

## 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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### *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.

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## 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,”.

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*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;”.



*Status: This is the original version (as it was originally enacted).*

- 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.

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*Status: This is the original version (as it was originally enacted).*

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*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  
4DEXERCISE 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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*Status: This is the original version (as it was originally enacted).*

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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.

*Status: This is the original version (as it was originally enacted).*

*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.

- (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”;

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*Status: This is the original version (as it was originally enacted).*

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- (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;

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- “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—

“(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”.

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*Status: This is the original version (as it was originally enacted).*

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- 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.”

- 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),”;

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- (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>

<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).

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*Status: This is the original version (as it was originally enacted).*

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- (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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- (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”.