising strategic development plans

In PCPA 2004, after section 60H (as inserted by section 5) insert—

### “60I Strategic development plan

- (1) A strategic planning panel must prepare a plan for its strategic planning area, to be known as a strategic development plan.
- (2) The plan must set out—
  - (a) the panel’s objectives in relation to the development and use of land in its area;
  - (b) the panel’s policies for the implementation of those objectives.
- (3) A strategic development plan must be in general conformity with the National Development Framework for Wales.
- (4) The plan must specify the period for which it is to have effect.
- (5) The Welsh Ministers may by regulations make provision about—
  - (a) the period that may be specified under subsection (4);
  - (b) the form and content of the plan.
- (6) In preparing a strategic development plan, the strategic planning panel must have regard to—
  - (a) current national policies;
  - (b) the National Development Framework for Wales;
  - (c) the strategic development plan for any strategic planning area that adjoins the panel’s area;
  - (d) the local development plan for each area all or part of which is included in the panel’s area;
  - (e) the resources likely to be available for implementing the strategic development plan;
  - (f) any other matters prescribed by the Welsh Ministers in regulations.
- (7) The panel must also—
  - (a) carry out an appraisal of the sustainability of the plan;
  - (b) prepare a report of the findings of the appraisal.
- (8) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the strategic planning area.
- (9) A plan is a strategic development plan only in so far as it is—
  - (a) adopted by resolution of the strategic planning panel as a strategic development plan, or
  - (b) approved by the Welsh Ministers under section 65 or 71 (as they apply by virtue of section 60J).
- (10) The plan ceases to be a strategic development plan on the expiry of the period specified under subsection (4).

### **60J Strategic development plan: application of provisions of this Part**

- (1) The provisions specified in subsection (3) apply in relation to a strategic development plan as they apply in relation to a local development plan.
- (2) Accordingly, where a provision specified in subsection (3) confers power for the Welsh Ministers to make provision by regulations in respect of a local development plan, that power is also exercisable so as to make provision in respect of a strategic development plan.
- (3) The provisions are sections 63 to 68, 68A(1), 69 to 71, 73 and 75 to 77.
- (4) In those provisions as they apply by virtue of subsection (1)—
  - (a) references to a local planning authority are to be construed as references to a strategic planning panel;
  - (b) references to a local development plan are to be construed as references to a strategic development plan.
- (5) In section 64(5)(a) as it applies by virtue of this section, the reference to section 62 is to be construed as a reference to section 60I.
- (6) In section 77(2)(a) as it applies by virtue of this section, the reference to section 62(6) is to be construed as a reference to section 60I(7).”

#### *Status of National Development Framework and strategic development plans*

## **7 Conformity of certain plans and schemes with National Development Framework and strategic development plan**

- (1) In section 62 of PCPA 2004 (local development plan), after subsection (3) insert—

“(3A) The plan must be in general conformity with—

  - (a) the National Development Framework for Wales, and
  - (b) the strategic development plan for any strategic planning area that includes all or part of the area of the authority.”
- (2) In section 83 of TCPA 1990 (making of simplified planning zone schemes), after subsection (3) insert—

“(3A) A simplified planning zone scheme for an area in Wales must be in general conformity with—

  - (a) the National Development Framework for Wales (see sections 60 to 60C of the Planning and Compulsory Purchase Act 2004), and
  - (b) the strategic development plan for any strategic planning area that includes all or part of the simplified planning zone (see sections 60I and 60J of that Act).”

## **8 Duty to consider whether to review local development plan**

- (1) In PCPA 2004, after section 68 insert—

**“68A Duty to consider whether to review local development plan**

- (1) Following the publication of the National Development Framework for Wales or a revised Framework, a local planning authority must consider whether to carry out a review of their local development plan.
  - (2) Following the adoption or approval of a strategic development plan or revised strategic development plan for a strategic planning area, a local planning authority for an area all or part of which is included in the strategic planning area must consider whether to carry out a review of their local development plan.”
- (2) In section 69 of PCPA 2004 (review of local development plan), in subsection (1), for “at such times as the Assembly prescribes” substitute “—
- (a) if, after consideration under section 68A, they think that the plan should be reviewed, and
  - (b) at such other times as the Welsh Ministers prescribe”.

**9 National Development Framework and strategic development plan to form part of development plan**

In section 38 of PCPA 2004 (development plan), in subsection (4) (areas in Wales), for “the local development plan adopted or approved in relation to that area” substitute “—

- (a) the National Development Framework for Wales,
- (b) the strategic development plan for any strategic planning area that includes all or part of that area, and
- (c) the local development plan for that area”.

*Blighted land*

**10 Land affected by National Development Framework or strategic development plan**

- (1) Schedule 13 to TCPA 1990 (blighted land) is amended as set out in subsections (2) to (6).
- (2) In paragraph 1B (land in Wales identified for the purposes of relevant public functions by a local development plan), after “local development plan” insert “or strategic development plan”.
- (3) In Note (1) to that paragraph, for “National Assembly for Wales” substitute “Welsh Ministers”.
- (4) In Note (2) to that paragraph—
  - (a) in the opening words and in paragraph (a), after “local development plan” insert “or strategic development plan”;
  - (b) in paragraph (b), for “a local development plan” substitute “such a plan”;
  - (c) in paragraph (c)—
    - (i) after “local development plan” insert “or strategic development plan”;
    - (ii) for “National Assembly” substitute “Welsh Ministers”;

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- (d) in paragraph (d)—
- (i) for “a local development plan” substitute “such a plan”;
  - (ii) for “National Assembly” substitute “Welsh Ministers”.
- (5) In Note (4) to that paragraph—
- (a) omit “local development”;
  - (b) for “National Assembly”, in each place, substitute “Welsh Ministers”.
- (6) After paragraph 1B insert—
- “1C Land in Wales which is identified for the purposes of relevant public functions (within the meaning of paragraph 1B) by the National Development Framework for Wales.
- Notes*
- (1) In this paragraph, the reference to the National Development Framework for Wales is a reference to—
    - (a) the National Development Framework for Wales, or a revised Framework, which is published under sections 60 to 60C of the Planning and Compulsory Purchase Act 2004, and
    - (b) a draft of the Framework, or of a revised Framework, which has been laid before the National Assembly for Wales under section 60B(3) of that Act.
  - (2) This paragraph does not apply to land that falls within paragraph 1B.
  - (3) Note (1)(b) ceases to apply in relation to a draft of a revised Framework if the Welsh Ministers lay before the National Assembly for Wales a copy of a notice that they have decided not to proceed with the revision of the Framework.”
- (7) In TCPA 1990, after the cross-heading before section 165 insert—

**“164A Power of Welsh Ministers to acquire land identified by National Development Framework for Wales where blight notice served**

Where a blight notice has been served in respect of land falling within paragraph 1C of Schedule 13, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.”

- (8) In section 170 of TCPA 1990 (“appropriate enactment” for purposes of blight provisions)—
- (a) in subsection (2), after “land falling within paragraph” insert “1B, 1C,”;
  - (b) after subsection (2) insert—

“(2A) In relation to land falling within—

    - (a) paragraph 1B of that Schedule by virtue of Note (2)(c) or (d) to that paragraph, or
    - (b) paragraph 1C of that Schedule by virtue of Note (1)(b) to that paragraph,

“the appropriate enactment” is to be determined in accordance with subsection (2) as if references in that subsection to the development

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plan were references to any such plan, revision or draft as is mentioned in the Note in question.”

### *Local development plans*

#### **11 Welsh language**

- (1) PCPA 2004 is amended as follows.
- (2) In section 61 (survey), in subsection (2)(a), after “area of the authority” insert “(including the extent to which the Welsh language is used in the area)”.
- (3) In section 62 (local development plan), after subsection (6) (sustainability appraisal), insert—
  - “(6A) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the area of the authority.”

#### **12 Period for which local development plan has effect**

- (1) Section 62 of PCPA 2004 (local development plan) is amended as follows.
- (2) Before subsection (4) insert—
  - “(3B) The plan must specify the period for which it is to have effect.”
- (3) In subsection (4), after “may” insert “—
  - (a) make provision about the period that may be specified under subsection (3B);
  - (b)”.
- (4) After subsection (8) insert—
  - “(9) A plan ceases to be a local development plan on the expiry of the period specified under subsection (3B).”

#### **13 Withdrawal of local development plan**

For section 66 of PCPA 2004 (withdrawal of local development plan) substitute—

##### **“66 Withdrawal of local development plan in accordance with direction**

- (1) The Welsh Ministers may, at any time before a local development plan is adopted under section 67, direct the local planning authority to withdraw the plan.
- (2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.
- (3) The authority must withdraw the plan in accordance with the direction.

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### **66A Withdrawal of local development plan in absence of direction**

- (1) This section applies where a local planning authority are not required to withdraw their local development plan under section 66.
- (2) Subject to the provisions of this section, the authority may withdraw the plan at any time before adopting it under section 67.
- (3) A local planning authority may not withdraw their local development plan when the Welsh Ministers have—
  - (a) directed the authority to submit the plan for approval under section 65(4), or
  - (b) taken any step under section 71 in connection with the plan.
- (4) A local planning authority may withdraw a local development plan that has been submitted for independent examination under section 64 only if—
  - (a) the person carrying out the independent examination recommends that the plan is withdrawn, and
  - (b) the recommendation is not overruled by a direction given by the Welsh Ministers.
- (5) A local planning authority may withdraw a local development plan to which subsection (6) applies only if—
  - (a) the authority have given notice to the Welsh Ministers of their intention to withdraw the plan, and
  - (b) the notice period has expired.
- (6) This subsection applies to a local development plan if the local planning authority—
  - (a) have not yet submitted the plan for independent examination under section 64, but
  - (b) have taken steps in connection with the preparation of the plan that are specified in regulations made by the Welsh Ministers.
- (7) Where a local planning authority have given notice under subsection (5)(a), the Welsh Ministers may, by direction to the authority, do either or both of the following—
  - (a) require the authority to provide further information;
  - (b) extend the notice period.
- (8) The Welsh Ministers may by regulations make provision about the giving of notices and directions under this section (including provision about their form and content and how they are to be given).
- (9) Subject to any direction given under subsection (7)(b) in a particular case, the “notice period” means whatever period, beginning with the giving of notice under subsection (5)(a), is specified in regulations made by the Welsh Ministers.”

### **14 Welsh Ministers’ power to direct preparation of joint local development plan**

- (1) Section 72 of PCPA 2004 (joint local development plans) is amended as follows.

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*Status: This is the original version (as it was originally enacted).*

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(2) Before subsection (1) insert—

“(A1) The Welsh Ministers may direct two or more local planning authorities to prepare a joint local development plan.

(A2) But a direction under subsection (A1) may not be given to a National Park authority.”

(3) In subsection (1), after “may” insert “, in the absence of a direction to any of them under subsection (A1),”.

(4) After subsection (1) insert—

“(1A) If the Welsh Ministers give a direction under subsection (A1), they must state their reasons for doing so.

(1B) The authorities to which a direction is given must, subject to any withdrawal or variation of the direction, act jointly in exercising their functions under this Part relating to local development plans.”

(5) In subsection (3), after “mentioned in subsection” insert “(A1) or”.

(6) In subsection (4), after “if” insert “—

(a) the Welsh Ministers withdraw a direction under subsection (A1) or vary such a direction so that it ceases to apply to a local planning authority, or

(b)”.

(7) In subsection (5)—

(a) in paragraph (a), after “authority” insert “to which the direction was given or”;

(b) in paragraph (b), for “who” substitute “to which the direction was given or which”.

(8) In subsection (6), after “to which the” insert “direction or”.

(9) In subsection (7), after “authority” insert “to which the direction was given or”.

(10) After subsection (7) insert—

“(7A) The Welsh Ministers may by regulations—

(a) specify circumstances in which subsections (5) and (7) are not to apply in relation to an authority;

(b) make provision as to what is a corresponding plan or corresponding joint local development plan.”

## **15 Joint planning boards: functions relating to surveys and local development plans**

(1) PCPA 2004 is amended as follows.

(2) In section 78 (interpretation of Part 6), for subsection (3) substitute—

“(3) But—

(a) a National Park authority is the local planning authority for the whole of its area;

(b) a joint planning board is the local planning authority for the whole of its united district (and references to the area of a local planning



authority are, in relation to such a board, to be construed as references to its united district.”

- (3) In section 62 (local development plan), in subsection (7) (relevant local well-being plan), after paragraph (b) insert—
- “(c) in the case of an authority which is a joint planning board, the public services board for an area that includes any part of that authority’s united district.”

### *General*

## **16 Development planning: further amendments**

For further amendments relating to development planning, see Schedule 2.

## **PART 4**

### **PRE-APPLICATION PROCEDURE**

## **17 Requirement to carry out pre-application consultation**

- (1) TCPA 1990 is amended as follows.
- (2) After section 61Y insert—

*“Wales: pre-application procedure*

### **61Z Wales: requirement to carry out pre-application consultation**

- (1) This section applies where—
- (a) a person (the “applicant”) proposes to make an application for planning permission for the development of land within the area of a local planning authority in Wales, and
- (b) the proposed development is development of a description specified in a development order.
- (2) The applicant must carry out consultation on the proposed application in accordance with subsections (3) and (4).
- (3) The applicant must publicise the proposed application in such manner as the applicant reasonably considers likely to bring it to the attention of a majority of the persons who own or occupy premises in the vicinity of the land.
- (4) The applicant must consult each specified person about the proposed application.
- (5) Publicity under subsection (3) must—
- (a) set out how the applicant may be contacted by persons wishing to comment on the proposed development;

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*Status: This is the original version (as it was originally enacted).*

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- (b) give such information about the proposed timetable for the consultation as is sufficient to ensure that persons wishing to comment on the proposed development may do so in good time.
- (6) For the purposes of subsection (4), a specified person is a person specified in, or a person of a description specified in, a development order.
- (7) Subsection (2) does not apply—
  - (a) if the proposed application is an application under section 293A, or
  - (b) in cases specified in a development order.
- (8) A development order may make provision about, or in connection with, consultation required to be carried out under this section (including by way of publicising an application under subsection (3)).
- (9) That provision may include —
  - (a) provision about how the consultation is to be carried out (including about the form and content of documents, and information and other materials that are to be provided to a person for the purposes of, or in connection with, the consultation);
  - (b) provision about responding to the consultation (including provision requiring a person consulted to respond to the consultation, or to respond to the consultation in a particular way, or to respond within a particular time);
  - (c) provision about the timetable (including deadlines) for consultation;
  - (d) provision for a person consulted by virtue of subsection (4) to make a report to the Welsh Ministers about the person’s compliance with any requirement imposed by virtue of paragraph (b) or (c) (including provision as to the form and content of the report and the time at which it is to be made).”
- (3) In section 62 (applications for planning permission), after subsection (8) insert—
  - “(9) In subsection (10), a “relevant Welsh application” means an application for planning permission, in a case where a person—
    - (a) has been required by section 61Z to carry out consultation on a proposed application for planning permission for the development of land, and
    - (b) is going ahead with making an application for planning permission for the development (whether or not in the same terms as the proposed application).
  - (10) A development order must require a relevant Welsh application to be accompanied by a report (the “pre-application consultation report”) giving particulars of—
    - (a) how the applicant complied with section 61Z;
    - (b) any responses to the consultation received from persons consulted under section 61Z(3) or (4);
    - (c) the account taken of those responses.
  - (11) A development order may make provision about the form and content of the pre-application consultation report.”
- (4) In the title of section 61W, for “Requirement” substitute “England: requirement”.

- (5) In the cross-heading before that section, for “Consultation” substitute “England: consultation”.

## **18 Requirement to provide pre-application services**

In TCPA 1990, after section 61Z (as inserted by section 17) insert—

### **“61Z1 Wales: pre-application services**

- (1) The Welsh Ministers may by regulations make provision for and in connection with the provision of pre-application services by a local planning authority in Wales or the Welsh Ministers.
- (2) Regulations under this section may, in particular, make provision—
  - (a) about circumstances in which pre-application services are required to be provided (including provision about the form and content of requests for pre-application services, and information that is to accompany a request);
  - (b) about the nature of the services required to be provided, and when and how they are to be provided;
  - (c) for information and documents relating to services provided under the regulations, or relating to requests for such services, to be published or otherwise made available to the public, or to persons specified in the regulations, by a local planning authority or the Welsh Ministers;
  - (d) about other steps required to be taken by any person in connection with, or for the purposes of, the provision of services under the regulations.
- (3) References in this section and section 61Z2 to pre-application services are to services provided to a person, in respect of a qualifying application proposed to be made by the person in respect of the development of land in Wales, for the purpose of assisting the person in making the application.
- (4) A “qualifying application” is an application, under or by virtue of this Part, that is of a description specified in regulations made by the Welsh Ministers.

### **61Z2 Pre-application services: records and statement of services**

- (1) The Welsh Ministers may by regulations make provision requiring—
  - (a) records to be kept of requests for pre-application services;
  - (b) records to be kept of pre-application services provided;
  - (c) a statement, giving information about the range of pre-application services provided by an authority or the Welsh Ministers, to be prepared and published or otherwise made available.
- (2) The regulations may, in particular, include provision about—
  - (a) the form and content of the records to be kept;
  - (b) the form and content of the statement;
  - (c) the way in which records are to be kept;
  - (d) the publication of the statement and the persons to whom, and circumstances in which, it is to be made available.

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- (3) Regulations under this section or section 61Z1 may contain incidental, supplementary and consequential provision.”

## PART 5

### APPLICATIONS TO WELSH MINISTERS

#### *Developments of national significance*

#### **19 Developments of national significance: applications for planning permission**

In TCPA 1990, after section 62C insert—

*“Wales: developments of national significance*

#### **62D Developments of national significance: applications to be made to Welsh Ministers**

- (1) A nationally significant development application is to be made to the Welsh Ministers instead of to the local planning authority.
- (2) A nationally significant development application is an application for planning permission for the development of land in Wales, where the development to which the application relates is of national significance.
- (3) Development is of national significance for this purpose if it meets criteria specified in regulations made by the Welsh Ministers for the purposes of this section.
- (4) Development is also of national significance for this purpose if it is development that the National Development Framework for Wales specifies, under section 60(3) of the Planning and Compulsory Purchase Act 2004, is to constitute development of national significance for the purposes of this section.
- (5) The planning permission that may be granted on an application under this section does not include outline planning permission (and for this purpose “outline planning permission” has the meaning given in section 92).
- (6) An application within subsection (7) is not to be treated as being a nationally significant development application, unless it is an application of a description prescribed in regulations made by the Welsh Ministers.
- (7) An application is within this subsection if it is an application for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

#### **62E Notification of proposed application under section 62D**

- (1) A person who proposes to make an application to the Welsh Ministers under section 62D must notify the following of the proposed application—
  - (a) the Welsh Ministers, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the local planning authority to which, but for section 62D, the application would be made.
- (2) The notification must comply with any requirements specified in a development order.
- (3) Those requirements may include requirements as to—
  - (a) the form and content of a notification;
  - (b) information that is to accompany the notification (including information about secondary consents in respect of which the person considers a decision should be made by the Welsh Ministers under section 62F, or otherwise relating to secondary consents);
  - (c) the way in which and time in which the notification is to be given.
- (4) On receiving notification of an application from a person in accordance with this section, the Welsh Ministers must give notice to the person that the notification has been accepted.
- (5) Any step taken in respect of an application that is proposed to be made under section 62D, if taken before the date on which notice is given under subsection (4) in respect of the application, is not to be treated for the purposes of this Act as constituting consultation with any person about the application.
- (6) A development order may make provision about the giving of notice by the Welsh Ministers under subsection (4).
- (7) That provision may include provision—
  - (a) about the form and content of the notice to be given under subsection (4);
  - (b) about the way in which it is to be given;
  - (c) about the period within which it is to be given (including provision about circumstances in which the Welsh Ministers may extend that period in a particular case).
- (8) In this section and sections 62F and 62G, “secondary consent” has the meaning given in section 62H.”

## **20 Developments of national significance: secondary consents**

In TCPA 1990, after section 62E (as inserted by section 19) insert—

### **“62F Developments of national significance: secondary consents**

- (1) Subsections (2) to (5) apply where—
  - (a) an application (a “section 62D application”) is made to the Welsh Ministers under section 62D, and
  - (b) the Welsh Ministers consider that—
    - (i) a secondary consent is connected to the section 62D application, and
    - (ii) having regard to their functions in respect of that section 62D application, the decision on that consent should be made by them.

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- (2) Where the decision in respect of the secondary consent would (but for this section) be made by a person other than the Welsh Ministers, it is to be made by the Welsh Ministers.
- (3) For this purpose—
  - (a) any application that is required to be made in respect of the secondary consent, and has not yet been made, is to be made to the Welsh Ministers instead of the person to whom it would otherwise be made, and
  - (b) if an application has already been made in respect of the secondary consent to a person other than the Welsh Ministers, it is to be referred to the Welsh Ministers instead of being dealt with by that person.
- (4) Subject to the following provisions of this Act, in a case where (but for this section) the secondary consent would have been dealt with by another person, the secondary consent is to be dealt with by the Welsh Ministers as though the Welsh Ministers were that person.
- (5) The decision of the Welsh Ministers on the secondary consent is final.
- (6) A secondary consent is connected to a section 62D application, for the purposes of this section, if the secondary consent—
  - (a) is required in order for the development to which the section 62D application relates to be carried out,
  - (b) would facilitate the carrying out of that development, or
  - (c) would facilitate any re-development or improvement, or the achievement of any other purpose, carried out on or in relation to land in connection with that development.

**62G Developments of national significance: supplementary provision about secondary consents**

- (1) The Welsh Ministers may give directions requiring the relevant person to do things in relation to a secondary consent in respect of which, by virtue of section 62F(2), a decision is to be made by the Welsh Ministers.
- (2) The relevant person is the person by whom (but for section 62F) the decision as to whether to grant the secondary consent would have been made.
- (3) The power to give directions under this section includes power to vary or revoke the directions.
- (4) Regulations made by the Welsh Ministers may make provision for regulating the manner in which a secondary consent, or an application for secondary consent, is to be dealt with by the Welsh Ministers under section 62F.
- (5) That provision may include provision—
  - (a) about consultation to be carried out by the Welsh Ministers before a secondary consent is granted or refused;
  - (b) requiring a person to provide a substantive response to any consultation carried out by virtue of the regulations (including about the requirements of a substantive response and the period within which it is to be provided).

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*Status: This is the original version (as it was originally enacted).*

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- (6) Regulations made by the Welsh Ministers may provide for an applicable enactment or requirement—
- (a) to apply, with or without modifications, in respect of a secondary consent within subsection (1), or an application for such a consent, or
  - (b) not to apply in respect of such a consent or application.
- (7) For this purpose an applicable enactment or requirement, in relation to a secondary consent within subsection (1), or an application for such a consent, is—
- (a) any provision of or made under this Act, or of or made under any other enactment, in respect of consents of that kind;
  - (b) any requirements imposed by or under this Act, or any other enactment, in respect of consents of that kind.

### **62H Developments of national significance: meaning of secondary consent**

- (1) For the purposes of this Act, a “secondary consent” is—
- (a) a consent that is required under legislation, or is given under legislation, and that relates to, or is given in connection with, the development or use of land in Wales, or
  - (b) a notice that is required by legislation to be given in relation to, or in connection with, the development or use of land in Wales,
- and which, in either case, is of a description prescribed by regulations made by the Welsh Ministers.
- (2) A description of consent or notice may be prescribed under subsection (1) only if—
- (a) provision for that consent or notice would be within the legislative competence of the National Assembly for Wales, if the provision were contained in an Act of the National Assembly, and
  - (b) the consent or notice is one that legislation provides is to be given by a body exercising functions of a public nature (whether or not the body also exercises any other function).
- (3) For the purposes of subsection (1)—
- (a) references to a consent include references to a permit, certificate, licence or other authorisation;
  - (b) “legislation” means any of the following (whenever enacted or made)
    - 
    - (i) an Act of Parliament;
    - (ii) a Measure or Act of the National Assembly for Wales;
    - (iii) subordinate legislation within the meaning of the Interpretation Act 1978 (including subordinate legislation made under an Act of Parliament or a Measure or Act of the National Assembly for Wales).”

## **21 Developments of national significance: local impact reports**

In TCPA 1990, after section 62H (as inserted by section 20) insert—

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*Status: This is the original version (as it was originally enacted).*

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### **“62I Requirement to submit local impact report**

- (1) This section applies where—
  - (a) an application has been made to the Welsh Ministers under section 62D, and
  - (b) the Welsh Ministers have taken steps, in respect of the application, that are specified in a development order for the purposes of this section.
- (2) The Welsh Ministers must give notice in writing to each relevant local planning authority, requiring the authority to submit a local impact report in respect of the application to the Welsh Ministers.
- (3) The notice must specify the deadline for receipt of the report by the Welsh Ministers.
- (4) An authority to which notice is given under this section must comply with it.
- (5) A local planning authority is a relevant local planning authority for the purposes of subsection (2) if the land to which the application relates, or any part of that land, is in the authority’s area.

### **62J Duty to have regard to local impact report**

- (1) In dealing with an application made to them under section 62D, the Welsh Ministers must have regard to any local impact report submitted to them by a local planning authority, in respect of the application, pursuant to a notice under section 62I.
- (2) In dealing with the application, the Welsh Ministers must also have regard to any voluntary local impact report submitted to them in respect of the application.
- (3) A voluntary local impact report is a local impact report submitted—
  - (a) by a local planning authority in Wales otherwise than pursuant to a notice under section 62I, or
  - (b) by a community council.
- (4) A development order may make provision about the submission of voluntary local impact reports to the Welsh Ministers (including provision about the manner in which a voluntary impact report is to be submitted, and the time at which it may be submitted).
- (5) The duty imposed by subsection (2) does not apply in respect of a voluntary local impact report submitted otherwise than in accordance with any provision made as described in subsection (4).

### **62K Local impact report: supplementary**

- (1) For the purposes of sections 62I and 62J, a local impact report, in respect of an application, is a report in writing that—
  - (a) gives details of the likely impact of the proposed development on the area (or any part of the area) of the local planning authority or community council submitting the report, and



- (b) complies with any requirements specified in a development order as to the form and content of local impact reports (including any requirements specified as to information to be provided in respect of secondary consents).

- (2) For this purpose the “proposed development” is the development in respect of which the application in question is made.”

## **22 Timetable for determining applications**

In TCPA 1990, after section 62K (as inserted by section 21) insert—

### **“62L Timetable for determining applications**

- (1) This section applies where an application has been made to the Welsh Ministers under section 62D.
- (2) The Welsh Ministers must determine the application, and make any decision that is to be made by them by virtue of section 62F(2), before the end of the determination period.
- (3) The determination period is the period of 36 weeks beginning with the date on which the application under section 62D is accepted by the Welsh Ministers.
- (4) A development order may make provision about what constitutes acceptance of an application for the purposes of subsection (3).
- (5) The Welsh Ministers may by notice—
  - (a) suspend the running of the determination period in a particular case for a period specified in the notice;
  - (b) terminate, reduce or extend an existing period of suspension.
- (6) Notice under subsection (5) must be given to—
  - (a) the person who made the application under section 62D,
  - (b) the local planning authority to which, but for section 62D, that application would have been made, and
  - (c) any representative persons (within the meaning of section 319B(8A)) the Welsh Ministers consider appropriate.
- (7) A development order may make provision about the giving of notice under subsection (5) (including provision about the information to be included in the notice and how and when it is to be given).
- (8) The Welsh Ministers must lay before the National Assembly for Wales annual reports on—
  - (a) their compliance with the duty imposed by subsection (2), and
  - (b) their exercise of the functions conferred by subsection (5).
- (9) The Welsh Ministers may by order amend subsection (3) to substitute a different period as the determination period.”

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*Status: This is the original version (as it was originally enacted).*

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*Option to make application to Welsh Ministers*

**23 Option to make application to Welsh Ministers**

In TCPA 1990, after section 62L (as inserted by section 22) insert—

*“Wales: option to make application to Welsh Ministers*

**62M Option to make application directly to Welsh Ministers**

- (1) If the following conditions are met, a qualifying application that would otherwise have to be made to the local planning authority may (if the applicant so chooses) instead be made to the Welsh Ministers.
- (2) The first condition is that the local planning authority is designated by the Welsh Ministers for the purposes of this section.
- (3) The second condition is that—
  - (a) the development to which the application relates, in the case of a qualifying application within subsection (4)(a), or
  - (b) the development for which the outline planning permission has been granted, in the case of a qualifying application within subsection (4)(b),
 is development of a description prescribed by regulations made by the Welsh Ministers.
- (4) A qualifying application, for the purposes of this section, is—
  - (a) an application for planning permission for the development of land in Wales, provided that the development to which it relates is not development of national significance for the purposes of section 62D;
  - (b) an application for approval of a matter that, for the purposes of section 92, is a reserved matter in the case of an outline planning permission for the development of land in Wales.
- (5) But an application within subsection (6) that would otherwise be a qualifying application for the purposes of this section is not to be treated as such unless it is an application of a description prescribed in regulations made by the Welsh Ministers.
- (6) An application is within this subsection if it is an application for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

**62N Designation for the purposes of section 62M**

- (1) In deciding whether to designate a local planning authority for the purposes of section 62M, or whether to revoke a designation, the Welsh Ministers must apply only criteria that satisfy the following conditions.
- (2) The first condition is that the Welsh Ministers have consulted each local planning authority in Wales about the criteria.
- (3) The second condition is that the criteria are set out in a document that the Welsh Ministers have laid before the National Assembly for Wales.

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- (4) The third condition is that the 21-day period has ended without the National Assembly having during that period resolved not to approve the document.
- (5) The fourth condition is that the Welsh Ministers have published the document (whether before, during or after the 21-day period) in whatever way they think fit.
- (6) In this section, “the 21-day period” means the period of 21 days beginning with the day on which the document is laid before the National Assembly for Wales under subsection (3), disregarding any time when the National Assembly is dissolved or is in recess for more than four days.
- (7) The power to designate a local planning authority for the purposes of section 62M, or to revoke a designation, is exercisable by notice in writing to the authority.
- (8) The Welsh Ministers must publish (in whatever way they think fit) a copy of any notice given to an authority under subsection (7).
- (9) An urban development corporation may not be designated for the purposes of section 62M.

### **62O Option to make application to Welsh Ministers: connected applications**

- (1) This section applies where an application (the “principal application”) is made to the Welsh Ministers under section 62M.
- (2) A connected application that would otherwise have to be made to the local planning authority or hazardous substances authority may (if the applicant so chooses) instead be made to the Welsh Ministers, provided that it is made on the same day as the principal application.
- (3) A connected application, for this purpose, is an application under the planning Acts that—
  - (a) relates to land in Wales,
  - (b) is an application of a description prescribed by regulations made by the Welsh Ministers, and
  - (c) is considered by the person making it to be connected to the principal application.
- (4) Subsection (5) applies if an application is made to the Welsh Ministers under this section, on the basis that it is a connected application, instead of to a local planning authority or hazardous substances authority, but the Welsh Ministers consider—
  - (a) that the application is not connected to the principal application, or
  - (b) that, although the application is connected to the principal application, the decision on the application should not be made by the Welsh Ministers.
- (5) The Welsh Ministers must refer the application to the local planning authority or hazardous substances authority.
- (6) An application referred to an authority under subsection (5)—

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*Status: This is the original version (as it was originally enacted).*

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- (a) is to be treated as from the date of its referral as being an application made to the authority concerned (instead of an application made to the Welsh Ministers), and
  - (b) is to be determined by the authority accordingly.
- (7) A development order may make provision about the referral of applications under subsection (5) (including provision about what constitutes the referral of an application for the purposes of subsection (6)).”

### *General*

## 24 Further provision about applications made to Welsh Ministers

In TCPA 1990, after section 62O (as inserted by section 23) insert—

*“Applications made to Welsh Ministers: general*

### **62P Applications to the Welsh Ministers: supplementary**

- (1) A decision of the Welsh Ministers on an application made to them under section 62D, 62M or 62O is final.
- (2) The Welsh Ministers may give directions requiring a local planning authority to do things in relation to an application made to the Welsh Ministers under section 62D or 62M that would otherwise have been made to the authority.
- (3) The Welsh Ministers may give directions requiring a local planning authority or hazardous substances authority to do things in relation to an application made to the Welsh Ministers under section 62O that would otherwise have been made to the authority.
- (4) Directions given under this section—
  - (a) may relate to a particular application or description of application, or to applications generally;
  - (b) may be given to a particular authority or description of authority, or to authorities generally.
- (5) The power to give directions under this section includes power to vary or revoke the directions.

### **62Q Notifying community councils of applications made to Welsh Ministers**

- (1) This section applies if—
  - (a) an application is made to the Welsh Ministers under section 62D, 62F, 62M or 62O, and
  - (b) a community council would be entitled under paragraph 2 of Schedule 1A to be notified of the application (requirement to notify community council of certain planning applications).

- (2) The Welsh Ministers (instead of the local planning authority) must notify the community council of the application, as specified in paragraph 2(4) of Schedule 1A.
- (3) The relevant local planning authority must comply with any request made by the Welsh Ministers for the purposes of this section to supply information to them about requests received by the authority under paragraph 2(1) of Schedule 1A.
- (4) The “relevant local planning authority”, for this purpose, is—
  - (a) in the case of an application under section 62D or section 62M, the local planning authority to which (but for the section in question) the application would have been made;
  - (b) in the case of an application under section 62F or 62O which (but for the section in question) would have been made to a local planning authority, that authority.”

**25 Power to make provision by development order in respect of applications to Welsh Ministers**

In TCPA 1990, after section 62Q (as inserted by section 24) insert—

**“62R Power to make provision by development order in respect of applications to Welsh Ministers**

- (1) A development order may make provision for regulating the manner in which an application for planning permission made to the Welsh Ministers under section 62D, 62F, 62M or 62O, or an application for approval made to the Welsh Ministers under section 62F, 62M or 62O, is to be dealt with by the Welsh Ministers.
- (2) That provision may include provision about—
  - (a) consultation to be carried out by the Welsh Ministers;
  - (b) the variation of an application.”

**26 Developments of national significance and applications made to Welsh Ministers: exercise of functions by appointed person**

(1) In TCPA 1990, after section 62R (as inserted by section 25) insert—

**“62S Exercise of functions by appointed person**

Schedule 4D has effect with respect to the exercise of functions by appointed persons in connection with developments of national significance and applications made to the Welsh Ministers.”

- (2) For provision about the exercise of functions by appointed persons in connection with developments of national significance and applications made to the Welsh Ministers, see Schedule 3.

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*Status: This is the original version (as it was originally enacted).*

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**27 Applications to Welsh Ministers: further amendments**

For further amendments relating to applications to the Welsh Ministers, see Schedule 4.

**PART 6**

DEVELOPMENT MANAGEMENT ETC

*Requirements for applications to local planning authorities*

**28 Power of local planning authority to require information with application**

In section 62 of TCPA 1990 (applications for planning permission), in subsection (4A) (power of local planning authority to require particulars and evidence: reasonableness), omit “for planning permission for development of land in England”.

**29 Invalid applications: notice and appeal**

- (1) TCPA 1990 is amended as follows.
- (2) After section 62 insert—

*“Wales: appeal against notice that application is not valid*

**62ZA Wales: notice that application is not valid**

- (1) This section applies where an application is made to a local planning authority in Wales—
  - (a) for planning permission, or
  - (b) for any consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted.
- (2) In the case of an application for planning permission, if the authority think the application (or anything accompanying it) does not comply with a validation requirement imposed under section 62, they must give the applicant notice to that effect.
- (3) The notice must—
  - (a) identify the requirement in question, and
  - (b) set out the authority’s reasons for thinking the application does not comply with it.
- (4) In the case of an application for a consent, agreement or approval mentioned in subsection (1)(b), the authority must give notice to the applicant if they think that—
  - (a) the application does not comply with the terms of the planning permission in question, or
  - (b) a period prescribed under section 74(1)(e) or 78(2) does not begin to run in relation to the application,

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by virtue of a failure to include information in the application or to provide documents or other materials with it (whether at all or in a particular manner).

- (5) The notice must identify—
  - (a) the information, documents or materials in question, and
  - (b) the paragraph of subsection (4) which the authority think applies.
- (6) A development order may make provision about the giving of notice under this section (including provision about information to be included in the notice and how and when the notice is to be given).
- (7) A requirement imposed under section 62 is a validation requirement in relation to an application for planning permission if the effect of the application failing to comply with the requirement is that—
  - (a) the local planning authority must not entertain the application (see section 327A), or
  - (b) the period prescribed under section 78(2) does not begin to run in relation to the application.

#### **62ZB Right to appeal to Welsh Ministers against notice**

- (1) If a local planning authority give an applicant notice under section 62ZA, the applicant may appeal to the Welsh Ministers.
- (2) In a case relating to an application for planning permission, the appeal may be brought on any one or more of the following grounds—
  - (a) that the application complies with the requirement identified in the notice given under section 62ZA(2);
  - (b) that the application is not one to which the requirement applies;
  - (c) that the requirement is not a validation requirement in relation to the application;
  - (d) in the case of a requirement imposed under subsection (3) of section 62, that the requirement does not comply with subsection (4A) of that section.
- (3) In a case relating to an application for a consent, agreement or approval mentioned in section 62ZA(1)(b), the appeal may be brought on any one or more of the following grounds—
  - (a) that the application included the information, or was accompanied by the documents or other materials, identified in the notice given under section 62ZA(4);
  - (b) in a case where notice is given under section 62ZA(4)(a), that the provision of the information, documents or materials is not required in order to comply with the terms of the planning permission;
  - (c) in a case where notice is given under section 62ZA(4)(b), that the period prescribed under section 74(1)(e) or 78(2) (as the case may be) begins to run in relation to the application irrespective of whether the information, documents or materials are provided.
- (4) The appeal must be made by giving notice that complies with any requirements prescribed by a development order.

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- (5) The requirements may relate to how and when the notice is to be given and the information that is to accompany it.
- (6) The appeal is to be determined on the basis of representations in writing.
- (7) The Welsh Ministers must either—
  - (a) dismiss the appeal, or
  - (b) quash or vary the notice to which it relates.
- (8) The Welsh Ministers’ decision on the appeal is final.

**62ZC Appeals under section 62ZB: determination by appointed person**

- (1) Unless a direction otherwise is given under section 62ZD(1), an appeal under section 62ZB is to be determined by a person appointed by the Welsh Ministers.
- (2) In this section and section 62ZD, “appointed person” means a person appointed under subsection (1).
- (3) At any time before an appointed person determines an appeal, the Welsh Ministers may—
  - (a) revoke the person’s appointment, and
  - (b) appoint another person under subsection (1) to determine the appeal.
- (4) An appointed person has the same powers and duties in relation to an appeal as the Welsh Ministers have under sections 62ZB(7) and 322C and under any regulations made under section 323A.
- (5) An appointed person’s decision on an appeal is to be treated as the decision of the Welsh Ministers.
- (6) The validity of an appointed person’s decision on an appeal may not be questioned by the appellant or the local planning authority in legal proceedings on the ground that the appeal ought to have been determined by the Welsh Ministers and not by an appointed person, unless the appellant or the authority challenge the appointed person’s power to determine the appeal before the person’s decision is given.

**62ZD Appeals under section 62ZB: determination by Welsh Ministers in place of appointed person**

- (1) The Welsh Ministers may direct that an appeal under section 62ZB which would otherwise be determined by an appointed person is instead to be determined by the Welsh Ministers.
- (2) The Welsh Ministers must serve a copy of the direction on—
  - (a) the person (if any) appointed to determine the appeal,
  - (b) the appellant, and
  - (c) the local planning authority.
- (3) In determining the appeal, the Welsh Ministers may take into account any report made to them by a person previously appointed to determine the appeal.



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- (4) The Welsh Ministers may by a further direction revoke a direction under subsection (1) at any time before the appeal is determined.
  - (5) The Welsh Ministers must serve a copy of a direction under subsection (4) on—
    - (a) the person (if any) previously appointed to determine the appeal,
    - (b) the appellant, and
    - (c) the local planning authority.
  - (6) Where the Welsh Ministers give a direction under subsection (4)—
    - (a) they must appoint a person (the “new appointee”) under section 62ZC(1) to determine the appeal;
    - (b) anything done by or on behalf of the Welsh Ministers in connection with the appeal that might have been done by an appointed person is, unless the new appointee directs otherwise, to be treated as having been done by the new appointee;
    - (c) subject to that, section 62ZC applies to the appeal as if no direction under subsection (1) had been given.”
- (3) In section 79 (determination of appeals under section 78), after subsection (1) insert—
- “(1A) On an appeal under section 78, the Welsh Ministers may decide whether a requirement imposed under subsection (3) of section 62 in relation to the application complies with subsection (4A) of that section.
- (1B) But subsection (1A) does not apply if the Welsh Ministers have previously decided whether the requirement complies with section 62(4A) on an appeal under section 62ZB.”

### **30 Revocation of saving of Town and Country Planning (Applications) Regulations 1988**

Article 3 of the [Planning and Compulsory Purchase Act 2004 \(Commencement No. 10 and Saving\) Order 2007 \(S.I. 2007/1369\)](#) (which continues in effect the Town and Country Planning (Applications) Regulations 1988) is revoked.

*Determination of applications for planning permission*

### **31 Welsh language**

- (1) Section 70 of TCPA 1990 (determination of applications: general considerations) is amended as follows.
- (2) In subsection (2), after paragraph (a) insert—
  - “(aa) any considerations relating to the use of the Welsh language, so far as material to the application;”.
- (3) After subsection (2) insert—

“(2ZA) Subsection (2)(aa) applies only in relation to Wales.”
- (4) The amendments made by this section do not alter—

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- (a) whether regard is to be had to any particular consideration under subsection (2) of section 70 of TCPA 1990, or
- (b) the weight to be given to any consideration to which regard is had under that subsection.

### **32 Power to decline to determine retrospective application**

In section 70C of TCPA 1990 (power to decline to determine retrospective application), in subsection (1), omit “in England”.

#### *Decision notices and notification of development*

### **33 Decision notices**

- (1) TCPA 1990 is amended as follows.
- (2) After section 71 insert—

#### **“71ZA Decision notices: Wales**

- (1) A development order may include provision as to—
  - (a) the form of decision notices,
  - (b) the manner in which decision notices are to be given, and
  - (c) the particulars to be contained in decision notices.
- (2) A decision notice must specify any plans or other documents in accordance with which the development to which it relates is to be carried out.
- (3) Where the decision notice relating to a development specifies any plans or other documents in accordance with which the development is to be carried out, the planning permission relating to the development is deemed to be granted subject to the condition that the development must be carried out in accordance with those plans or other documents.
- (4) Subsection (5) applies where, after planning permission is granted in respect of a development in Wales—
  - (a) a local planning authority or the Welsh Ministers give any consent, agreement or approval required by any condition or limitation subject to which the planning permission was granted, or
  - (b) such a condition or limitation is imposed, removed or altered.
- (5) The local planning authority must give a revised version of the decision notice to such persons as may be specified by a development order.
- (6) The revised version of the notice must contain such details relating to the giving of the consent, agreement or approval, or to the imposition, removal or alteration of the limitation or condition, as may be specified by a development order.
- (7) In this section “decision notice” means a notice of a decision to grant planning permission in respect of a development in Wales.”

- (3) In section 90 (development with government authorisation), in subsection (3), insert at the end “(so that section 71ZA applies as if references to the decision notice were to the direction).”
- (4) In section 102 (orders requiring discontinuance of use or alteration or removal of buildings or works), after subsection (2) insert—
  - “(2A) Section 71ZA applies where planning permission is granted by an order under this section as if the references to the decision notice were to the order.”

### **34 Notification of development**

In TCPA 1990, after section 71ZA (as inserted by section 33) insert—

#### **“71ZB Notification of initiation of development and display of notice: Wales**

- (1) Before beginning any development to which a relevant planning permission relates, a person must give to the local planning authority notice—
  - (a) stating the date on which the development is to begin;
  - (b) giving details of the planning permission and of such other matters as may be specified by a development order.
- (2) A person carrying out development to which a relevant planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a copy of any notice of a decision to grant it.
- (3) A notice under subsection (1) must be in the form specified by a development order; and a copy of a notice to grant planning permission displayed under subsection (2) must be in a form specified by, and must be displayed in accordance with, such an order.
- (4) A notice of a decision to grant a relevant planning permission must set out the duties imposed by subsections (1) to (3).
- (5) A relevant planning permission is deemed to be granted subject to the condition that the duties imposed by subsections (1) to (3) must be complied with.
- (6) For the purposes of this section a relevant planning permission is a planning permission of a description specified by a development order for the development of land in Wales.”

#### *Duration of planning permission*

### **35 Duration of planning permission: general**

- (1) Section 91 of TCPA 1990 (general condition limiting duration of planning permission) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1), in paragraph (a), for the words before “beginning with” substitute “the applicable period.”
- (3) In subsection (3)—

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- (a) after “shall” insert “(subject to subsections (3ZA) and (3ZB))”;
  - (b) for the words from “expiration of” to the end, substitute “expiration of the applicable period, beginning with the date of the grant”.
- (4) After subsection (3) insert—
- “(3ZA) Subsection (3ZB) applies if—
- (a) a section 73 permission is granted for the development of land in Wales, but without the condition required by subsection (1), and
  - (b) the previous permission was granted, or deemed to have been granted (whether by virtue of this section or otherwise) subject to a condition as to the time within which development was to be begun.
- (3ZB) The section 73 permission shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the date on or before which the previous permission required development to be begun.
- (3ZC) The previous permission, in relation to a section 73 permission, is the previous planning permission referred to in section 73(1).
- (3ZD) References in subsections (3ZA) to (3ZC) to a section 73 permission are to a planning permission granted under section 73.”
- (5) In subsection (3A), after “validity” insert “, in respect of the development of land in England,”.
- (6) After subsection (4) insert—
- “(5) The applicable period—
- (a) in relation to England, is three years;
  - (b) in relation to Wales, is five years.”
- (7) In section 73 of TCPA 1990 (determination of applications to develop land without compliance with conditions previously attached), in subsection (5), after “under this section” insert “for the development of land in England”.
- (8) In section 51 of PCPA 2004 (duration of permission and consent), in subsection (1), omit paragraph (a).

### **36 Duration of outline planning permission**

- (1) Section 92 of TCPA 1990 (outline planning permission) is amended in accordance with subsections (2) to (6).
- (2) In subsection (2), for paragraph (b) substitute—
- “(b) that, in the case of outline planning permission for the development of land in England, the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved;
  - (c) that, in the case of outline planning permission for the development of land in Wales, the development must be begun no later than—
    - (i) the expiration of five years from the date of the grant of outline planning permission, or

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- (ii) if later, the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.”
- (3) In subsection (3), after “shall” insert “(subject to subsections (3A) to (3D))”.
- (4) After subsection (3) insert—
- “(3A) If outline planning permission is granted under section 73 for the development of land in Wales, but without the condition required by subsection (2)(a), it shall be deemed to have been granted subject to the following condition.
- (3B) The condition is that, in the case of any reserved matter, application for approval must be made not later than the date on or before which the previous permission required application for approval, in the case of any matter reserved under the previous permission, to be made.
- (3C) If outline planning permission is granted under section 73 for the development of land in Wales, but without a condition required by subsection (2)(c), it shall be deemed to have been granted subject to the following condition.
- (3D) The condition is that the development to which the permission relates must be begun not later than the date on or before which the previous permission required development to be begun.
- (3E) The previous permission, in relation to outline planning permission granted under section 73, is the previous planning permission referred to in subsection (1) of that section.”
- (5) In subsection (4), omit the words from “of three” to “two years”.
- (6) In subsection (5), after “(b)” insert “or (c)”.
- (7) In section 51 of PCPA 2004 (duration of permission and consent), omit subsection (2).

*Consultation etc in respect of certain applications relating to planning permission*

### **37 Consultation etc in respect of certain applications relating to planning permission**

In TCPA 1990, after section 100 insert—

*“Consultation etc in respect of certain applications  
relating to planning permission: Wales*

#### **100A Wales: consultation etc in respect of certain applications relating to planning permission**

- (1) A development order may provide that a local planning authority in Wales to which an application within subsection (5) (a “relevant application”) is made are not to determine the application before the end of a period specified in the order.

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- (2) If a local planning authority in Wales to which a relevant application is made consult a statutory consultee about the application, the consultee must give a substantive response.
- (3) That response must be given before the end of—
  - (a) a period specified in a development order, or
  - (b) if the consultee and the authority agree otherwise in writing, whatever period is specified in their agreement.
- (4) A development order may make provision—
  - (a) about information that is to be provided by a local planning authority to a statutory consultee for the purposes of, or in connection with, consultation about a relevant application;
  - (b) about the requirements of a substantive response;
  - (c) requiring a statutory consultee consulted about a relevant application to give a report to the Welsh Ministers about the consultee’s compliance with subsections (2) and (3) (including provision as to the form and content of the report, and the time at which it is to be made).
- (5) An application is within this subsection if it is—
  - (a) an application for approval of reserved matters (within the meaning of section 92);
  - (b) an application for any other consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted;
  - (c) an application under section 96A(4) (non-material changes to planning permission).
- (6) References in this section to a statutory consultee, in relation to a relevant application, are to a person whom, by virtue of section 71 or section 74, the local planning authority was required to consult before determining the original application.
- (7) The original application, in relation to a relevant application, is—
  - (a) in the case of an application within subsection (5)(a) or (b), the application for the planning permission in accordance with which the application for approval, consent or agreement is made;
  - (b) in the case of an application within subsection (5)(c), the application for the planning permission to which the application under section 96A(4) relates.”

*Stopping up or diversion of public paths*

**38 Stopping up or diversion of public paths where application for planning permission made**

- (1) TCPA 1990 is amended as follows.
- (2) In section 257 (footpaths, bridleways and restricted byways affected by other development: orders by other authorities), in subsection (1A), omit “in England”.
- (3) In section 259 (confirmation of orders)—

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- (a) in each of subsections (1), (1A) and (2), for “Secretary of State” substitute “appropriate national authority”;
- (b) after subsection (4) insert—
  - “(5) The appropriate national authority, for the purposes of this section, is—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.”

*Exercise of functions of local planning authority relating to applications*

**39 Exercise of functions of local planning authority relating to applications**

- (1) In TCPA 1990, after section 319 insert—

*“Wales: discharge of functions of local planning authority relating to applications*

**319ZA Requirement for functions to be discharged by committee, sub-committee or officer**

- (1) The Welsh Ministers may by regulations require a relevant local planning authority to make arrangements under section 101 of the 1972 Act for a relevant function to be discharged by a committee, sub-committee or officer of the authority.
- (2) The regulations may prescribe the terms of the arrangements (which may include exceptions) and any permitted variations in those terms.
- (3) Where arrangements required by the regulations are in force in relation to a relevant function, the function may only be exercised in accordance with the arrangements (and section 101(4) of the 1972 Act does not apply).

**319ZB Size and composition of committee discharging functions**

- (1) The Welsh Ministers may by regulations prescribe requirements relating to the size and composition of a committee or sub-committee by which a relevant function is to be discharged.
- (2) A relevant local planning authority may not arrange for a relevant function to be discharged by a committee or sub-committee of the authority which fails to satisfy a requirement of regulations under this section.
- (3) If a committee or sub-committee discharging a relevant function fails to satisfy such a requirement, paragraph 43 of Schedule 12 to the 1972 Act (validity of proceedings) does not apply in relation to the failure.

**319ZC Sections 319ZA and 319ZB: supplementary**

- (1) Sections 101 and 102 of the 1972 Act have effect subject to sections 319ZA and 319ZB and any regulations made under them.

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- (2) Where arrangements are in force under section 101(5) of the 1972 Act for two or more relevant local planning authorities to discharge any of their relevant functions jointly, sections 319ZA and 319ZB apply in relation to those functions as if—
- (a) references to a committee or sub-committee of a relevant local planning authority were references to a joint committee or sub-committee of those authorities;
  - (b) references to an officer of a relevant local planning authority were references to an officer of any of those authorities.
- (3) Regulations under sections 319ZA and 319ZB may—
- (a) make different provision for different local planning authorities;
  - (b) make special provision for cases where two or more authorities have made arrangements under section 101(1)(b) or (5) of the 1972 Act for the discharge of any of their relevant functions.

### **319ZD Interpretation of sections 319ZA to 319ZC**

In sections 319ZA to 319ZC—

“the 1972 Act” means the Local Government Act 1972;

“relevant function” means a function exercisable by a relevant local planning authority in relation to an application under this Act;

“relevant local planning authority” means a local planning authority in Wales which is—

- (a) a county council or county borough council,
- (b) a joint planning board, or
- (c) a National Park authority.”

- (2) In section 316 of TCPA 1990 (land of interested planning authorities and development by them), in subsection (3), after “notwithstanding” insert “any provision made by or under sections 319ZA to 319ZC or”.
- (3) In section 89 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) (application of certain general provisions of principal Act), in subsection (1), before the entry relating to section 320, insert—
- “sections 319ZA to 319ZD (Wales: discharge of functions of local planning authority relating to applications),”.
- (4) In section 37 of the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) (application of certain general provisions of principal Act), in subsection (2), before the entry relating to section 320, insert—
- “sections 319ZA to 319ZD (Wales: discharge of functions of local planning authority relating to applications)”.
- (5) In the [Local Government and Housing Act 1989 \(c. 42\)](#)—
- (a) in section 13 (voting rights of members of certain committees), in subsection (9), in the definition of “relevant authority”, for “or (h) to (jb)” substitute “, (h) to (jb) or (n)”;
  - (b) in section 20 (power to require adoption of certain procedural standing orders), in subsection (4)(a), after “(a) to (jb)” insert “or (n)”.



*Joint planning boards and National Parks*

**40 Joint planning boards to be hazardous substances authorities**

In section 3 of the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) (hazardous substances authorities other than county and county borough councils), after subsection (5B) insert—

“(5C) A joint planning board constituted under section 2(1B) of the principal Act for a united district in Wales is the hazardous substances authority for land in the united district unless subsection (4) or (5) applies.”

**41 Power to make provision enabling joint planning boards to exercise development management functions in National Parks**

- (1) The Welsh Ministers may by regulations make provision for and in connection with enabling an order under section 2(1B) of TCPA 1990 (joint planning boards in Wales) to—
  - (a) constitute an area that includes all or part of a National Park in Wales as a united district, and
  - (b) constitute a joint planning board as the local planning authority for such a united district for the purposes of the planning Acts.
- (2) The regulations may also make provision about whether the functions of a hazardous substances authority under the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) are to be exercisable in relation to any part of a National Park included in such a united district by the joint planning board for the united district or by the National Park authority for the Park.
- (3) Regulations under this section may—
  - (a) make different provision for different purposes and different cases;
  - (b) make incidental, supplementary, consequential, transitory, transitional and saving provision.
- (4) Regulations under this section may amend or otherwise modify—
  - (a) any enactment contained in, or made under, the planning Acts or PCPA 2004;
  - (b) any other enactment relating to functions exercisable by or in relation to local planning authorities;
  - (c) any enactment relating to National Parks or to functions exercisable by or in relation to National Park authorities.
- (5) Regulations under this section may make provision for a function to be exercisable by or in relation to another person instead of, or as well as, any person by or in relation to whom the function would otherwise be exercisable.
- (6) The power to make regulations under this section is exercisable by statutory instrument.
- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (8) In this section—

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“enactment” means a provision contained in any of the following (whenever enacted or made)—

- (a) an Act of Parliament;
- (b) an Act or Measure of the National Assembly for Wales;
- (c) subordinate legislation within the meaning of the [Interpretation Act 1978 \(c. 30\)](#) (including subordinate legislation made under an Act of Parliament or under an Act or Measure of the National Assembly for Wales);

“the planning Acts” has the same meaning as in TCPA 1990 (see section 336(1)).

#### **42 Joint planning boards: power to make consequential and supplementary provision**

- (1) Section 9 of TCPA 1990 (power to make consequential and supplementary provision about planning authorities) is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) After that subsection insert—

“(2) The provision consequential upon or supplementary to section 2 that may be made by the Welsh Ministers under this section includes provision amending or otherwise modifying—

- (a) any enactment contained in, or made under, the planning Acts or the Planning and Compulsory Purchase Act 2004;
- (b) any other enactment relating to functions exercisable by or in relation to local planning authorities;
- (c) any other enactment relating to functions exercisable by local authorities of any description in connection with the development of land.”

## **PART 7**

### ENFORCEMENT, APPEALS ETC

#### *Enforcement*

#### **43 Breach of planning control: enforcement warning notice**

- (1) TCPA 1990 is amended as follows.
- (2) After section 173 insert—

##### **“173ZA Enforcement warning notice: Wales**

- (1) This section applies where it appears to the local planning authority that—
  - (a) there has been a breach of planning control in respect of any land in Wales, and

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- (b) there is a reasonable prospect that, if an application for planning permission in respect of the development concerned were made, planning permission would be granted.
- (2) The authority may issue a notice under this section (an “enforcement warning notice”).
- (3) A copy of an enforcement warning notice is to be served—
  - (a) on the owner and the occupier of the land to which the notice relates, and
  - (b) on any other person having an interest in the land, being an interest that, in the opinion of the authority, would be materially affected by the taking of any further enforcement action.
- (4) The notice must—
  - (a) state the matters that appear to the authority to constitute the breach of planning control, and
  - (b) state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken.
- (5) The issue of an enforcement warning notice does not affect any other power exercisable in respect of any breach of planning control.”
- (3) In section 171A, in subsection (2) (steps that constitute taking enforcement action), before “or” insert—
  - “(aa) the issue of an enforcement warning notice (defined in section 173ZA);”.
- (4) In section 188 (register of enforcement and stop notices etc)—
  - (a) in subsection (1), after paragraph (a) insert—
    - “(aa) to enforcement warning notices;”;
  - (b) in subsection (2), in paragraph (a), after “enforcement notice” insert “, enforcement warning notice;”.

#### **44 Appeal against enforcement notice: deemed application for planning permission**

- (1) Section 177 of TCPA 1990 (grant or modification of planning permission on appeals against enforcement notices) is amended as follows.
- (2) In subsection (1C), for the words from the beginning to “subsection” substitute “Subsection”.
- (3) In subsection (5), for the words from the beginning to “in England and” substitute “Where—
  - (a) an appeal against an enforcement notice is brought under section 174, and
  - (b)”.

### *Appeals*

#### **45 Restrictions on right to appeal against planning decisions**

In section 78 of TCPA 1990 (right to appeal against planning decisions and failure to take such decisions), after subsection (4A) insert—

“(4AA) An appeal under this section may not be brought or continued against the refusal of an application for planning permission if—

- (a) the land to which the application relates is in Wales,
- (b) granting the application would involve granting planning permission in respect of matters specified in an enforcement notice as constituting a breach of planning control, and
- (c) on the determination of an appeal against that notice under section 174, planning permission for those matters was not granted under section 177.

(4AB) An appeal under this section may not be brought or continued against the grant of an application for planning permission subject to a condition, if—

- (a) the land to which the application relates is in Wales,
- (b) an appeal against an enforcement notice has been brought under section 174 on the ground that the condition ought to be discharged, and
- (c) on the determination of that appeal, the condition was not discharged under section 177.”

#### **46 Restrictions on right to appeal against enforcement notice**

In section 174 of TCPA 1990 (appeal against enforcement notice), after subsection (2C) insert—

“(2D) An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2)

(a), if—

- (a) the land to which the enforcement notice relates is in Wales, and
- (b) the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).

(2E) An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if—

- (a) the land to which the enforcement notice relates is in Wales, and
- (b) the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.

(2F) For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which—

- (a) the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;

(b) an appeal has been dismissed under section 79(6A).”

**47 No variation of application after service of notice of appeal against planning decision etc**

(1) In section 78 of TCPA 1990 (right to appeal against planning decisions and failure to take such decisions), after subsection (4B) insert—

“(4BA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order.

(4BB) A development order which makes provision under subsection (4BA) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

(2) In section 195 of TCPA 1990 (appeals against refusal or failure to give decision on application for certificate of lawfulness), after subsection (1D) insert—

“(1DA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order.

(1DB) A development order which makes provision under subsection (1DA) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

(3) In section 21 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) (appeals against listed buildings decisions or failure to take such decisions), after subsection (4) insert—

“(4A) Once notice of an appeal under section 20 to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.

(4B) Regulations which make provision under subsection (4A) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

(4) In section 21 of the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) (appeals against decisions or failure to take decisions relating to hazardous substances), after subsection (3D) insert—

“(3E) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.

(3F) Regulations which make provision under subsection (3E) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

**48 Appeal against notice in respect of land adversely affecting amenity**

(1) Section 217 of TCPA 1990 (the title of which becomes “Appeal against a section 215 notice”) is amended as follows.

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- (2) In subsection (2), after “made” insert “—
  - (a) in the case of a notice relating to land in Wales, to the Welsh Ministers;
  - (b) in the case of a notice relating to land in England.”.
- (3) In subsection (4), after “appeal” insert “the Welsh Ministers or (as the case may be)”.
- (4) In subsection (5) after “appeal” insert “the Welsh Ministers or (as the case may be)”.
- (5) In subsection (6), omit “to a magistrates’ court”.
- (6) After subsection (6) insert—
  - “(7) The Welsh Ministers may by regulations make provision, in respect of appeals made to them under this section—
    - (a) as to steps to be taken in connection with bringing an appeal (including as to the form and content of any notice required to be given, and persons to whom copies of it are to be provided);
    - (b) about information to be provided to the Welsh Ministers in connection with an appeal;
    - (c) as to the procedure by which an appeal under this section is to be considered (including provision about circumstances in which the appellant or the local planning authority must be given the opportunity of appearing before and being heard by a person appointed by the Welsh Ministers for the purpose).”
- (7) In section 218 of TCPA 1990 (the title of which becomes “Further appeal to the Crown Court: England”), after “been brought” insert “to a magistrates’ court”.
- (8) In section 289 of TCPA 1990 (the title of which becomes “Appeals to High Court relating to enforcement notices and notices under sections 207 and 215”)—
  - (a) after subsection (2) insert—
    - “(2A) Where the Welsh Ministers give a decision in proceedings on an appeal under Part 8 against a notice under section 215, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Welsh Ministers to sign and state a case for the opinion of the High Court.”;
  - (b) in subsection (4B), after “207” insert “or 215”;
  - (c) in subsection (5), after “the Secretary of State”, in each place where those words occur, insert “or the Welsh Ministers”.

*Appeals etc: costs and procedure*

**49 Costs on applications, appeals and references**

In TCPA 1990, after section 322B insert—

### **“322C Costs: Wales**

- (1) This section applies in relation to any application, appeal or reference under this Act to the Welsh Ministers (whether it is considered at an inquiry or hearing or on the basis of written representations).
- (2) The costs incurred by the Welsh Ministers in relation to the application, appeal or reference (or so much of them as the Welsh Ministers may direct) are to be paid by the applicant, appellant or person making the reference, or such local planning authority or other party to the application, appeal or reference, as the Welsh Ministers may direct.
- (3) Costs incurred by the Welsh Ministers in relation to an application, appeal or reference include the entire administrative cost incurred in connection with it so that, in particular, there shall be treated as costs incurred by the Welsh Ministers such reasonable sum as the Welsh Ministers may determine in respect of general staff costs and overheads of the Welsh Government.
- (4) The costs to which subsection (2) applies include costs in respect of an inquiry or hearing that does not in the event take place and costs incurred in reviewing planning obligations (within the meaning of section 106).
- (5) The Welsh Ministers may by regulations prescribe a standard daily amount for cases involving an inquiry or hearing of any description or cases of any description considered on the basis of representations in writing; and where an inquiry or hearing of that description takes place or a case of that description is considered on the basis of representations in writing, the costs incurred by the Welsh Ministers are to be taken to be—
  - (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which a prescribed person is engaged in dealing with the case;
  - (b) costs actually incurred in connection with dealing with the case on travelling or subsistence allowances or the provision of accommodation or other facilities;
  - (c) any costs attributable to the appointment of prescribed persons to assist in dealing with the case;
  - (d) any legal costs or disbursements incurred or made by or on behalf of the Welsh Ministers in connection with the case.
- (6) The Welsh Ministers may make orders as to the costs of the applicant or appellant or any other party to the application, appeal or reference, and as to the person or persons by whom the costs are to be paid.”

## **50 Procedure for certain proceedings**

In TCPA 1990, after section 323 insert—

### **“323A Procedure for certain proceedings: Wales**

- (1) The Welsh Ministers may by regulations prescribe the procedure to be followed in connection with—

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- (a) an inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of this Act;
  - (b) proceedings on an application, appeal or reference that, under or by virtue of any provision of this Act, is to be considered by or on behalf of the Welsh Ministers on the basis of representations in writing.
- (2) The regulations may include provision—
- (a) about the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or to the making of representations in writing;
  - (b) about the conduct of proceedings.
- (3) The regulations may include provision about the procedure to be followed—
- (a) where steps have been taken with a view to the holding of an inquiry or hearing which does not take place,
  - (b) where steps have been taken with a view to the determination of any matter by a person appointed by the Welsh Ministers and the proceedings are the subject of a direction that the matter must instead be determined by the Welsh Ministers, or
  - (c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,
- and may provide that such steps are to be treated as compliance, in whole or in part, with the requirements of the regulations.
- (4) The regulations may—
- (a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents,
  - (b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Welsh Ministers to give directions setting the time limit in a particular case or class of case,
  - (c) enable the Welsh Ministers to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and
  - (d) enable the Welsh Ministers, after giving the parties written notice of their intention to do so, to proceed to a decision even though no written representations were made within the time limit, if it appears to them that they have sufficient material before them to enable them to reach a decision on the merits of the case.
- (5) The regulations may also make provision as to the circumstances in which—
- (a) a direction under section 322C(2) may be given;
  - (b) an order for costs under section 322C(4) may be made.
- (6) The Welsh Ministers may by regulations provide that in prescribed circumstances a matter may not be raised in proceedings on an appeal made under or by virtue of this Act to the Welsh Ministers unless it has been previously raised before a prescribed time or it is shown that it could not have been raised before that time.”

## **51 Costs and procedure on appeals etc: further amendments**

For further amendments relating to costs and procedure on appeals etc, see Schedule 5.



## PART 8

### TOWN AND VILLAGE GREENS

#### 52 Statement by owner to end use of land as of right

- (1) Section 15A of the [Commons Act 2006 \(c.26\)](#) (registration of greens: statement by owner) is amended as follows.
- (2) In subsection (1), omit “in England”.
- (3) Omit subsection (8).

#### 53 Exclusion of right to apply for registration

- (1) The Commons Act 2006 is amended as follows.
- (2) In section 15C (registration of greens: exclusions)—
  - (a) in subsection (1)—
    - (i) omit “in England”;
    - (ii) for “Schedule 1A” substitute “the relevant Schedule”;
  - (b) in subsection (2), after “the Table” insert “set out in the relevant Schedule”;
  - (c) in subsections (3) and (4), for “Secretary of State” substitute “appropriate national authority”;
  - (d) in subsection (5)—
    - (i) for “Secretary of State” substitute “appropriate national authority”;
    - (ii) for “Schedule 1A” substitute “the relevant Schedule”;
  - (e) after subsection (8) insert—

“(9) In this section “the relevant Schedule” means—

    - (a) Schedule 1A, in relation to land in England;
    - (b) Schedule 1B, in relation to land in Wales.”
- (3) After Schedule 1A (the title of which becomes “Exclusion of right under section 15: England”) insert the Schedule set out in Schedule 6.

#### 54 Applications to amend registers: power to make provision about fees

- (1) Section 24 of the Commons Act 2006 (applications etc) is amended as follows.
- (2) In subsection (2A), omit “made by the Secretary of State”.
- (3) Omit subsection (2B).

## PART 9

### GENERAL PROVISIONS

#### 55 Regulations and orders made by Welsh Ministers

For amendments relating to regulations and orders made by the Welsh Ministers, see Schedule 7.

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## 56 Interpretation

In this Act—

“PCPA 2004” means the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#);

“TCPA 1990” means the [Town and Country Planning Act 1990 \(c. 8\)](#).

## 57 Power to make consequential etc provision

- (1) The Welsh Ministers T may by regulations make consequential, incidental, transitional or saving provision for the purpose of giving full effect to, or in consequence of, any provision of this Act.
- (2) Regulations under this section may amend, revoke or repeal any enactment contained in, or made under, primary legislation.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing (whether alone or with other provision) regulations under this section which amend or repeal an enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (5) A statutory instrument containing regulations under this section to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) In this section, “primary legislation” means—
  - (a) an Act of Parliament;
  - (b) an Act or Measure of the National Assembly for Wales.

## 58 Coming into force

- (1) The following provisions come into force on the day on which this Act receives Royal Assent—
  - (a) Part 1;
  - (b) sections 56 and 57;
  - (c) this section;
  - (d) section 59.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent—
  - (a) section 55;
  - (b) Parts 3 to 8, so far as is necessary for enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by those Parts.
- (3) Nothing in subsection (2)(b) affects the operation of section 13 of the [Interpretation Act 1978 \(c. 30\)](#) (anticipatory exercise of powers) in relation to this Act.
- (4) The following provisions come into force on such day as the Welsh Ministers appoint by order—
  - (a) Part 2;

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- (b) Parts 3 to 8, so far as they are not brought into force by subsection (2)(b).
- (5) The power to make an order under subsection (4)—
  - (a) is exercisable by statutory instrument;
  - (b) includes power—
    - (i) to appoint different days for different purposes, and
    - (ii) to make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

**59 Short title**

The short title of this Act is the Planning (Wales) Act 2015.

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## SCHEDULE 1

(introduced by section 4(2))

### STRATEGIC PLANNING PANELS

#### PART 1

#### CONSTITUTION AND FINANCIAL ARRANGEMENTS OF PANELS

1 In PCPA 2004, after Schedule 2 insert—

#### “SCHEDULE 2A

#### STRATEGIC PLANNING PANELS

#### PART 1

#### STATUS AND MEMBERSHIP

##### *Status*

- 1 (1) A strategic planning panel is a body corporate.  
 (2) The panel has the name specified in the regulations establishing it.

##### *Membership*

- 2 (1) A strategic planning panel consists of local planning authority members and nominated members (see paragraphs 3 and 4).  
 (2) The regulations establishing the panel must specify—  
 (a) the total number of members of the panel,  
 (b) the number of local planning authority members, and  
 (c) the number of nominated members.  
 (3) The number of local planning authority members of the panel—  
 (a) must be equal to or greater than the number of constituent local planning authorities, and  
 (b) must be two thirds of the total membership of the panel, rounded to the nearest whole number.  
 (4) The number of nominated members must be one third of the total membership of the panel, rounded to the nearest whole number.  
 (5) A person may not be a member of a strategic planning panel if the person is a member of the panel’s staff.

##### *Appointment of local planning authority members*

- 3 (1) Each local planning authority member of a strategic planning panel is to be appointed by a constituent local planning authority from among the authority’s eligible members.

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- (2) The regulations establishing the panel must specify the number of members to be appointed by each constituent local planning authority, and must ensure that at least one member is to be appointed by each authority.
- (3) A constituent local planning authority, in relation to a strategic planning panel, is a local planning authority all or part of whose area is included in the panel's strategic planning area.
- (4) In the case of a constituent local planning authority which is a county council or a county borough council, the eligible members are—
  - (a) each councillor representing an electoral division all of which is in the panel's strategic planning area, and
  - (b) any elected mayor or elected executive member within the meaning of Part 2 of the Local Government Act 2000 (see section 39(1) and (4) of that Act).
- (5) In the case of a constituent local planning authority which is a National Park authority or a joint planning board, the eligible members are each member of that authority or board.

#### *Appointment of nominated members*

- 4 (1) Each nominated member of a strategic planning panel is to be appointed by the panel, having been nominated in response to a request under this paragraph.
- (2) Before appointing a nominated member, a strategic planning panel must make a request for a nomination to a person chosen by the panel ("the nominating body").
- (3) If the nominating body fails to make a nomination, the panel must make a further request for a nomination to the same person or to another person (who becomes the nominating body for the purposes of this paragraph).
- (4) If the nominating body nominates an individual for appointment to the strategic planning panel, the panel must appoint that individual as a nominated member of the panel.

#### *Composition of strategic planning panels: further provision*

- 5 (1) The Welsh Ministers may by regulations make further provision about the composition of strategic planning panels.
- (2) That provision may include (among other things) provision—
  - (a) about the gender balance of strategic planning panels;
  - (b) about steps to be taken by strategic planning panels and constituent local planning authorities with a view to securing compliance with requirements of the regulations relating to the composition of panels ("composition requirements");
  - (c) for exceptions from composition requirements;
  - (d) about the effect of failure to comply with composition requirements;

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- (e) conferring powers on the Welsh Ministers in respect of such failure.

*Terms and notice of appointments*

- 6 (1) The Welsh Ministers may publish standard terms of appointment for local planning authority members of strategic planning panels and for nominated members of panels.
- (2) The Welsh Ministers may amend any standard terms of appointment, and must publish the standard terms as amended.
- (3) A member of a strategic planning panel must be appointed on the most recently published standard terms (if any) relevant to the appointment.
- (4) A strategic planning panel must give the Welsh Ministers notice of each appointment made to the panel.
- (5) Subject to the provisions of this Schedule, the members of a panel hold and vacate office in accordance with their terms of appointment.

*Members' allowances*

- 7 (1) A strategic planning panel may pay allowances to its members in respect of expenses they incur in connection with the exercise of their functions.
- (2) A panel may not pay any other remuneration to its members.
- (3) For provision about payments that a panel is required or authorised to make in respect of members' allowances, see Part 8 of the Local Government (Wales) Measure 2011.

*Termination of membership*

- 8 (1) A member of a strategic planning panel may resign by giving notice to the panel.
- (2) A strategic planning panel may, by giving notice to a member of the panel, remove the member on any of the following grounds—
- (a) that the member has been absent from meetings of the panel without its permission for at least 6 months,
  - (b) that the member has failed to comply with the member's terms of appointment, or
  - (c) that the member is otherwise unable or unfit to exercise the member's functions.
- (3) A notice under sub-paragraph (2) must state the panel's reasons for removing the member.
- (4) A strategic planning panel must send a copy of a notice given under this paragraph—
- (a) to the Welsh Ministers, and
  - (b) in the case of a local planning authority member, to the constituent local planning authority that appointed the member.

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*Termination of membership: further provision  
about local planning authority members*

- 9
- (1) A constituent local planning authority may at any time remove a local planning authority member of a strategic planning panel appointed by the authority.
  - (2) If a person who is a local planning authority member of a strategic planning panel ceases to be an eligible member of the constituent local planning authority that appointed the person to the panel, the person ceases to be a member of the panel.
  - (3) In the case of a constituent local planning authority which is a county council or a county borough council, a person is not to be treated as ceasing to be a member of the authority by virtue of retiring under section 26 of the Local Government Act 1972 (elections of councillors in Wales) if the person is re-elected to the authority not later than the day the person retires.
  - (4) Where a person ceases to be a member of a strategic planning panel by virtue of this paragraph—
    - (a) the constituent local planning authority that appointed the person to the panel must give notice of that fact to the panel, and
    - (b) the panel must send a copy of the notice to the Welsh Ministers.

*Chair and deputy chair*

- 10
- (1) A strategic planning panel must appoint a chair and deputy chair from among its local planning authority members.
  - (2) Neither appointment may be for a period of more than one year, but a chair or deputy chair may be re-appointed any number of times.
  - (3) A person may resign from the office of chair or deputy chair of a strategic planning panel by giving notice to the panel.
  - (4) A person ceases to be the chair or deputy chair of a panel if the person ceases to be a local planning authority member of the panel.

**PART 2**

**ADMINISTRATION**

*Staff*

- 11
- (1) A strategic planning panel may employ staff.
  - (2) The panel's staff are to be employed on such terms and conditions (including terms and conditions relating to remuneration, allowances and pensions) as the panel may determine.

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*Status: This is the original version (as it was originally enacted).*

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### *Delegation*

- 12 (1) A strategic planning panel may delegate a function to—
- (a) a committee of the panel;
  - (b) a member of the panel;
  - (c) a member of the panel’s staff.
- (2) But the panel may not delegate—
- (a) a function under paragraph 4,
  - (b) the function of deciding whether a strategic development plan (or a revision of such a plan) is ready for independent examination, or
  - (c) the function of adopting a strategic development plan (or a revision of such a plan).
- (3) The delegation of a function does not affect—
- (a) the panel’s responsibility for the exercise of the function, or
  - (b) the panel’s ability to exercise the function.

### *Voting rights*

- 13 A nominated member of a strategic planning panel is not entitled to vote at meetings of the panel or any of its committees.

### *Procedure*

- 14 (1) A strategic planning panel must make standing orders regulating its procedure.
- (2) The standing orders must specify a quorum for meetings of the panel, which must include at least half of the local planning authority members.
- (3) A strategic planning panel—
- (a) may revise its standing orders, and
  - (b) must publish the current version of its standing orders.
- (4) The validity of anything done by a strategic planning panel is not affected by—
- (a) a vacancy among its members, or
  - (b) a defect in the appointment of a member.

### *Access to meetings*

- 15 (1) A meeting of a strategic planning panel must be open to the public, except during any item of business from which the panel excludes the public.
- (2) The circumstances (if any) in which the public may be excluded from a meeting must be set out in the panel’s standing orders.
- (3) Before each meeting of a strategic planning panel, the panel must publish notice of the meeting.



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- (4) The notice must state—
  - (a) the time and place of the meeting, and
  - (b) the business to be considered at the meeting (other than items during which the public is to be excluded).
- (5) The panel must also publish any reports or other documents to be considered by the panel at the meeting (other than those relating to items during which the public is to be excluded).
- (6) As soon as practicable after each meeting of a strategic planning panel, the panel must publish a record of the business at the meeting that was open to the public.

### PART 3

#### FINANCIAL ARRANGEMENTS

##### *Qualifying expenditure*

- 16 (1) The qualifying expenditure of a strategic planning panel is to be met by the constituent local planning authorities in accordance with paragraphs 17 to 19.
- (2) “Qualifying expenditure” means expenditure of a description prescribed by regulations made by the Welsh Ministers.

##### *Apportionment of qualifying expenditure*

- 17 (1) A strategic planning panel must make a determination specifying the proportion of its qualifying expenditure that is to be met by each constituent local planning authority.
- (2) Not later than 31 December before the start of its second financial year, the panel must send a draft of the determination to each constituent local planning authority and to the Welsh Ministers.
- (3) The panel must have regard to any representations it receives about the draft.
- (4) Not later than 15 February before the start of its second financial year, the panel must send a copy of its determination to each constituent local planning authority and to the Welsh Ministers.
- (5) The panel—
  - (a) may revise the determination, and
  - (b) must send a copy of the determination as revised to each constituent local planning authority and to the Welsh Ministers.
- (6) Before revising its determination, the panel must—
  - (a) send a draft of the revised determination to each constituent local planning authority and to the Welsh Ministers, and
  - (b) have regard to any representations it receives about the draft.

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- (7) If the constituent local planning authorities give the panel notice that they have agreed the apportionment between them of the panel's qualifying expenditure, the panel must make or revise its determination so as to give effect to the agreement.
- (8) A determination under this paragraph may be revised only in relation to financial years which have not yet ended.

*Annual work programme and estimate of qualifying expenditure*

- 18 (1) A strategic planning panel must, for each financial year other than its first financial year, prepare a work programme which contains—
- (a) a description of the activities which the panel intends to undertake during the year, and
  - (b) estimates of—
    - (i) the overall expenditure which the panel expects to incur during the year in the exercise of its functions, and
    - (ii) the qualifying expenditure which the panel expects to incur during the year.
- (2) Not later than 31 December before the start of each financial year for which it is required to prepare a work programme, the panel must send a draft of its work programme for that year to each constituent local planning authority and to the Welsh Ministers.
- (3) The panel must have regard to any representations that it receives about the draft.
- (4) Not later than 15 February before the start of each financial year for which it is required to prepare a work programme, the panel must—
- (a) publish its work programme for that year, and
  - (b) send a copy to each constituent local planning authority and to the Welsh Ministers.
- (5) A strategic planning panel may, at any time during a financial year, revise its work programme for that year (including any estimate contained in it).
- (6) Before revising a work programme, the panel must—
- (a) send a draft of the revised work programme to each constituent local planning authority and to the Welsh Ministers, and
  - (b) have regard to any representations that it receives about the draft.
- (7) If the panel revises a work programme, it must—
- (a) publish the work programme as revised, and
  - (b) send a copy to each constituent local planning authority and to the Welsh Ministers.

*Payments by constituent local planning authorities*

- 19 (1) Not later than 15 February before the start of each financial year other than its first financial year, a strategic planning panel must give each

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constituent local planning authority notice of the amount which the authority is required to pay to the panel for that financial year.

- (2) The amount is to be calculated as follows—
  - (a) take the estimate of the panel’s qualifying expenditure set out in its work programme for the year published under paragraph 18;
  - (b) calculate the amount representing the authority’s proportion of that expenditure in accordance with the panel’s determination under paragraph 17;
  - (c) make any adjustments prescribed by regulations made by the Welsh Ministers.
- (3) The authority must pay the amount to the panel.
- (4) Sub-paragraphs (5) to (7) apply if during a financial year—
  - (a) a strategic planning panel revises its determination under paragraph 17 or the estimate of its qualifying expenditure contained in the work programme published for that financial year under paragraph 18, and
  - (b) making the calculation in sub-paragraph (2) for that financial year in accordance with the revised determination or estimate would give a different amount, for any constituent local planning authority, from that specified in the most recent notice given to the authority under this paragraph.
- (5) The panel must give the authority notice of the revised amount which the authority is required to pay to the panel for the financial year.
- (6) If the authority has not already made a payment to the panel in accordance with this paragraph, it must instead pay the panel the revised amount.
- (7) If the authority has already made a payment to the panel in accordance with this paragraph—
  - (a) where the revised amount is greater than the amount that has been paid, the authority must pay the difference to the panel;
  - (b) where the revised amount is less than the amount that has been paid, the panel must pay the difference to the authority.

#### *Payments by Welsh Ministers*

- 20 (1) The Welsh Ministers may make grants, loans or other payments to a strategic planning panel.
- (2) Payments may be made subject to conditions (including conditions as to repayment).
- (3) A strategic planning panel may not borrow money otherwise than from the Welsh Ministers.

#### *Accounts and audit*

- 21 (1) A strategic planning panel must for each financial year—
  - (a) keep proper accounts and proper records in relation to them, and

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- (b) prepare a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Welsh Ministers as to—
  - (a) the information to be contained in the statement,
  - (b) the manner in which the information is to be presented, and
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) Not later than 30 November after the end of each financial year, a strategic planning panel must submit its statement of accounts for that year to—
  - (a) the Auditor General for Wales,
  - (b) the constituent local planning authorities, and
  - (c) the Welsh Ministers.
- (4) The Auditor General for Wales must examine, certify and report on each statement of accounts.
- (5) Not later than 4 months after a statement of accounts is submitted, the Auditor General must send copies of the certified statement and the report on it to—
  - (a) the constituent local planning authorities, and
  - (b) the Welsh Ministers.

#### *Annual report*

- 22 (1) A strategic planning panel must, for each financial year, prepare a report on the exercise of its functions during that year.
- (2) Not later than 30 November after the end of each financial year, the panel must—
  - (a) publish the report for that year, and
  - (b) send copies of the report to—
    - (i) the constituent local planning authorities, and
    - (ii) the Welsh Ministers.

#### *Financial year*

- 23 (1) The first financial year of a strategic planning panel is the period beginning with the day on which the panel is established and ending with the following 31 March.
- (2) But the regulations establishing the panel may provide that the first financial year is instead to end with the second 31 March following the day on which the panel is established.
- (3) After the first financial year, each financial year of the panel is the period of 12 months ending with 31 March.

## PART 4

### SUPPLEMENTARY

#### *Guidance*

- 24 In exercising functions under this Schedule, a strategic planning panel and a constituent local planning authority must have regard to any guidance issued by the Welsh Ministers.

#### *Default powers of Welsh Ministers*

- 25 (1) This paragraph applies if the Welsh Ministers think that a strategic planning panel or a constituent local planning authority is failing or omitting to do anything that it is necessary for it to do for the purpose of complying with a relevant requirement.
- (2) The Welsh Ministers may direct the panel or the authority to take such steps as they think appropriate for the purpose of complying with the relevant requirement.
- (3) A strategic planning panel or constituent local planning authority must comply with a direction given to it under this paragraph.
- (4) If the panel or authority fails to comply with the direction, the Welsh Ministers may themselves do anything that could be done by the panel or the authority (as the case may be) for the purpose of complying with the relevant requirement.
- (5) Before doing anything under sub-paragraph (4), the Welsh Ministers must give the panel or authority notice of their intention to do so.
- (6) The Welsh Ministers may require the panel or authority to reimburse them for any expenditure they incur in connection with anything they do under sub-paragraph (4).
- (7) A relevant requirement is a requirement imposed by any of the following provisions of this Schedule—
- (a) paragraphs 3 and 4 (appointment of members of a strategic planning panel);
  - (b) paragraph 10 (appointment of chair and deputy chair);
  - (c) paragraph 14(1) (making standing orders);
  - (d) paragraphs 17 to 19 (arrangements relating to qualifying expenditure of a panel).

#### *Provision in connection with establishment etc of strategic planning panel*

- 26 (1) The regulations establishing a panel may confer power on the Welsh Ministers to give directions—
- (a) requiring a constituent local planning authority to provide the panel with staff or other services for the purpose of enabling the panel to exercise its functions in its first financial year, and

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- (b) specifying terms on which the services are to be provided if the authority and the panel cannot agree the terms.
- (2) Regulations under section 60D may include provision for the transfer of property, rights and liabilities—
  - (a) from a constituent local planning authority or any other person to a strategic planning panel in connection with the establishment of the panel or the addition of any land to its strategic planning area;
  - (b) from a strategic planning panel to a constituent local planning authority or any other person in connection with the abolition of the panel or the removal of any land from its strategic planning area.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes provision for the transfer of rights and liabilities relating to contracts of employment.

#### *Interpretation*

- 27 In this Schedule—
- “constituent local planning authority” has the meaning given by paragraph 3(3);
  - “eligible member”, in relation to a constituent local planning authority, has the meaning given by paragraph 3(4) and (5);
  - “financial year” and “first financial year” each have the meaning given by paragraph 23;
  - “local planning authority member”, in relation to a strategic planning panel, means a member appointed under paragraph 3;
  - “nominated member”, in relation to a strategic planning panel, means a member appointed under paragraph 4;
  - “notice” means notice in writing;
  - “qualifying expenditure” has the meaning given by paragraph 16(2).

#### *Power to amend provisions about strategic planning panels*

- 28 The Welsh Ministers may by regulations amend this Schedule.”

## **PART 2**

### FURTHER AMENDMENTS

#### *Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 2 In section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies), in subsection (4), in the definition of “public body”, after “any probation trust,” insert “any strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004,”.

#### *Local Government Act 1972 (c. 70)*

- 3 In section 80 of the Local Government Act 1972 (disqualifications for election and holding office as member of local authority), after subsection (2AA) insert—
- “(2AB) A person who is employed by or under the direction of a strategic planning panel is disqualified for being elected or being a member of a local authority which is a constituent local planning authority in relation to that panel (within the meaning of paragraph 3(3) of Schedule 2A to the Planning and Compulsory Purchase Act 2004).”

#### *Local Government Act 2000 (c. 22)*

- 4 In section 83 of the Local Government Act 2000 (conduct of members and employees of local authorities in Wales: interpretation), after subsection (9) insert—
- “(9A) A person who is suspended under this Part from being a member of a relevant authority shall also be suspended from being a member of any strategic planning panel in relation to which that authority is a constituent local planning authority, but this subsection does not apply to a person who is partially suspended under this Part.”

#### *Freedom of Information Act 2000 (c. 36)*

- 5 In Part 2 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: local government), after paragraph 33 insert—
- “33A A strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”

#### *Public Services Ombudsman (Wales) Act 2005 (c. 10)*

- 6 In Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (investigation of complaints etc: listed authorities), under the sub-heading “Local government, fire and police”, at the end insert—
- “A strategic planning panel.”

#### *Equality Act 2010 (c. 15)*

- 7 In Part 2 of Schedule 19 to the Equality Act 2010 (public authorities subject to public sector equality duty: relevant Welsh authorities), under the sub-heading “Local government”, at the end insert—
- “A strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”

#### *Welsh Language (Wales) Measure 2011 (nawm 1)*

- 8 (1) Schedule 6 to the Welsh Language (Wales) Measure 2011 (persons liable to be required to comply with standards: public bodies etc) is amended as follows.
- (2) In the table, under the heading “Local government etc”, at the appropriate place insert—

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“Strategic planning panels ( <i>Paneli cynllunio strategol</i> )”	Service delivery standards Policy making standards Operational standards Promotion standards Record keeping standards”.
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(3) In paragraph 2, at the appropriate place insert—

““strategic planning panel” (*panel cynllunio strategol*) means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”

*Local Government (Wales) Measure 2011 (nawm 4)*

9 In section 144 of the Local Government (Wales) Measure 2011 (payments and pensions: relevant authorities, members etc), in subsection (2), after paragraph (d) insert—

“(da) a strategic planning panel (established under section 60D of the Planning and Compulsory Purchase Act 2004);”.

SCHEDULE 2

(introduced by section 16)

DEVELOPMENT PLANNING: FURTHER AMENDMENTS

*Welsh Development Agency Act 1975 (c. 70)*

1 The Welsh Development Agency Act 1975 is amended as follows.

2 In section 21A (powers of land acquisition), in subsection (5)—

- (a) omit the “and” at the end of paragraph (b);
- (b) after paragraph (c) insert—

“; and

- (d) any strategic planning panel in whose strategic planning area the land, or any part of the land, is situated.”

3 In section 21C (powers to advise on land matters), in subsection (3)—

- (a) omit the “or” at the end of paragraph (b);
- (b) after paragraph (c) insert—

“; or

- (d) a strategic planning panel in making an assessment of land in its strategic planning area which is, in its opinion, available and suitable for development.”

4 (1) Schedule 4 (acquisition of land) is amended as follows.

(2) In Part 1, in paragraph 3A—

- (a) omit the “and” at the end of paragraph (b);
- (b) after paragraph (c) insert—



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“; and

(d) any strategic planning panel in whose strategic planning area the land, or any part of the land, is situated.”

(3) In Part 4, in paragraph 19(1), for “and every National Park authority for a National Park in Wales” substitute “, every National Park authority for a National Park in Wales and every strategic planning panel”.

#### *Wildlife and Countryside Act 1981 (c. 69)*

5 The Wildlife and Countryside Act 1981 is amended as follows.

6 (1) Section 27AA (sites of special scientific interest and limestone pavements: application of provisions in Wales) is amended as follows.

(2) The existing provision becomes subsection (1).

(3) After subsection (1) insert—

“(2) Subsection (3) applies where—

(a) any provision of sections 28 to 34 requires the Natural Resources Body for Wales to give a notification or notice to the local planning authority in whose area land is situated, and

(b) all or part of the land is included in a strategic planning area designated under section 60D of the Planning and Compulsory Purchase Act 2004.

(3) The Natural Resources Body for Wales must also give the notification or notice to the strategic planning panel for the strategic planning area.”

7 In section 37A (notification of designation of Ramsar sites), after subsection (2A) insert—

“(2B) Subject to subsection (3), upon receipt of a notification under subsection (1) relating to a wetland all or part of which is in a strategic planning area designated under section 60D of the Planning and Compulsory Purchase Act 2004, the Natural Resources Body for Wales shall, in turn, notify the strategic planning panel for that area.”

#### *Town and Country Planning Act 1990 (c. 8)*

8 TCPA 1990 is amended as follows.

9 In section 293A (urgent Crown development: application), in subsection (9), before “and” insert—

“(aa) the strategic planning panel for any strategic planning area to which the proposed development relates,”.

10 (1) Section 303A (responsibility of local planning authorities for costs of holding certain inquiries etc) is amended as follows.

(2) In subsection (1B), for “The” substitute “Where a local planning authority cause a qualifying procedure to be carried out or held, the”.

(3) After subsection (1B) insert—

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- “(1C) Where the qualifying procedure is an independent examination of a strategic development plan under section 64 of the Planning and Compulsory Purchase Act 2004, the appropriate authority is the Welsh Ministers.”
- (4) In subsection (2), after “local planning authority” insert “or strategic planning panel”.
- (5) In subsection (3)—
- (a) after “local planning authority” insert “or strategic planning panel”;
  - (b) after “that authority” insert “or panel”.
- (6) In subsection (6), after “local planning authority” insert “or strategic planning panel”.
- (7) In subsection (9A)—
- (a) after “local planning authority” insert “or strategic planning panel”;
  - (b) after “the authority” insert “or panel”.
- 11 In section 306 (contributions by local authorities and statutory undertakers), after subsection (2) insert—
- “(2A) Each of the persons specified in subsection (2B) may contribute towards any expenses incurred by a strategic planning panel for the purposes of carrying out a review under section 60H of the Planning and Compulsory Purchase Act 2004 (duty of strategic planning panel to keep under review certain matters affecting development).
- (2B) The persons are—
- (a) a local authority in Wales;
  - (b) a statutory undertaker authorised to carry on an undertaking in Wales.”
- 12 In section 324 (rights of entry), after subsection (1A) insert—
- “(1B) Any person duly authorised in writing by the Welsh Ministers or by a strategic planning panel may at any reasonable time enter any land for the purpose of surveying it in connection with the preparation, revision, adoption or approval of a strategic development plan under Part 6 of the Planning and Compulsory Purchase Act 2004.”
- 13 In section 336 (interpretation), in subsection (1), after the definition of “stop notice” insert—
- ““strategic planning panel” means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004;”.
- 14 In Schedule 4A (local development orders: procedure), in paragraph 5(1), after “report made” insert “by a local planning authority”.
- 15 In Schedule 13 (blighted land), in paragraph 1B, in note (3), after “section 66” insert “or 66A”.

*Water Resources Act 1991 (c. 57)*

- 16 In Schedule 6 to the Water Resources Act 1991 (orders relating to abstraction of small quantities and compulsory registration of protected rights), in paragraph 1—
- (a) in sub-paragraph (4)(a), for “or National Park authority” substitute “, National Park authority or strategic planning panel”;

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(b) in sub-paragraph (6), after paragraph (b) insert—

“(ba) references to a strategic planning panel are to a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004;”.

#### *Coal Industry Act 1994 (c. 21)*

17 The Coal Industry Act 1994 is amended as follows.

18 In section 39 (right to withdraw support from land: notice), in subsection (5), after “Town and Country Planning Act 1990” insert “and any strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004;”.

19 In section 41 (revocation of right to withdraw support), in subsection (6), in the definition of “planning authority”, after “Town and Country Planning Act 1990” insert “and any strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004;”.

#### *Environment Act 1995 (c. 25)*

20 (1) Section 66 of the Environment Act 1995 (National Park Management Plans) is amended as follows.

(2) In subsection (7)(a), after “principal council” insert “and strategic planning panel”.

(3) After subsection (9) insert—

“(10) In this section “strategic planning panel” means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”

#### *Countryside and Rights of Way Act 2000 (c. 37)*

21 In section 85 of the Countryside and Rights of Way Act 2000 (areas of outstanding natural beauty: general duty of public bodies etc), in subsection (2), in the definition of “public body”, at the end insert—

“(d) a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004;”.

#### *Finance Act 2003 (c. 14)*

22 In section 66 of the Finance Act 2003 (stamp duty land tax: exemption for transfers involving public bodies), in subsection (4), under the heading “Other planning authorities”, after the existing entry insert—

“A strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004”.

#### *Planning and Compulsory Purchase Act 2004 (c. 5)*

23 PCPA 2004 is amended as follows.

24 In section 19 (preparation of English local development documents), in subsection (2)(e), for “Wales Spatial Plan” substitute “National Development Framework for Wales;”.

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- 25 In section 62 (local development plan), in subsection (5) (matters to which local planning authority must have regard in preparing plan), for paragraph (b) substitute—
- “(b) the National Development Framework for Wales;
  - (ba) the strategic development plan for any strategic planning area that—
    - (i) includes all or part of the area of the authority, or
    - (ii) adjoins that area;”.
- 26 In section 74 (urban development corporations), for “section 60” substitute “sections 60 to 60C”.
- 27 (1) Section 113 (validity of strategies, plans and documents) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (b) substitute—
    - “(b) the National Development Framework for Wales;
    - (ba) a strategic development plan;”;
  - (b) in paragraph (e), after “(b),” insert “(ba),”.
- (3) In subsection (9), for paragraph (b) substitute—
- “(b) sections 60 to 60C above in the case of the National Development Framework for Wales or a revised Framework;
  - (ba) in the case of a strategic development plan or any revision of it—
    - (i) section 60I above, and
    - (ii) sections 63 to 68, 68A(1), 69 to 71 and 73 to 78 above, as they apply in relation to strategic development plans (see section 60J);”.
- (4) In subsection (11), for paragraph (b) substitute—
- “(b) for the purposes of the National Development Framework for Wales (or a revised Framework), the date when it is published by the Welsh Ministers;
  - (ba) for the purposes of a strategic development plan (or a revision of it), the date when it is adopted by the strategic planning panel or approved by the Welsh Ministers (as the case may be);”.

*Natural Environment and Rural Communities Act 2006 (c. 16)*

- 28 (1) Section 40 of the Natural Environment and Rural Communities Act 2006 (duty of public authorities to conserve biodiversity) is amended as follows.
- (2) In subsection (4)(c), for “and a local planning authority” substitute “, a local planning authority and a strategic planning panel”.
- (3) In subsection (5), at the end insert—
- ““strategic planning panel” means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”

*Government of Wales Act 2006 (c. 32)*

- 29 In Schedule 10 to the Government of Wales Act 2006 (minor and consequential amendments), omit paragraph 66 and the cross-heading before it.

### *Planning and Energy Act 2008 (c. 21)*

- 30 The Planning and Energy Act 2008 is amended as follows.
- 31 (1) Section 1 (energy policies) is amended as follows.
- (2) In subsection (1), after “development plan documents,” insert “a strategic planning panel may in their strategic development plan,”.
- (3) In subsection (3)(b), after “in the case of” insert “a strategic planning panel or”.
- (4) In subsection (4), after paragraph (a) insert—  
“(aa) section 60I of that Act, in the case of a strategic planning panel,”.
- (5) In subsection (6), after “included in” insert “a strategic development plan or”.
- 32 In section 2 (interpretation), at the end insert—  
““strategic planning panel” means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”

### *Marine and Coastal Access Act 2009 (c. 23)*

- 33 Schedule 6 to the Marine and Coastal Access Act 2009 (marine plans: preparation and adoption) is amended as follows.
- 34 (1) Paragraph 1 (marine plan authority to notify related planning authorities of decision to prepare plan) is amended as follows.
- (2) In sub-paragraph (2), at the end insert—  
“(f) any strategic planning panel whose strategic planning area adjoins or is adjacent to the marine planning area.”
- (3) In sub-paragraph (3)—  
(a) in the definition of “local planning authority”, before “or” insert—  
“(aa) a local planning authority for the purposes of Part 6 of the Planning and Compulsory Purchase Act 2004 (see section 78 of that Act),”;  
(b) at the end insert—  
““strategic planning panel” means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.”
- 35 (1) Paragraph 3 (marine plans to be compatible with certain other plans) is amended as follows.
- (2) In sub-paragraph (2), in the words after paragraph (b), for “relevant Planning Act plan” substitute “development plan”.
- (3) Omit sub-paragraphs (4) and (5).
- (4) In sub-paragraph (6), omit the definition of “the Wales Spatial Plan”.
- 36 In paragraph 9 (matters to which marine plan authority is to have regard in preparing marine plan), in sub-paragraph (2)(b), for “Planning Act plans” substitute “development plans”.

SCHEDULE 3

(introduced by section 26(2))

DEVELOPMENTS OF NATIONAL SIGNIFICANCE AND APPLICATIONS MADE  
 TO WELSH MINISTERS: EXERCISE OF FUNCTIONS BY APPOINTED PERSON

1 In TCPA 1990, after Schedule 4C insert—

“SCHEDULE  
 4D

EXERCISE OF FUNCTIONS BY APPOINTED PERSON IN  
 CONNECTION WITH DEVELOPMENTS OF NATIONAL SIGNIFICANCE  
 AND APPLICATIONS MADE TO THE WELSH MINISTERS

*Exercise of functions in respect of development of  
 national significance and connected applications*

- 1 (1) Unless a direction otherwise is given under paragraph 9, a specified function, so far as exercisable in respect of—
- (a) an application that a person proposes to make under section 62D,
  - (b) an application made under section 62D, or
  - (c) a secondary consent (within the meaning given by section 62H) in respect of which section 62F(2) applies,
- is to be exercised by a person appointed for the purpose by the Welsh Ministers under this paragraph.
- (2) A “specified function”, for the purposes of sub-paragraph (1), is a function exercisable by the Welsh Ministers, under or by virtue of this Act, that is prescribed in regulations made for the purposes of this paragraph by the Welsh Ministers.
- (3) Regulations under this paragraph may contain incidental or consequential provision.

*Applications under section 62M or 62O: exercise of functions*

- 2 Unless a direction otherwise is given under paragraph 9—
- (a) an application made under section 62M or 62O is to be determined by a person appointed for the purpose by the Welsh Ministers under this paragraph;
  - (b) functions exercisable by the Welsh Ministers, by virtue of section 61Z1, in respect of an application that a person proposes to make under section 62M or 62O, are to be exercised by a person appointed for the purpose by the Welsh Ministers under this paragraph.

*Revocation of appointments*

- 3 Where a person has been appointed under paragraph 1 or 2 in respect of an application or consent, the Welsh Ministers may at any time—
- (a) revoke the appointment, and

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- (b) appoint another person, in respect of the application or consent, under paragraph 1 or 2 (as the case may be).

*Exercise of functions by appointed person*

- 4 (1) This paragraph applies for the purposes of paragraphs 5 to 14.
- (2) References to an appointed person are to a person appointed to exercise functions under paragraph 1 or 2.
- (3) References to a relevant application or consent are to an application or consent, or a proposed application, in respect of which functions are exercisable by a person other than the Welsh Ministers by virtue of the person's appointment under paragraph 1 or 2.
- 5 A person appointed under paragraph 2 to determine an application has, so far as the context permits, the same powers and duties that the Welsh Ministers have by virtue of provision made by a development order by virtue of section 75A.
- 6 (1) Sub-paragraph (2) applies where any enactment (other than this Schedule)—
  - (a) refers (or is to be read as referring) to the Welsh Ministers in a context relating to or capable of relating to an application under section 62M or section 62O, or
  - (b) refers (or is to be read as referring) to anything (other than the making of an application) done or authorised or required to be done by, to or before the Welsh Ministers in connection with any such application.
- (2) So far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by a person appointed under paragraph 2, as if the reference to the Welsh Ministers were or included a reference to an appointed person.

*Determination by appointed person*

- 7 Where a decision on a relevant application or consent is determined by an appointed person, that person's decision is to be treated as being the decision of the Welsh Ministers (including for the purposes of section 284).
- 8 (1) It is not a ground of application to the High Court under section 288 that the determination ought to have been made by the Welsh Ministers instead of an appointed person, unless the applicant challenges the person's power to make the determination before the person's decision is given.
- (2) But in the case of an application under section 62D or a secondary consent to which section 62F(2) applies, the restriction imposed by sub-paragraph (1) applies only if the function of making the decision in question is a function specified in regulations under paragraph 1.

*Power of Welsh Ministers to exercise functions in place of appointed person*

- 9 The Welsh Ministers may direct that functions specified in the direction are to be exercised, in respect of a relevant application or consent, by them instead of by a person appointed under paragraph 1 or paragraph 2.
- 10 A copy of a direction given under paragraph 9 in respect of a relevant application or consent is to be served on—
- (a) the person (if any) appointed, in respect of the application or consent, under paragraph 1 or 2;
  - (b) the applicant;
  - (c) in the case of an application under section 62M or 62O, the local planning authority or hazardous substances authority concerned.
- 11 (1) Sub-paragraph (2) applies where, in consequence of a direction under paragraph 9, a decision on an application or consent is to be made by the Welsh Ministers instead of a person appointed under paragraph 1 or 2.
- (2) In making their decision, the Welsh Ministers may take into account any report made to them by any person previously appointed under paragraph 1 or 2 in respect of the application.
- 12 Subject to that, for the purpose of the exercise of functions by the Welsh Ministers in consequence of a direction under paragraph 9, the application or consent concerned is to be treated as though no appointment under paragraph 1 or 2 had ever been made.
- 13 (1) The Welsh Ministers may by a further direction revoke a direction under paragraph 9 at any time before the decision on the application or consent concerned has been made.
- (2) On giving a direction under this paragraph, the Welsh Ministers must serve a copy of the direction on—
- (a) the person, if any, previously appointed under paragraph 1 or 2 in respect of the application or consent;
  - (b) the applicant;
  - (c) in the case of an application under section 62M or 62O, the local planning authority or hazardous substances authority concerned.
- (3) Where a direction is given under this paragraph—
- (a) the Welsh Ministers must appoint a person (the “new appointee”) under paragraph 1 or 2, as the case may be, in respect of the application or consent,
  - (b) anything done by or on behalf of the Welsh Ministers in connection with the application or consent that might have been done by a person appointed under paragraph 1 or 2 is, unless the new appointee directs otherwise, to be treated as having been done by that person, and
  - (c) subject to that, this Schedule applies as if no direction under paragraph 9 had been given.



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*Power of Welsh Ministers to appoint assessor*

- 14           Where an appointed person holds a hearing or inquiry in relation to a relevant application or consent, the Welsh Ministers may appoint an assessor to assist the appointed person at the hearing or inquiry.”
- 2           In section 59 of PCPA 2004 (correction of errors: supplementary), after subsection (2) insert—
- “(2A) An inspector is also a person appointed under Schedule 4D of the principal Act to determine an application instead of the Welsh Ministers.”

SCHEDULE 4

(introduced by section 27)

APPLICATIONS TO WELSH MINISTERS: FURTHER AMENDMENTS

- 1           TCPA 1990 is amended as follows.
- 2           In section 58 (granting of planning permission: general), in subsection (1)(b)—
- (a) after “by the Secretary of State” insert “or the Welsh Ministers”;
- (b) after “to the Secretary of State” insert “or the Welsh Ministers”.
- 3           In section 59 (development orders: general), in subsection (2)(b)—
- (a) after “by the Secretary of State” insert “or the Welsh Ministers”;
- (b) after “to the Secretary of State” insert “or the Welsh Ministers”.
- 4           Before section 62A insert—
- “*England: option to make application directly to Secretary of State*”.
- 5           In section 70 (determination of applications), in subsection (1)(a), after “subject to” insert “section 62D(5) and”.
- 6           In section 70A (power to decline to determine application), as it applies in relation to Wales, in subsection (1)(a), for “Secretary of State has refused a similar application referred to him under section 77 or has” substitute “Welsh Ministers have refused a similar application made to them under section 62D, 62F, 62M or 62O, or referred to them under section 77, or have”.
- 7           After section 75 insert—

*“Applications made to the Welsh Ministers: applicable provisions*

**75A Provisions applying for purpose of applications made to the Welsh Ministers**

- (1) A development order may provide for an applicable enactment or requirement—
- (a) to apply, with or without modifications, to an application made to the Welsh Ministers under section 62D, 62M or 62O, or
- (b) not to apply to such an application.

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*Status: This is the original version (as it was originally enacted).*

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- (2) For this purpose an applicable enactment or requirement, in relation to an application made to the Welsh Ministers under section 62D, 62M or 62O, is—
- (a) any provision of or made under this Act, or any other enactment, relating to applications of that kind when made to the relevant authority;
  - (b) any requirements imposed by a development order in respect of applications of that kind when made to the relevant authority.
- (3) The “relevant authority”, in relation to an application made to the Welsh Ministers under section 62D, 62M or 62O, is the authority to which, but for the section in question, the application would have been made.”
- 8 In section 87 (exclusion of certain land or descriptions of development from simplified planning zone scheme), after subsection (4) insert—
- “(5) A simplified planning zone scheme does not have effect to grant planning permission for the development of land in Wales, where the development is of national significance for the purposes of section 62D.”
- 9 In section 88 (planning permission for development in enterprise zones), after subsection (10) insert—
- “(11) An enterprise zone scheme does not have effect to grant planning permission for the development of land in Wales, where the development is of national significance for the purposes of section 62D.”
- 10 In section 92 (outline planning permission), in subsection (1), after “authority” insert “, the Welsh Ministers”.
- 11 In section 93 (provisions supplementary to sections 91 and 92), in subsection (1) (a), after “authority” insert “, the Welsh Ministers”.
- 12 In section 99 (procedure for orders revoking or modifying planning permission: unopposed cases), in subsection (8)(a), after “Secretary of State” insert “or the Welsh Ministers”.
- 13 In section 253 (procedure in anticipation of planning permission), in subsection (2), after paragraph (a) insert—
- “(aa) that application has been made to the Welsh Ministers under section 62D, 62F, 62M or 62O; or”.
- 14 In section 257 (footpaths etc affected by other development: orders by other authorities), in subsection (4)—
- (a) in paragraph (a), after “Secretary of State” insert “or by the Welsh Ministers”;
  - (b) in paragraph (c), after “62A” insert “or to the Welsh Ministers under section 62D, 62F, 62M or 62O”.
- 15 (1) Section 284 (actions which may be questioned in legal proceedings only so far as provided by Part 12) is amended as follows.
- (2) In subsection (1)(f), after “Secretary of State” insert “or the Welsh Ministers”.
- (3) In subsection (3)—
- (a) in the opening words, after “action on the part of the Secretary of State” insert “or the Welsh Ministers”;

*Status: This is the original version (as it was originally enacted).*

- (b) in paragraph (a), for “him” substitute “the Secretary of State or the Welsh Ministers”;
  - (c) after paragraph (a) insert—
    - “(aa) any decision on an application made to the Welsh Ministers under section 62D;
    - (ab) any decision on a secondary consent dealt with by the Welsh Ministers under section 62F, unless, by virtue of an enactment not contained in this Act—
      - (i) an appeal against that decision may be made to a person other than the Welsh Ministers, or
      - (ii) the validity of the decision may otherwise be questioned by way of application to a person other than the Welsh Ministers;
    - (ac) any decision on an application made to the Welsh Ministers under section 62M or section 62O (not including a decision to refer an application under section 62O(5));”;
  - (d) in paragraph (h), after “Secretary of State” insert “or the Welsh Ministers”.
- (4) In subsection (4), after “Secretary of State” insert “or the Welsh Ministers”.
- 16 (1) Section 288 (proceedings for questioning the validity of other orders, etc) is amended as follows.
- (2) In subsection (1)(b), after “Secretary of State” insert “or the Welsh Ministers”.
  - (3) In subsection (2), after “Secretary of State” insert “or the Welsh Ministers”.
  - (4) In subsection (4), after “Secretary of State” insert “or the Welsh Ministers”.
  - (5) In subsection (10)—
    - (a) in paragraph (a), for “has modified” substitute “or the Welsh Ministers have modified”;
    - (b) in paragraph (b)—
      - (i) after “Secretary of State” insert “or the Welsh Ministers”;
      - (ii) for “him” substitute “the Secretary of State or the Welsh Ministers”.
- 17 (1) Section 293A (urgent Crown development: application) is amended as follows.
- (2) In subsection (2), omit “to the local planning authority”.
  - (3) In subsection (3), for “the application to the Secretary of State” substitute “an application under this section”.
- 18 In section 303 (fees for planning applications, etc), after subsection (1A) insert—
- “(1B) The Welsh Ministers may by regulations make provision for the payment of a fee or charge to the Welsh Ministers in respect of—
    - (a) the performance by the Welsh Ministers of any function they have in respect of an application under section 62D (developments of national significance), section 62M (option to make application directly to Welsh Ministers) or section 62O (connected applications);
    - (b) anything done by the Welsh Ministers which is calculated to facilitate, or is conducive or incidental to, the performance of any such function.

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- (1C) References in subsection (1B) to functions that the Welsh Ministers have in respect of an application include references—
- (a) in the case of an application under section 62D, to any functions that the Welsh Ministers have in respect of a secondary consent to which, by virtue of the connection between the consent and the application under section 62D, section 62F(2) applies;
  - (b) to any functions that the Welsh Ministers have, by virtue of provision under section 61Z1, in respect of an application proposed to be made to the Welsh Ministers under section 62D, 62F, 62M or 62O.”
- 19 (1) Section 316 (land of interested planning authorities and development by them) is amended as follows
- (2) In subsection (4), for “such land, or for such development,” substitute “land of an interested planning authority other than the Welsh Ministers, or for the development of land by an interested planning authority other than the Welsh Ministers,”.
  - (3) In subsection (5), after “interested planning authority” insert “other than the Welsh Ministers”.
  - (4) In subsection (6), after “that land” insert “or the Welsh Ministers”.
  - (5) After subsection (8) insert—
    - “(9) The power to make regulations under this section relating to land of the Welsh Ministers or to the development of land by the Welsh Ministers is exercisable by the Welsh Ministers.”
- 20 (1) Section 319B (determination of procedure for certain proceedings) is amended as follows.
- (2) After subsection (5) insert—
    - “(5A) In a case where an application has been made to the Welsh Ministers under section 62D, 62M or 62O, they must also notify any representative persons they consider appropriate.”
  - (3) In subsection (7), before paragraph (a) insert—
    - “(za) an application made to the Welsh Ministers under section 62D, including proceedings relating to any secondary consent in respect of which, by virtue of its connection to that application, section 62F(2) applies;
    - (zb) an application made to the Welsh Ministers under section 62M or 62O;”.
  - (4) After subsection (8) insert—
    - “(8A) For the purposes of this section as it applies where an application has been made to the Welsh Ministers under section 62D, 62M or 62O—
      - “the local planning authority” means the local planning authority to which, but for the section in question, the application would have been made;
      - “representative persons” are prescribed persons, or persons of a prescribed description, who appear to the Welsh Ministers to be representative of interested persons;

- “interested persons” are persons, other than the applicant and the local planning authority, who appear to the Welsh Ministers to have an interest in the proceedings.”
- 21 In section 324 (rights of entry), in subsection (1), after paragraph (b) insert—
- “(ba) any application made to the Welsh Ministers under section 62O;  
    (bb) any secondary consent in respect of which, by virtue of section 62F(2), a decision is to be made by the Welsh Ministers;”.
- 22 In Schedule 1A (distribution of local planning authority functions: Wales), in paragraph 8 (claims for payment of compensation where planning permission revoked or modified), after sub-paragraph (2) insert—
- “(2A) Sub-paragraph (2B) applies where the planning permission the revocation or modification of which gave rise to the claim was granted by the Welsh Ministers by virtue of section 62D, 62F, 62M or 62O.
- (2B) The local planning authority to which the application for planning permission would, but for the section in question, have been made, are to be treated for the purposes of sub-paragraph (2)(a) as having granted the permission.”
- 23 (1) In Schedule 16, Part 1 (provisions which may be modified in relation to development relating to minerals etc.) is amended as follows.
- (2) For the entry relating to sections 61 and 62 substitute—
- “Section 61.  
    Sections 61Z to 61Z2.  
    Section 62.  
    Sections 62D to 62S.”
- (3) After the entry relating to section 70A insert—
- “Sections 71ZA and 71ZB.”
- (4) After the entry relating to section 100 insert—
- “Section 100A.”

## SCHEDULE 5

(introduced by section 51)

## COSTS AND PROCEDURE ON APPEALS ETC: FURTHER AMENDMENTS

*Highways Act 1980 (c. 66)*

- 1 The Highways Act 1980 is amended as follows.
- 2 (1) Section 121 is amended as follows.
- (2) In subsection (5D), after “above” insert “in England”.
- (3) In subsection (5E), after “above” insert “in England”.
- (4) After subsection (5E) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(5F) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under subsection (5A) above in Wales as it applies in relation to a hearing or inquiry mentioned in that section.”

3 In Schedule 6, in paragraph 2B—

- (a) in sub-paragraph (1), after “above” insert “in England”;
- (b) in sub-paragraph (3), after “above” insert “in England”;
- (c) after sub-paragraph (3) insert—

“(4) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under sub-paragraph (2) above in Wales as it applies in relation to a hearing or inquiry mentioned in that section.”

*Wildlife and Countryside Act 1981 (c. 69)*

4 The Wildlife and Countryside Act 1981 is amended as follows.

5 In section 28F, after subsection (11) insert—

“(12) In relation to Wales this section has effect as if for subsections (10) and (11) there were substituted—

“(10) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under this section in Wales as it applies in relation to a hearing or inquiry mentioned in that section.””

6 In section 28L, after subsection (13) insert—

“(14) In relation to Wales this section has effect as if for subsections (12) and (13) there were substituted—

“(12) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under this section in Wales as it applies in relation to a hearing or inquiry mentioned in that section.””

7 In Schedule 15, in paragraph 10A—

- (a) in sub-paragraph (1), after “8” insert “in England”;
- (b) in sub-paragraph (3), after “8” insert “in England”;
- (c) after sub-paragraph (3) insert—

“(4) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under paragraph 7 or 8 in Wales as it applies in relation to a hearing or inquiry mentioned in that section.”

*Town and Country Planning Act 1990 (c. 8)*

8 TCPA 1990 is amended as follows.

9 In section 175, in subsection (7), after “any proceedings” insert “in England”.

10 In section 196, in subsection (8), after “any proceedings” insert “in England”.

- 11 In section 208, omit subsection (11).
- 12 (1) Section 320 is amended as follows.
- (2) In subsection (1)—
- (a) after “Secretary of State” insert “or the Welsh Ministers”;
- (b) after “his” insert “or their”.
- (3) In subsection (2), for “held by virtue of this section” substitute “caused to be held under this section by the Secretary of State; and subsections (2) and (3) of that section apply to an inquiry caused to be held under this section by the Welsh Ministers”.
- (4) In subsection (3), for “held in England” substitute “caused to be held by the Secretary of State”.
- 13 (1) Section 322 is amended as follows.
- (2) Omit subsection (1AA).
- (3) In subsection (2), after “proceedings” insert “in England”.
- (4) In the heading, after “held” insert “: England”.
- 14 (1) Section 322A is amended as follows.
- (2) In subsection (1)(a), after “proceedings” insert “in England”.
- (3) Omit subsection (1B).
- 15 (1) Section 323 is amended as follows.
- (2) In subsection (1), after “proceedings” insert “in England”.
- (3) Omit subsection (1B).
- (4) In the heading, after “applications” insert “: England”.
- 16 (1) Schedule 6 is amended as follows.
- (2) In paragraph 6—
- (a) in sub-paragraph (4), after “paragraph” insert “in England”;
- (b) after sub-paragraph (4) insert—
- “(4A) Subsections (2) and (3) of that section apply to an inquiry held under this paragraph in Wales.”;
- (c) in sub-paragraph (5), after “proceedings” insert “in England”.
- (3) In paragraph 8, in sub-paragraph (1), after “hearing held” insert “in England”.
- 17 In Schedule 7, in paragraph 8—
- (a) in sub-paragraph (6), after “hearing held” insert “in England”;
- (b) after sub-paragraph (6) insert—
- “(6A) The power to make regulations under section 323A applies in relation to a local inquiry or other hearing held in Wales under this paragraph as it applies in relation to an inquiry or hearing held by the Welsh Ministers under this Act and as if references in section 323A(3) and (4) to the Welsh Ministers included references to a local planning authority.”

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- 18 In Schedule 8, in paragraph 5—
- (a) in sub-paragraph (3), after “inquiry held” insert “in England”;
  - (b) after sub-paragraph (3) insert—
    - “(3ZA) The power to make regulations under section 323A applies in relation to an inquiry held in Wales by a commission under this paragraph as it applies in relation to an inquiry held by the Welsh Ministers under this Act and as if references in section 323A(3) and (4) to the Welsh Ministers included references to a commission.”;
  - (c) in sub-paragraph (4), after “sub-paragraph (1)” insert “in England, and subsections (2) and (3) of that section shall apply in relation to an inquiry held under that sub-paragraph in Wales,”.

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

- 19 The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.
- 20 In section 41, in subsection (8), after “any proceedings” insert “in England”.
- 21 (1) Section 89 is amended as follows.
- (2) In subsection (1)—
- (a) in the entry relating to section 322, after “held” insert “: England”;
  - (b) after the entry relating to section 322A, insert—
    - “section 322C (costs: Wales),”;
  - (c) in the entry relating to section 323, after “applications” insert “: England”;
  - (d) after the entry relating to section 323, insert—
    - “section 323A (procedure for certain proceedings: Wales)”.
- (3) Omit subsection (1ZB).
- 22 In Schedule 3, in paragraph 6—
- (a) in sub-paragraph (4), after “paragraph” insert “in England”;
  - (b) after sub-paragraph (4) insert—
    - “(4A) Subsections (2) and (3) of that section apply to an inquiry held under this paragraph in Wales.”;
  - (c) in sub-paragraph (5), for “such inquiry” substitute “inquiry held by virtue of this paragraph”;
  - (d) in sub-paragraph (8), after “proceedings” insert “in England”.

*Planning (Hazardous Substances) Act 1990 (c. 10)*

- 23 The Planning (Hazardous Substances) Act 1990 is amended as follows.
- 24 In section 25, in subsection (5), after “any proceedings” insert “in England”.
- 25 (1) Section 37 is amended as follows.
- (2) In subsection (2)—
- (a) in the entry relating to section 322, after “held” insert “: England”;
  - (b) after the entry relating to section 322A, insert—
    - “section 322C (costs: Wales),”;



*Status: This is the original version (as it was originally enacted).*

- (c) in the entry relating to section 323, after “applications” insert “: England”;
- (d) after the entry relating to section 323, insert—  
“section 323A (procedure for certain proceedings: Wales)”.

(3) Omit subsection (4).

- 26 In the Schedule, in paragraph 6—
- (a) in sub-paragraph (4), after “paragraph” insert “in England”;
  - (b) after sub-paragraph (4) insert—  
“(4A) Subsections (2) and (3) of that section apply to an inquiry held under this paragraph in Wales.”;
  - (c) in sub-paragraph (5), for “such inquiry” substitute “inquiry held by virtue of this paragraph”;
  - (d) in sub-paragraph (8), after “proceedings” insert “in England”.

*Tribunals and Inquiries Act 1992 (c. 53)*

- 27 In section 16 of the Tribunals and Inquiries Act 1992, in subsection (1), in the definition of “statutory inquiry”, after paragraph (b) insert—

“but does not include an inquiry or hearing held or to be held in Wales under any provision of the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990.”.

SCHEDULE 6

(introduced by section 53(3))

TOWN AND VILLAGE GREENS: NEW SCHEDULE 1B TO THE COMMONS ACT 2006

“SCHEDULE 1B

EXCLUSION OF RIGHT UNDER SECTION 15: WALES

<i>Trigger events</i>	<i>Terminating events</i>
1. An application for planning permission for development of the land is granted under the 1990 Act, or a direction that planning permission for development of the land is deemed to be granted is given under section 90 of that Act.	<ul style="list-style-type: none"><li>(a) Where the planning permission is subject to a condition that the development to which it relates must be begun within a particular period, that period expires without the development having been begun.</li><li>(b) On the expiry of the period specified in a completion notice, the planning permission ceases to have effect in relation to the land by virtue of section 95(4) of the 1990 Act.</li><li>(c) An order made by the local planning authority or the Welsh Ministers under section 97 of the 1990 Act revokes the planning permission or modifies it so</li></ul>

*Status: This is the original version (as it was originally enacted).*

<i>Trigger events</i>	<i>Terminating events</i>
	that it does not apply in relation to the land.
	(d) The planning permission is quashed by a court.
2. A local development order which grants planning permission for operational development of the land is adopted for the purposes of paragraph 3 of Schedule 4A to the 1990 Act.	(a) The permission granted by the order for operational development of the land ceases to apply by virtue of a condition or limitation specified in the order under section 61C(1) of the 1990 Act.
	(b) A direction is issued under powers conferred by the order under section 61C(2) of the 1990 Act, with the effect that the grant of permission by the order does not apply to operational development of the land.
	(c) The order is revised under paragraph 2 of Schedule 4A to the 1990 Act so that it does not grant planning permission for operational development of the land.
	(d) The order is revoked under section 61A(6) or 61B(8) of the 1990 Act.
	(e) The order is quashed by a court.
3. An order granting development consent for development of the land is made under section 114 of the 2008 Act.	(a) The order granting development consent ceases to have effect by virtue of section 154(2) of the 2008 Act.
	(b) An order made by the Secretary of State under paragraph 2 or 3 of Schedule 6 to the 2008 Act changes the order granting development consent so that it does not apply in relation to the land.
	(c) An order made by the Secretary of State under paragraph 3 of Schedule 6 to the 2008 Act revokes the order granting development consent.
	(d) The order granting development consent is quashed by a court.

#### *Interpretation*

- 1 In this Schedule—
- “operational development” means any development within the meaning of the 1990 Act other than development which consists only of the making of a material change in the use of any buildings or other land;
- “the 1990 Act” means the Town and Country Planning Act 1990;
- “the 2008 Act” means the Planning Act 2008.
- 2 An event specified in the entry in the second column of the Table corresponding to paragraph 2 is not a terminating event in circumstances where the local

development order permits the completion of operational development of the land which began before the occurrence of the event.”

## SCHEDULE 7

(introduced by section 55)

### REGULATIONS AND ORDERS MADE BY WELSH MINISTERS

#### *Regulations under PCPA 2004*

- 1 (1) Section 122 of PCPA 2004 (regulations and orders) is amended as follows.
  - (2) In subsection (1)(b), for “National Assembly for Wales” substitute “Welsh Ministers”.
  - (3) In subsection (5)(g), for “National Assembly for Wales” substitute “Welsh Ministers”.
  - (4) After subsection (6) insert—
    - “(6A) Subsection (6) does not apply in relation to a statutory instrument containing subordinate legislation made by the Welsh Ministers.
    - (6B) The Welsh Ministers must not make a statutory instrument containing subordinate legislation which includes provision amending or repealing an enactment contained in primary legislation unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
    - (6C) A statutory instrument containing subordinate legislation made by the Welsh Ministers to which subsection (6B) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
  - (5) After subsection (10) insert—
    - “(11) In subsection (6B), “primary legislation” means—
      - (a) an Act of Parliament;
      - (b) an Act or Measure of the National Assembly for Wales.”
- 2 In Schedule 11 to the [Government of Wales Act 2006 \(c. 32\)](#) (transitional provisions), in paragraph 35(4), in Table 2, omit the entries relating to PCPA 2004.

#### *Regulations under TCPA 1990*

- 3 In section 333 of TCPA 1990 (regulations and orders), after subsection (3A) insert—
  - “(3B) Subsection (3) does not apply to a statutory instrument containing regulations made by the Welsh Ministers.
  - (3C) A statutory instrument containing regulations made by the Welsh Ministers under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
  - (3D) Subsection (3C) does not apply to a statutory instrument if—
    - (a) it contains only regulations under section 88(7),

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- (b) it contains (whether alone or with other provision) regulations under section 315, or
  - (c) it is within subsection (3F).
- (3E) The Welsh Ministers may not make a statutory instrument within subsection (3F) unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (3F) A statutory instrument is within this subsection if it contains (whether alone or with other provision) regulations under—
- (a) section 9, if the regulations include provision amending an Act of Parliament or an Act or Measure of the National Assembly for Wales;
  - (b) section 62D(3);
  - (c) section 62H;
  - (d) section 116;
  - (e) section 303;
  - (f) section 303ZA;
  - (g) section 316, if the regulations relate to land of the Welsh Ministers or to the development of land by the Welsh Ministers;
  - (h) section 319ZB.”
- 4 (1) TCPA 1990 is further amended as follows.
- (2) In section 116 (modification of compensation provisions in respect of mineral working etc)—
- (a) in subsection (3), after “shall be made” insert “by the Secretary of State”;
  - (b) in subsection (4)—
    - (i) after “Secretary of State” insert “or (as the case may be) the Welsh Ministers”;
    - (ii) after “him” insert “or them”.
- (3) In section 202A (tree preservation regulations: general), which is inserted by section 192(7) of the [Planning Act 2008 \(c. 29\)](#), omit subsections (6) and (7).
- (4) In section 208 (appeals against notices under section 207), omit subsections (4B) and (4C).
- (5) In section 303 (fees for planning applications etc)—
- (a) in subsection (8)—
    - (i) after “under this section” insert “by the Secretary of State”;
    - (ii) omit the words after “each House of Parliament”;
  - (b) omit subsection (9).
- (6) In section 303ZA (fees for appeals), which is inserted by section 200 of the [Planning Act 2008](#)—
- (a) in subsection (6)—
    - (i) after “under this section” insert “by the Secretary of State”;
    - (ii) omit the words after “each House of Parliament”;
  - (b) omit subsection (7).

- (7) In section 321B (special provision in relation to planning inquiries: Wales), omit subsection (6).

*Orders under TCPA 1990*

- 5 In section 59 of TCPA 1990 (development orders: general), after subsection (3) insert—

“(4) In this Act, references to a development order are—

- (a) in relation to England, references to a development order made by the Secretary of State;
- (b) in relation to Wales, references to a development order made by the Welsh Ministers.”

- 6 (1) Section 333 of TCPA 1990 is amended as follows.

(2) In subsection (4), after “power” insert “of the Secretary of State”.

(3) For subsection (4A) substitute—

“(4A) The power of the Welsh Ministers to make development orders and orders under sections 2(1B), 55(2)(f), 87(3), 149(3)(a), 293(1)(c) and 319B(9) is exercisable by statutory instrument.

(4B) A development order made by the Welsh Ministers may make different provision for different purposes, for different cases (including different classes of development) and for different areas.”

(4) In subsection (5)—

- (a) in paragraph (a), after “an order under” insert “subsection (1) of”;
- (b) in paragraph (b)—
  - (i) after “a development order” insert “made by the Secretary of State”;
  - (ii) after “an order” insert “made by the Secretary of State”;
  - (iii) omit “(unless it is made by the National Assembly for Wales)”.

(5) After subsection (5A) insert—

“(5B) A statutory instrument containing any of the following is subject to annulment in pursuance of a resolution of the National Assembly for Wales—

- (a) an order under subsection (1B) of section 2 which has been made after a local inquiry has been held in accordance with subsection (2) of that section,
- (b) a development order made by the Welsh Ministers, or
- (c) an order under section 87(3) or 149(3)(a) made by the Welsh Ministers.

(5C) The Welsh Ministers may not make a statutory instrument containing an order under section 62L(9), 293(1)(c) or 319B(9) unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.”

(6) In subsection (6)—

- (a) after “subsection (5)” insert “or (5B)”;

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*Status: This is the original version (as it was originally enacted).*

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- (b) after “each House of Parliament” insert “(in the case of an order made by the Secretary of State) or the National Assembly for Wales (in the case of an order made by the Welsh Ministers)”.

- 7 (1) TCPA 1990 is further amended as follows.
- (2) In section 78 (right to appeal against planning decisions and failure to take such decisions), omit subsections (4B) to (4D).
- (3) In section 195 (appeals against refusal or failure to give decision on application for certificate), omit subsections (1D) to (1F).
- (4) In section 293 (application of Act to Crown land: preliminary definitions), in subsection (5), after “order made” insert “by the Secretary of State”.
- (5) In section 319B (determination of procedure for certain proceedings), omit subsection (11).

*Regulations and orders under the Commons Act 2006*

- 8 (1) Section 59 of the [Commons Act 2006 \(c. 26\)](#) (orders and regulations) is amended as follows.
- (2) In subsection (3A), after “order under section 15C(5)” insert “made by the Secretary of State”.
- (3) After subsection (4) insert—
- “(5) A statutory instrument containing regulations under section 29(1) or an order under section 15C(5), 54 or 55 may not be made by the Welsh Ministers unless a draft has been laid before and approved by a resolution of the National Assembly for Wales.
- (6) Subject to subsection (5), a statutory instrument containing any order or regulations made under this Act by the Welsh Ministers other than an order under section 56 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- 9 In section 61(1) of that Act (interpretation), in the definition of “appropriate national authority”, for “National Assembly for Wales” substitute “Welsh Ministers”.