



# Infrastructure (Wales) Act 2024

2024 asc 3

## PART 6

### INFRASTRUCTURE CONSENT ORDERS

#### *Effect of infrastructure consent orders*

#### **94 Duration of infrastructure consent order**

- (1) Development for which infrastructure consent is granted must be begun before the end of—
  - (a) the specified period, or
  - (b) such other period (whether longer or shorter than the specified period) as is specified in the order granting the consent.
- (2) If the development is not begun before the end of the period applicable under subsection (1), the infrastructure consent order ceases to have effect at the end of that period.
- (3) Where an infrastructure consent order authorises the compulsory acquisition of land, steps of a kind specified in regulations must be taken in relation to the compulsory acquisition before the end of—
  - (a) the specified period, or
  - (b) such other period (whether longer or shorter than the specified period) as is specified in the order.
- (4) If steps of the description specified in regulations are not taken before the end of the period applicable under subsection (3), the authority to compulsorily acquire the land under the order ceases to have effect.
- (5) In this section, “specified period” means a period specified in regulations.

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## 95 When development begins

- (1) For the purposes of sections 90 and 94 development is taken to begin on the earliest date on which any material operation comprised in, or carried out for the purposes of, the development begins to be carried out.
- (2) “Material operation” means any operation except an operation of a kind specified in regulations.

## 96 Legal challenges

- (1) A court may entertain proceedings for questioning an infrastructure consent order only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day—
    - (i) on which the order is published, or
    - (ii) if later, the day on which the statement of reasons for making the order is published.
- (2) A court may entertain proceedings for questioning a refusal of infrastructure consent only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day on which the statement of reasons for the refusal is published.
- (3) A court may entertain proceedings for questioning a decision under section 33 not to accept an application as a valid application for infrastructure consent only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day on which the applicant is notified as required by subsection (4) of that section.
- (4) A court may entertain proceedings for questioning a decision under section 87 in relation to an error in a decision document only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day on which a notice is given to the applicant under section 87(5) or, if the correction is required to be made by order contained in a statutory instrument, the day after the day on which the order is published.
- (5) A court may entertain proceedings for questioning a decision under section 90(1) to make a change to or revoke an infrastructure consent order only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day on which notice of the change is given under section 91(6) or, if the change or revocation is required to be made by order contained in a statutory instrument, the day after the day on which the order making the change or revocation is published.
- (6) A court may entertain proceedings for questioning anything else done, or omitted to be done, by an examining authority or the Welsh Ministers in relation to an application for

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infrastructure consent or an application to change or revoke an infrastructure consent order only if—

- (a) the proceedings are brought by a claim for judicial review, and
- (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the relevant day.

(7) “The relevant day” means—

- (a) in relation to an application for infrastructure consent, the day on which—
  - (i) the application is withdrawn,
  - (ii) the infrastructure consent order is published or (if later) the statement of reasons for making the order is published, or
  - (iii) the statement of reasons for the refusal of infrastructure consent is published;
- (b) in relation to an application for change or revocation of an infrastructure consent order, a day specified in regulations.

(8) Subsections (6) and (7) do not apply in relation to—

- (a) a failure to decide an application for infrastructure consent or an application to change or revoke an infrastructure consent order, or
- (b) anything which delays (or is likely to delay) the decision on such an application.

## **97 Benefit of infrastructure consent order**

- (1) If an infrastructure consent order is made in respect of any land, the order has effect for the benefit of the land and all persons for the time being interested in the land.
- (2) Subsection (1) is subject to any contrary provision made in the order.

## **98 Planning obligations**

- (1) The TCPA 1990 is amended as follows.
- (2) In section 106 (planning obligations)—
  - (a) after subsection (1A) insert—

“(1B) In the case of an infrastructure consent obligation, the reference to development in subsection (1)(a) includes anything that constitutes development for the purposes of the Infrastructure (Wales) Act 2024.”;
  - (b) in subsection (9) after paragraph (aa) insert—

“(ab) if the obligation is an infrastructure consent obligation, contains a statement to that effect;”;
  - (c) after subsection (14) insert—

“(15) In this section and section 106A “infrastructure consent obligation means a planning obligation entered into in connection with an application (or a proposed application) for an infrastructure consent order.”
- (3) In section 106A(11) (modification and discharge of planning obligations: meaning of “the appropriate authority”) after paragraph (a) insert—

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“(zaa) the Welsh Ministers, in the case of any infrastructure consent obligation;”.

(4) In section 106B(1) (appeals) after “Secretary of State” insert “or the Welsh Ministers”.

(5) After section 106C insert—

**“106D Legal challenges relating to infrastructure consent obligations**

- (1) This section applies where an application has been made to the Welsh Ministers under section 106A.
- (2) A court may entertain proceedings for questioning a failure by the Welsh Ministers to give notice as mentioned in section 106A(7) only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day on which the period prescribed under section 106A(7) ends.
- (3) A court may entertain proceedings for questioning a determination by the Welsh Ministers that a planning obligation is to continue to have effect without modification only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the period of 6 weeks beginning with the day after the day on which notice of the determination is given under section 106A(7).”

**99 Blighted land**

(1) TCPA 1990 is amended as follows.

(2) In Schedule 13 (blighted land)—

(a) after paragraph 24 insert—

“24ZA Land falls within this paragraph if—

- (a) the compulsory acquisition of the land is authorised by an infrastructure consent order, or
- (b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by an infrastructure consent order are exercisable, or
- (c) an application for infrastructure consent seeks authority to compulsorily acquire the land.”;

(b) after paragraph 25 insert—

*“Land identified in infrastructure policy statements*

- 26 (1) Land falls within this paragraph if the land is in a location identified in an infrastructure policy statement as suitable (or potentially suitable) for a specified kind of development.
- (2) Land ceases to fall within this paragraph when the infrastructure policy statement—
  - (a) ceases to have effect, or

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- (b) ceases to identify the land as suitable or potentially suitable for that kind of development.”
- (3) In section 150(1)(b) (notices requiring purchase of blighted land)—
- (a) for “or paragraph 24 ” substitute “, paragraph 24 or paragraph 24ZA”;
  - (b) after “within paragraph 24(c)” insert “or 24ZA(c)”.
- (4) In section 151 (counter-notices objecting to blight notices) after subsection (7A) insert—
- “(7B) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of paragraph 26 of Schedule 13 do not include those mentioned in subsection (4)(b).”
- (5) After section 165A (power of Secretary of State to acquire land identified in national policy statements where blight notice served) insert—

**““165B Power of Welsh Ministers to acquire land identified in infrastructure policy statements where blight notice served**

Where a blight notice has been served in respect of land falling within paragraph 26 of Schedule 13, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.”

- (6) In section 169 (meaning of “the appropriate authority” for purposes of Chapter 2 of Part 6)—
- (a) after subsection (7) insert—
- “(7A) In relation to land falling within paragraph 26 of Schedule 13, “the appropriate authority” is—
- (a) if the infrastructure policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;
  - (b) in any other case, the Welsh Ministers.
- (7B) If any question arises by virtue of subsection (7A)—
- (a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Welsh Ministers or a statutory undertaker; or
  - (b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes, that question must be referred to the Welsh Ministers, whose decision is final.”;
- (b) in subsection (8), for “and (7)” substitute “, (7), (7A) and (7B)”.
- (7) In section 170 (“appropriate enactment” for purposes of Chapter 2) after subsection (8C) insert—
- “(8D) In relation to land falling within paragraph 24ZA(a) or (b) of that Schedule, “the appropriate enactment” is the infrastructure consent order.

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(8E) In relation to land falling within paragraph 24ZA(c) of that Schedule, “the appropriate enactment” is an infrastructure consent order in the terms of the order applied for.

(8F) In relation to land falling within paragraph 26 of that Schedule, “the appropriate enactment is section 165B.”

(8) In section 171(1) (general interpretation of Chapter 2 of Part 6) at the appropriate place insert—

““infrastructure policy statement has the meaning given by section 127(2) of the Infrastructure (Wales) Act 2024;”.

### **100 Nuisance: statutory authority**

(1) This subsection confers statutory authority for—

- (a) carrying out development for which infrastructure consent is granted;
- (b) doing anything else authorised by an infrastructure consent order.

(2) Statutory authority under subsection (1) is conferred only for the purpose of providing a defence in civil or criminal proceedings for nuisance.

(3) Subsections (1) and (2) are subject to any contrary provision made in an infrastructure consent order.

### **101 Compensation in case where defence of statutory authority applies**

(1) This section applies if, by virtue of section 100, or an infrastructure consent order, there is a defence of statutory authority in civil or criminal proceedings for nuisance in respect of any authorised works.

(2) “Authorised works” are—

- (a) development for which infrastructure consent is granted;
- (b) anything else authorised by an infrastructure consent order.

(3) A person by whom or on whose behalf any authorised works are carried out must pay compensation to any person whose land is injuriously affected by the carrying out of the works.

(4) A dispute as to whether compensation under subsection (3) is payable, or as to the amount of the compensation, must be referred to the Upper Tribunal.

(5) Subsection (2) of section 10 of the Compulsory Purchase Act 1965 (c. 56) (“the 1965 Act”) (limitation on compensation) applies to subsection (3) of this section as it applies to that section.

(6) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of subsection (3) of this section (with any necessary modifications).

(7) Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works) applies in relation to authorised works as if—

- (a) references in that Part to any public works were to authorised works;

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- (b) references in that Part to the responsible authority were to the person for whose benefit the infrastructure order has effect for the time being;
  - (c) sections 1(6) and 17 were omitted.
- (8) An infrastructure consent order may not include provision the effect of which is to remove or modify the application of any of subsections (1) to (7).