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WELSH STATUTORY INSTRUMENTS

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**2019 No. 290 (W. 68)**

**TOWN AND COUNTRY PLANNING, WALES**

**The Developments of National Significance  
(Procedure) (Wales) (Amendment) Order 2019**

<i>Made</i>	- - - -	<i>18 February 2019</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>20 February 2019</i>
<i>Coming into force</i>	- -	<i>1 April 2019</i>

The Welsh Ministers, in exercise of the powers conferred on them by sections 61Z, 62R and 333 of the Town and Country Planning Act 1990<sup>(1)</sup>, and in exercise of the powers conferred on the Secretary of State by sections 59 and 62 of that Act<sup>(2)</sup> now exercisable by them<sup>(3)</sup> (as applied in the case of section 62 with modifications by the Developments of National Significance (Application of Enactments) (Wales) Order 2016)<sup>(4)</sup>, make the following Order:

**Title, commencement, application and interpretation**

1.—(1) The title of this Order is the Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019 and it comes into force on 1 April 2019.

(2) This Order does not apply to an application made or proposed to be made to the Welsh Ministers under section 62D of the Town and Country Planning Act 1990 before the date this Order comes into force.

(3) In this Order “the Procedure Order” means the Developments of National Significance (Procedure) (Wales) Order 2016<sup>(5)</sup>.

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- (1) 1990 c. 8. Section 61Z was inserted by section 17(3) of the [Planning \(Wales\) Act 2015 \(anaw 4\)](#) (“the 2015 Act”). Section 62R was inserted by section 25 of the 2015 Act. Section 333 was amended by: section 78 of, and paragraph 32(12) of Schedule 10 to, the Environment Act 1995 (c. 25); section 118(1) of, and paragraphs 1 and 4 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5); S.I. 2014/2773 (W. 280) and section 55 of, and paragraphs 3 and 6 of Schedule 7 to, the 2015 Act. There are other amendments to section 333 not relevant to this Order.
- (2) Section 59 was amended by section 27 of, and paragraph 3 of Schedule 4 to, and section 55 of, and paragraph 5 of Schedule 7 to, the 2015 Act. There are other amendments to section 59 not relevant to this Order.
- (3) The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Town and Country Planning Act 1990. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (4) S.I. 2016/54 (W. 24).
- (5) S.I. 2016/55 (W. 25), amended by S.I. 2017/567 (W. 136).

## Amendments to the Procedure Order

- 2.—(1) The Procedure Order is amended as follows.
- (2) In article 2 at the appropriate place insert—
- ““the Criteria Regulations” (“*y Rheoliadau Meini Prawf*”) means the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016(6);”.
- (3) In article 8—
- (a) at the end of paragraph (1)(b)(vii) omit “and”;
- (b) at the end of paragraph (1)(b)(viii) insert “; and”; and
- (c) after paragraph (1)(b)(viii) insert—
- “(ix) in the case of development within regulation 3(1)(ab) of the Criteria Regulations, a written statement about the length of the proposed line and its nominal voltage.”
- (4) In article 12—
- (a) at the end of paragraph (1)(b)(ix) omit “and”;
- (b) at the end of paragraph (1)(b)(x) insert “; and”; and
- (c) after paragraph (1)(b)(x) insert—
- “(xi) in the case of development within regulation 3(1)(ab) of the Criteria Regulations, a written statement about the length of the proposed line and its nominal voltage, and whether all necessary wayleaves have been agreed with owners and occupiers of land proposed to be crossed by the line.”
- (5) For Schedule 1, substitute the Schedule at Schedule 1 to this Order.
- (6) For Schedule 2, substitute the Schedule at Schedule 2 to this Order.
- (7) The amendments in Schedule 3 to this Order have effect.

18 February 2019

*Julie James*  
Minister for Housing and Local Government,  
one of the Welsh Ministers

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SCHEDULE 1

Article 2(5)

Substitution of Schedule 1 to the Procedure Order

“SCHEDULE 1

Articles 8 and 9(5)

Publicity and consultation before applying for planning permission  
The Developments of National Significance (Procedure) (Wales) Order 2016

**PUBLICITY AND CONSULTATION BEFORE APPLYING FOR PLANNING PERMISSION  
NOTICE UNDER ARTICLES 8 AND 9(2)**

(to be served on owners and/or occupiers of adjoining land, community consultees and relevant persons; displayed by site notice on or near the location of the proposed development; and published in a newspaper in the locality.)

Purpose of this notice : this notice provides the opportunity to comment directly to the developer on a proposed Development of National Significance (DNS) prior to the submission of a planning application to the Welsh Ministers. Planning applications for DNS will be publicised by the Welsh Ministers and the relevant local planning authority; any comments provided in response to this notice will not prejudice your ability to make representations to the Welsh Ministers on any related DNS planning application. You should note that any comments submitted may be placed on the public file.

Proposed development at (a) .....

I give notice that (b) .....

is intending to apply to the Welsh Ministers for planning permission in respect of Development of National Significance which is (c): .....

and considers that the following secondary consents are connected to the proposed application and that a decision in respect of those consents is to be made or should be made by the Welsh Ministers, or a person appointed by the Welsh Ministers for that purpose:

(d).....

You may inspect copies of:

- the proposed application;
- the plans; and
- other supporting documents

online at (e) .....

Anyone who wishes to make representations about this proposed development must write to the applicant/agent at

(f)..... or

(g).....

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by (h) .....

Signed: .....

Date: .....

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Insert:

- a) address or location of the proposed development
- b) applicant's name
- c) description of the proposed development
- d) details of secondary consents in respect of which the applicant considers a decision should be made by the Welsh Ministers, or a person appointed by the Welsh Ministers for that purpose (for the definition of "secondary consent" see section 62H of the Town and Country Planning Act 1990; secondary consents are prescribed for the purposes of section 62H by the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016)
- e) address of website
- f) email address of the applicant/agent
- g) address of the applicant
- h) date giving a period of 42 days, beginning with the date of service and publication"

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SCHEDULE 2

Article 2(6)

Substitution of Schedule 2 to the Procedure Order

“SCHEDULE 2

Article 9(5)

**Consultation before applying for planning permission  
The Developments of National Significance (Procedure) (Wales) Order 2016**

**CONSULTATION BEFORE APPLYING FOR PLANNING PERMISSION - NOTICE UNDER  
ARTICLE 9(3)**

(to be served on specialist consultees, as defined by article 2 of the Developments of National Significance (Procedure) (Wales) Order 2016)

**Purpose of this notice :** this notice comprises a formal request for a pre-application consultation response under article 9(3) of the Developments of National Significance (Procedure) (Wales) Order 2016.

Proposed development at (a) .....

**I give notice that (b) .....**

is intending to apply to the Welsh Ministers for planning permission in respect of Development of National Significance which is (c): .....

and considers that the following secondary consents are connected with the proposed application and that a decision in respect of those consents is to be made or should be made by the Welsh Ministers, or a person appointed by the Welsh Ministers for that purpose: (d).....

A copy of the proposed application; plans; and other supporting documents are attached/can be viewed online (delete as appropriate) at (e) .....

In accordance with the requirements of article 10 of the Developments of National Significance (Procedure) (Wales) Order 2016, a consultation response must be sent to (f) .....by (g).....

Signed: .....

Date: .....

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**Insert:**

- a) address or location of the proposed development
- b) applicant’s name
- c) description of the proposed development
- d) details of secondary consents in respect of which the applicant considers a decision should be made by the Welsh Ministers, or a person appointed by the Welsh Ministers for that purpose (for the definition of “secondary consent” see section 62H of the Town and Country Planning Act 1990; secondary consents are prescribed for the purposes of section 62H by the Developments of National Significance (Specified Criteria and Prescribed Secondary

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Consents) (Wales) Regulations 2016)

- e) address of website
- f) e-mail address of the applicant/agent
- g) date giving a period of 42 days, beginning with the date of service”

SCHEDULE 3

Article 2(7)

Duty to consult before the grant of planning permission

1. Schedule 5 to the Procedure Order is amended as follows
2. In the Table—
  - (a) for paragraph (h) substitute—

“(h)	(i) Development which has a direct physical impact on a scheduled monument. (ii) Development likely to be visible from a scheduled monument and which meets one of the following criteria— <ol style="list-style-type: none"> <li>a) it is within a distance of 0.5 kilometres from any point of the perimeter of a scheduled monument;</li> <li>b) it is within a distance of 1 kilometre from the perimeter of a scheduled monument and is 15 metres or more in height, or has an area of 0.2 hectares or more;</li> <li>c) it is within a distance of 2 kilometres from the perimeter of a scheduled monument and is 50 metres or more in height, or has an area of 0.5 hectares or more;</li> <li>d) it is within a distance of 3 kilometres from the perimeter of a scheduled monument and is 75 metres or more in height, or has an area of 1 hectare or more; or</li> <li>e) it is within a distance of 5 kilometres from the perimeter of a scheduled monument</li> </ol>	The Welsh Ministers”
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	and is 100 metres or more in height, or has an area of 1 hectare or more.	
(iii)	Development likely to affect the site of a registered historic park or garden or its setting;	
(iv)	Development within a registered historic landscape that requires an Environmental Impact Assessment;	
	or	
(v)	Development likely to have an impact on the outstanding universal value of a World Heritage Site	

- (b) omit paragraph (k); and  
(c) after paragraph (t) insert—

“(u)	Development— (i) on land designated as Flood Zone C2; (ii) involving or including emergency services development or highly vulnerable development on land designated as Flood Zone C1 or on land that has been notified to the local planning authority by the Natural Resources Body for Wales for the purpose of this provision	The Natural Resources Body for Wales
(v)	Any development	The water and sewerage undertaker concerned”

**3.** In the definitions given under the heading “Interpretation of Table”—

- (a) for paragraph (d) substitute—

“(d) in paragraph (h)—

- (i) “scheduled monument” (“*heneb gofrestredig*”) has the same meaning as in section 1(11) of the Ancient Monuments and Archaeological Area Act 1979 (scheduled monuments)(7);
- (ii) reference to the height of development is to be construed as a reference to its height when measured from ground level; and for the purposes of this paragraph “ground level” (“*lefel y ddaear*”) means the level of the surface of the ground immediately adjacent to the development in question or, where the level of the surface of the ground on which it is situated is not uniform, the level of the highest part of the surface adjacent to it;
- (iii) “registered historic park or garden” (“*parc hanesyddol cofrestredig neu ardd hanesyddol gofrestredig*”) and “registered historic landscape” (“*tirwedd hanesyddol gofrestredig*”) means the park, garden or landscape included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales maintained by the Welsh Ministers(8);

(7) 1979 c. 46.

(8) See <http://cadw.gov.wales/historicenvironment/protection/historiclandscapes/?lang=en>.

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- (iv) “World Heritage Site” (“*Safle Treftadaeth y Byd*”) means land appearing on the World Heritage List kept under article 11(2) of the UNESCO Convention for the Protection of the World Cultural and Natural Heritage adopted at Paris on 16<sup>th</sup> November 1972<sup>(9)</sup>”; and
- (b) after paragraph (i) insert—
- “(j) in paragraph (u)—
  - (i) “Flood Zone C1” (“*Parth Llifogydd C1*”) means an area of a floodplain which is developed and served by significant infrastructure, including flood defences<sup>(10)</sup>;
  - (ii) “Flood Zone C2” (“*Parth Llifogydd C2*”) means an area of a floodplain without significant flood defence infrastructure;
  - (iii) “emergency services development” (“*datblygiad gwasanaethau brys*”) and “highly vulnerable development” (“*datblygiad a all fod mewn perygl mawr*”) have the same meaning as set out in the Town and Country Planning (Notification) (Wales) Direction 2012<sup>(11)</sup>.”

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Developments of National Significance (Procedure) (Wales) Order 2016 (“the Procedure Order”).

Article 2 amends articles 8 and 12 of the Procedure Order. The amendments add requirements where development consists of the installation of certain kinds of overhead electric lines. The requirements relate to the information that a person proposing to make an application for planning permission must publish, and the content of that application.

Schedules 1 and 2 substitute the forms of notice at Schedules 1 and 2 to the Procedure Order to take account of the fact that decisions on consents connected with the development of certain overhead electric lines may be taken by a person appointed by the Welsh Ministers for that purpose.

Schedule 3 amends Schedule 5 to the Procedure Order. The effect of those amendments is to amend the requirements in respect of the specialist consultees who must, under article 22 of that Order, be consulted by the Welsh Ministers before the grant of planning permission.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with this Order.

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<sup>(9)</sup> See <http://whc.unesco.org/en/list>.

<sup>(10)</sup> Maps showing flood zones are available from the Welsh Government at <http://data.wales.gov.uk/apps/floodmapping>.

<sup>(11)</sup> Welsh Government Circular: 07/2012.