

PLANNING (WALES) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1

196. This Schedule inserts Schedule 2A into the PCPA 2004. It provides for the constitutional, financial and administrative arrangements of strategic planning panels.
197. Panels are bodies corporate. Paragraph 2 makes provision for the panel's membership. The total number of members is to be prescribed in regulations. No member of the panel can be employed by the panel.
198. Two thirds of a panel's members will be appointed by the constituent local planning authorities from among their eligible members. Paragraph 3 makes provision about the appointment of the local planning authority members of the panel. Regulations will specify the number to be appointed from each of the authorities but there will be at least one member from each authority.
199. One third of a panel's members will be nominated members appointed by the panel. Paragraph 4 makes provision for the nominated members to be appointed.
200. A panel may make a request to any person, organisation or body to nominate an appropriate person to become a nominated member of the panel. The panel must appoint the person put forward by the nominating body. Paragraph 4 also sets out the procedure when a nominating body fails to make a nomination. In such circumstances the panel is required to make a further request or make a request to another nominating body. The panel must appoint the person put forward by the nominating body.
201. [Paragraph 5](#) enables the Welsh Ministers to set out in regulations requirements about the composition of strategic planning panels including gender balance. The regulations may set out how the requirements are to be met, whether there are any exceptions to the requirements, what should happen if the requirements relating to composition are not met and gives the Welsh Ministers powers to intervene if the requirement is not met.
202. [Paragraph 6](#) makes provision for Welsh Ministers to publish (and amend) standard terms of appointment for the panel and for the Welsh Ministers to be notified of each member appointed to the panel.
203. [Paragraph 7](#) specifies the form of allowances the panel's members may receive. They can only be reimbursed for any expenses incurred in carrying out their functions, for example in relation to the work the panel must do to produce and keep under review the strategic development plan and any incidental work such as making representations on local development plans in their area. The Independent Remuneration Panel for Wales currently sets the range and levels of payments and allowances payable to local authority members and members of other bodies in accordance with Part 8 of the Local Government (Wales) Measure 2011. Part 2 of Schedule 1 to the Act amends the Measure to cover the setting of payments to panel members (see below).

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(c.4) which received Royal Assent on 6 July 2015*

204. [Paragraph 8](#) provides that panel members can resign and the panel can terminate the membership of individual members. This paragraph also sets out the grounds on which a member may be removed from the panel. If the panel decides to terminate someone's membership the panel must give the reasons for the decision to the member. The panel must notify the relevant local planning authority if a local planning authority member is removed.
205. [Paragraph 9](#) provides for local planning authorities to be able to remove their members from the panel. If the local planning authority decides to remove the member from the panel it must notify the panel and the Welsh Ministers. It also provides that if a person ceases to be an eligible member of a local planning authority the person's membership of the panel ends automatically; but members who are re-elected are able to remain on the panel.
206. [Paragraph 10](#) provides that the panel must appoint a chair and a deputy chair from amongst the local planning authority members of a panel. A member may not be appointed chair or deputy chair for more than one year at a time, but may be re-appointed. If the local planning authority member is no longer a member of the panel, that member ceases to be the chair or deputy chair.
207. [Paragraph 11](#) provides the panel with the ability to employ staff and determine their terms and conditions.
208. [Paragraph 12](#) provides that the panel is able to delegate certain functions. The panel cannot delegate its statutory responsibility for deciding whether a strategic development plan is ready for independent examination or adoption of the plan. Neither can it delegate the function of appointing nominated members to the panel. The panel can delegate functions to a committee of the panel or a member of the panel or the panel's staff. However any function that has been delegated can still be carried out by the panel. The panel remains responsible for any function it has delegated.
209. [Paragraph 13](#) provides that the nominated members of the panel are not entitled to vote.
210. [Paragraph 14](#) provides that the panel is to make and publish standing orders, which can be revised. The standing orders are to set out the procedures by which the panel will operate. The standing orders must contain provision which requires at least half of the local planning authority members to be present for proceedings to be voted upon at meetings.
211. [Paragraph 15](#) provides that meetings should be open to the public. If any meetings are not to be open to the public the standing orders must explain under what circumstances the public is to be excluded. The time, date, location and agenda are to be advertised before any meeting. All the information considered by the panel including the minutes of their meetings will also be available unless they relate to meetings which exclude the public.
212. [Paragraph 16](#) provides that the local planning authorities within the strategic planning area are to be responsible for financing the panel. The description of qualifying expenditure for which the relevant local planning authorities are responsible will be set out in regulations.
213. [Paragraph 17](#) provides for the process by which the panel will determine the proportion of its qualifying expenditure that must be met by each local planning authority. The panel will be responsible for drafting the proposals and consulting on them with the relevant local planning authorities and the Welsh Ministers. The panel may revise its proposal within a financial year and if it does, it will also need to consult the relevant local planning authorities and the Welsh Ministers. If the local planning authorities have agreed an apportionment then the panel's determination must reflect the agreed apportionment.

214. [Paragraph 18](#) provides that the panel must prepare and publish an annual work programme, including a description of the activities that the panel intends to undertake in the next financial year. The panel will need to forecast its expenditure in relation to the carrying out its functions and the qualifying expenditure. The panel must have a draft and publish the work programme by certain dates within the preceding financial year. The draft must be considered by each relevant local planning authority and the Welsh Ministers and the panel must consider those responses. The same process must be followed for a revision of the programme. The panel may revise its work programme and if it does, it will need to consult the local planning authority and the Welsh Ministers.
215. [Paragraph 19](#) provides that for each year other than its first financial year, a panel must give advance notice to the constituent local planning authorities of the amounts that each authority is to contribute for the forthcoming financial year and each authority must pay the amount. It also makes provision for the revision of the apportionments of qualifying expenditure and revision of the estimated qualifying expenditure in the work programme. If the revised amount is greater than the amount already paid to the panel the local planning authority must pay the difference by the end of the month following the notice to the authority of the new amount. If the revised amount is less than the amount already paid to the panel, the panel must pay back the difference to the local planning authority.
216. [Paragraph 20](#) provides that the panel may receive grant funding or borrow money or receive other payments from the Welsh Ministers. The panel cannot borrow money from any other person. Any payments may be subject to conditions.
217. [Paragraph 21](#) provides that the panel must keep accounts. The form and content of statements of accounts must comply with any direction given by the Welsh Ministers. These statements must be prepared by 30th November following the end of each financial year. The panel must submit statements to the Auditor General for Wales, the relevant local planning authorities and the Welsh Ministers. The Auditor General for Wales must audit each statement of accounts and report to the local planning authorities and the Welsh Ministers within 4 months of the statement being submitted.
218. [Paragraph 22](#) provides that the panel is to prepare an annual report which will detail the work that it has carried out over the financial year. This is to be published to the same deadline as the statement of accounts. The local planning authorities and the Welsh Ministers must receive a copy of the report.
219. [Paragraph 23](#) defines the financial year for the panel (1 April to 31 March) and makes provision in relation to the first financial year of the panel.
220. [Paragraph 24](#) provides that the panel and any local planning authority must have regard to guidance issued by the Welsh Ministers.
221. [Paragraph 25](#) provides powers for the Welsh Ministers to direct a panel or a constituent local authority to take the steps that they consider appropriate where they think that a panel or an authority is failing to do anything that it is required to do in relation to “relevant requirements”. Relevant requirements are the requirements set out in the Schedule for the appointment of members of a panel, the appointment of chair and deputy chair, making standing orders and arrangements relating to qualifying expenditure of a panel. The Welsh Ministers are given the power to do anything in place of the panel to comply with any relevant requirements, and to charge the panel for any work carried out on its behalf.
222. [Paragraph 26](#) provides that regulations may enable the Welsh Ministers to issue a direction requiring a constituent planning authority to provide a panel with staff and other services to enable the panel to carry out functions in its first financial year and to specify the terms of the services to be provided if the panel and an authority cannot

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agree. It also allows regulations made under section 60D of the PCPA 2004 to provide for the transfer of property, rights and liabilities.

223. [Paragraph 27](#) provides the interpretation of terms used in the Schedule.
224. [Paragraph 28](#) enables the Welsh Ministers to change the Schedule through regulations. The regulations are subject to affirmative procedure, which means they cannot be made unless approved by resolution of the Assembly (see amendments to section 122 of PCPA 2004 in paragraph 1 of Schedule 7).
225. [Part 2](#) of Schedule 1 makes consequential amendments to other Acts and Measures.
226. Section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) is amended to include a strategic planning panel in the list of bodies, This means that a local authority and a strategic planning panel may enter into an agreement about the supply of goods and services by a local authority to a panel.
227. Section 80 of the Local Government Act 1972 (disqualifications for election and holding office as member of local authority) is amended so that an employee of a strategic planning panel is disqualified from being elected or being a member of a local authority which is a constituent local planning authority in relation to that panel.
228. Section 83 of the Local Government Act 2000 (conduct of members and employees of local authorities in Wales: interpretation) is amended so that if a person is suspended for misconduct under Part 2 of that Act from being a member of a constituent authority, that person is also suspended from being a member of a strategic planning panel.
229. Part 2 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: local government) is amended to include a strategic planning panel so that there will be a general right of access to information held by a panel in accordance with the Freedom of Information Act 2000.
230. Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (investigation of complaints etc: listed authorities) is amended to include a strategic planning panel as a body falling within the remit of the Public Services Ombudsman for Wales.
231. Part 2 of Schedule 19 to the Equality Act 2010 is amended to include a strategic planning panel as a body which is subject to the public sector equality duty under that Act.
232. [Schedule 6](#) to the Welsh Language (Wales) Measure 2011 is amended to include a strategic planning panel as a body liable to be required to comply with service delivery standards, policy making standards, operational standards, promotion standards and record keeping standards in accordance with the Measure.
233. Section 144 of the Local Government (Wales) Measure 2011 is amended to include a strategic planning panel as a body in respect of whose members the Independent Remuneration Panel for Wales may set expenses.