

PLANNING (WALES) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 Development Management etc

Section 39 – Exercise of functions of local planning authority relating to applications

148. Section 39(1) of the Act inserts sections 319ZA, 319ZB, 319ZC and 319ZD into the TCPA 1990.
149. Section 319ZA enables the Welsh Ministers to make regulations to require a local planning authority to delegate functions relating to planning applications. The terms of the delegation may be prescribed in the regulations. For example, regulations might provide for a national scheme of delegation relating to planning applications under Part 3 of the TCPA 1990. The scheme might make provision for all applications to be delegated to appointed officers for determination apart from certain exceptions.
150. Section 319ZB enables the Welsh Ministers to make regulations to prescribe the size and make up of any committee or sub-committee to which a planning function is delegated. It disapplies a provision of the Local Government Act 1972 whereby proceedings are not invalid if there is a vacancy in a committee or sub-committee.
151. This section also prevents a local planning authority from delegating a relevant function to a committee or sub-committee that does not satisfy the procedural requirements.
152. Section 319ZC supplements sections 319ZA and 319ZB. It provides that sections 101 and 102 of the Local Government Act 1972 are subject to sections 319ZA and 319ZB and any regulations made under those sections. (Section 101 allows local authorities to make arrangements for the discharge of their functions by a committee, sub-committee or officer, or by another local authority. Section 102 makes provision about the appointment by local authorities of committees and sub-committees.) References to arrangements under sections 101 and 102 of the 1972 Act in other legislation will apply to the arrangements required by the new sections 319ZA and 319ZB, this includes sections 13 and 20 of the Local Government and Housing Act 1989 (see below).
153. New section 319ZC enables regulations to make specific provision for cases where local planning authorities are exercising functions jointly or where one local planning authority exercises functions for another local planning authority.
154. Section 319ZD provides interpretation for the purposes of the above sections.
155. Section 39(2) of the Act makes a related amendment to section 316(3) of the TCPA 1990. Section 316 of TCPA 1990 deals with delegations in a particular type of case. The section confers a power to make regulations about the application of various Parts of TCPA 1990 to the land owned by local planning authorities. Under section 316(3) regulations may regulate a local planning authority's arrangements for discharging their functions when they determine applications relating to their own land, "notwithstanding anything in section 101 of the Local Government Act 1972". Section 39(2) of the Act

*These notes refer to the Planning (Wales) Act 2015 (c.4)
which received Royal Assent on 6 July 2015*

inserts a reference to sections 319ZA to 319ZC, so that regulations under section 316(3) will prevail over sections 319ZA to 319ZC in the same way.

156. Section 39(3) and (4) of the Act inserts references to new sections 319ZA to 319ZC into the lists of general provisions of TCPA 1990 that are applied to the Planning (Listed Buildings and Conservation Areas) Act 1990 and Planning (Hazardous Substances) Act 1990.
157. Regulations under the new sections may identify the functions to which their requirements are to apply and the new provisions can be applied to the Listed Buildings and Hazardous Substances Acts.
158. Section 39(5) of the Act amends sections 13 and 20 of the Local Government and Housing Act 1989 so that those sections apply to a joint planning board constituted for an area in Wales by an order under section 2(1B) of the TCPA 1990. Section 13 of the 1989 Act makes provision about the voting rights of certain people that local authorities appoint to committees. Section 20 enables the Welsh Ministers to make regulations specifying procedural provisions that local authorities must include in their standing orders. Both sections already apply to the other authorities in Wales that can be local planning authorities, and the amendments put joint planning boards in the same position.