



# Infrastructure (Wales) Act 2024

2024 asc 3

An Act of Senedd Cymru to reform the law governing the development of significant infrastructure in Wales and the Welsh marine area; and for connected purposes. [3 June 2024]

**Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:**

## PART 1

### SIGNIFICANT INFRASTRUCTURE PROJECTS

#### *Key term*

#### **1 Meaning of “significant infrastructure project”**

In this Act, a “significant infrastructure project” means—

- (a) development specified in this Part as a significant infrastructure project;
- (b) development specified in a direction made by the Welsh Ministers under section 22 as a significant infrastructure project;
- (c) development specified in the National Development Framework for Wales under section 60(3) of the Planning and Compulsory Purchase Act 2004 (c. 5) as a significant infrastructure project.

#### *Energy*

#### **2 Electricity infrastructure**

(1) The following kinds of development are significant infrastructure projects—

- (a) the construction of—
  - (i) a generating station in Wales (other than a wind generating station), or
  - (ii) a generating station in the Welsh marine area,

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that is expected to have an installed generating capacity of between 50 and 350 megawatts when constructed;

- (b) the extension or alteration of—
  - (i) a generating station in Wales (other than a wind generating station), or
  - (ii) a generating station in the Welsh marine area,
 where the effect of the extension or alteration is expected to increase the installed generating capacity by at least 50 megawatts, but not so that the installed generating capacity exceeds 350 megawatts;
- (c) the construction of a wind generating station in Wales that is expected to have an installed generating capacity of at least 50 megawatts when constructed;
- (d) the extension or alteration of a wind generating station in Wales where the effect of the extension or alteration is expected to increase the installed generating capacity by at least 50 megawatts;
- (e) the installation of an electric line above ground in Wales that is—
  - (i) expected to have a nominal voltage of 132 kilovolts and be no less than 2 kilometres long (to the extent it is in Wales), and
  - (ii) associated with the construction, extension or alteration of a generating station to which paragraphs (a) to (d) apply.

(2) In this section—

“installed generating capacity” (“*capasiti cynyrchu gosodedig*”) means the maximum capacity of electricity generation (in megawatts) at which that generating station could be operated for a sustained period without damage being caused to it (assuming the source of energy used to generate electricity is available without interruption);

“wind generating station” (“*gorsaf ynni gwynt*”) means a generating station which generates electricity from wind.

### 3 **Liquified natural gas facilities**

(1) The construction of an LNG facility in Wales or the Welsh marine area is a significant infrastructure project if—

- (a) the storage capacity of the facility is expected to be at least 43 million standard cubic metres, or
- (b) the maximum flow rate of the facility is expected to be at least 4.5 million standard cubic metres per day.

(2) The alteration of an LNG facility in Wales or the Welsh marine area is a significant infrastructure project if the expected effect of the alteration is to increase—

- (a) the storage capacity of the facility by at least 43 million standard cubic metres, or
- (b) the maximum flow rate of the facility by at least 4.5 million standard cubic metres per day.

(3) In this section—

“LNG facility” (“*cyfleuster LNG*”) means a facility for—

- (a) the reception of liquid natural gas from outside Wales and the Welsh marine area,
- (b) the storage of that gas, and
- (c) the regasification of that gas;

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“maximum flow rate” (“*cyfradd llif uchaf*”) means the maximum rate at which gas is able to flow out of the facility, on the assumption that—

- (a) the facility is filled to maximum capacity, and
- (b) the rate is measured after regasification of the liquid natural gas and any other processing required on the recovery of the gas from storage;

“storage capacity” (“*cynhwysedd storio*”) means the capacity of the facility for storage of liquid natural gas measured as if the gas were stored in regasified form.

#### 4 Gas reception facilities

(1) The construction of a gas reception facility is a significant infrastructure project if—

- (a) the facility is in Wales or the Welsh marine area,
- (b) the facility is within subsection (3), and
- (c) the maximum flow rate of the facility is expected to be at least 4.5 million standard cubic metres per day.

(2) The alteration of a gas reception facility is a significant infrastructure project if—

- (a) the facility is in Wales or the Welsh marine area,
- (b) the facility is within subsection (3), and
- (c) the expected effect of the alteration is to increase the maximum flow rate of the facility by at least 4.5 million standard cubic metres per day.

(3) A gas reception facility is within this subsection if the gas handled by the facility—

- (a) does not originate in—
  - (i) Wales or the Welsh marine area,
  - (ii) England or waters adjacent to England up to the seaward limits of the territorial sea,
  - (iii) Scotland or waters adjacent to Scotland up to the seaward limits of the territorial sea, or
  - (iv) the Renewable Energy Zone,
- (b) does not arrive at the facility from England or Scotland, and
- (c) has not already been handled at another facility after its arrival in Wales or the Welsh marine area.

(4) In this section—

“gas reception facility” (“*cyfleuster derbyn nwy*”) means a facility for—

- (a) the reception of natural gas in gaseous form from outside Wales and the Welsh marine area, and
- (b) the handling of natural gas (other than its storage);

“maximum flow rate” (“*cyfradd llif uchaf*”) means the maximum rate at which gas is able to flow out of the facility;

“Renewable Energy Zone” has the meaning given by section 84(4) of the Energy Act 2004 (c. 20).

#### 5 Hydraulic fracturing for oil and gas and coal gasification

The following developments are significant infrastructure projects—

- (a) the exploration, appraisal or production of coal bed methane, shale oil or shale gas using hydraulic fracturing in Wales or the Welsh marine area, except the

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making of exploratory boreholes for the purpose of core sampling in a way that does not involve the carrying out of hydraulic fracturing;

- (b) the gasification of coal in the strata in Wales or the Welsh marine area, except the making of exploratory boreholes for the purpose of core sampling.

## 6 **Open cast coal mining**

The carrying out of operations in Wales for the purpose of—

- (a) creating an open cast coal mine, or
  - (b) winning and working of coal from an open cast mine,
- is a significant infrastructure project.

### *Transport*

## 7 **Highways**

- (1) The following kinds of development are significant infrastructure projects—
  - (a) the construction of a highway in a case falling within subsection (2);
  - (b) the alteration or improvement of a highway in a case falling within subsection (3),
 unless they are excluded by any of subsections (4) to (6).
- (2) Construction of a highway is within this subsection only if—
  - (a) the highway will (when constructed) be in Wales,
  - (b) the Welsh Ministers will be the highway authority for the highway, and
  - (c) the highway (when constructed) will be a continuous length of more than 1 kilometre.
- (3) Alteration or improvement of a highway is within this subsection only if—
  - (a) the highway will (when constructed) be in Wales,
  - (b) the Welsh Ministers will be the highway authority for the highway, and
  - (c) the alteration or improvement is likely to have a significant effect on the environment.
- (4) This section does not apply to the construction, alteration or improvement of a highway if—
  - (a) an order mentioned in section 20(3) has been made in relation to the development before the coming into force of that section,
  - (b) a further order is needed in relation to the development, and
  - (c) not more than 7 years have elapsed since the making of the earlier order.
- (5) This section does not apply to the alteration of a highway if—
  - (a) planning permission has been granted for a development,
  - (b) the alteration is necessary as a result of the development, and
  - (c) the developer has asked for the alteration to be made to the highway.
- (6) This section does not apply to the alteration of a highway if—
  - (a) an order mentioned in section 20(3) has been made in relation to local highway works,
  - (b) the alteration is necessary as a result of the local highway works, and

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- (c) the local highway authority responsible for the local highway works has asked for the alteration to be made to the highway.

(7) In this section—

“local highway authority” (“*awdurdod priffyrdd lleol*”) has the meaning given by section 329(1) of the Highways Act 1980 (c. 66);

“local highway works” (“*gwaith priffordd leol*”) means works carried out by or on behalf of a local highway authority in relation to a highway for which it is the highway authority (and the local highway authority is referred to in this section as “responsible” for those works).

## 8 Railways

(1) The construction of a railway is a significant infrastructure project if—

- (a) the railway will (when constructed) start, end and remain in Wales,
- (b) the railway will (when constructed) be part of a network operated by an approved operator,
- (c) the railway will (when constructed) include a stretch of track that is a continuous length of more than 2 kilometres, and
- (d) the construction of the railway is not permitted development.

(2) The alteration of a railway is a significant infrastructure project if—

- (a) the part of the railway to be altered is part of a railway that starts, ends and remains in Wales,
- (b) the railway is part of a network operated by an approved operator,
- (c) the alteration of the railway will include laying a stretch of track that is a continuous length of more than 2 kilometres, and
- (d) the construction of the railway is not permitted development.

(3) This section does not apply to construction or alteration of a railway to the extent that the railway forms part (or will when constructed form part) of a rail freight interchange.

(4) In this section—

“approved operator” (“*gweithredwr a gymeradwywyd*”) means—

- (a) a person who is authorised to be the operator of a network by a licence granted under section 8 of the Railways Act 1993 (c. 43) (licences for operation of railway assets), or
- (b) a wholly-owned subsidiary of a company that is such a person;

“network” (“*rhwydwaith*”) has the meaning given by section 83(1) of the Railways Act 1993 (c. 43);

“permitted development” (“*datblygu a ganiateir*”) means development in relation to which planning permission is granted by article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418) (as it has effect from time to time);

“wholly-owned subsidiary” (“*is-gwmni o dan berchnogaeth lwyr*”) has the same meaning as in the Companies Act 2006 (c. 46) (see section 1159 of that Act).

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## 9 Rail freight interchanges

- (1) The construction of a rail freight interchange is a significant infrastructure project if (when constructed) each of the conditions in subsections (3) to (7) is expected to be met in relation to it.
- (2) The alteration of a rail freight interchange is a significant infrastructure project if—
  - (a) following the alteration, each of the conditions in subsections (3)(a) and (4) to (7) is expected to be met in relation to it, and
  - (b) the alteration is expected to have the effect specified in subsection (8).
- (3) The land on which the rail freight interchange is situated must—
  - (a) be in Wales, and
  - (b) be at least 60 hectares in area.
- (4) The rail freight interchange must be capable of handling—
  - (a) consignments of goods from more than one consignor and to more than one consignee, and
  - (b) at least four goods trains per day.
- (5) The rail freight interchange must be part of the railway network in Wales.
- (6) The rail freight interchange must include warehouses to which goods can be delivered from the railway network in Wales either directly or by means of another form of transport.
- (7) The rail freight interchange must not be part of a military establishment.
- (8) The effect referred to in subsection (2)(b) is to increase by at least 60 hectares the area of the land on which the rail freight interchange is situated.
- (9) In this section—
 

“goods train” (“*trên nwyddau*”) means a train that (ignoring any locomotive) consists of items of rolling stock designed to carry goods;

“military establishment” (“*sefydliad milwrol*”) means an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence.
- (10) The following terms have the meanings given by section 83(1) of the Railways Act 1993 (c. 43)—
 

“network” (“*rhwydwaith*”);

“rolling stock” (“*cerbydau rheilffyrdd*”);

“train” (“*trên*”).

## 10 Harbour facilities

- (1) The construction of harbour facilities is a significant infrastructure project if (when constructed) the harbour facilities—
  - (a) will be wholly in Wales, the Welsh marine area or both,
  - (b) will not be, or will not form part of, a reserved trust port, and
  - (c) are expected to be capable of handling the embarkation or disembarkation of at least the relevant quantity of material per year.
- (2) The alteration of harbour facilities is a significant infrastructure project if—

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- (a) the harbour facilities are wholly in Wales, the Welsh marine area or both,
  - (b) the harbour facilities are not, or do not form part of, a reserved trust port, and
  - (c) the effect of the alteration is expected to be to increase by at least the relevant quantity per year the quantity of material the embarkation or disembarkation of which the facilities are capable of handling.
- (3) “The relevant quantity” is—
- (a) in the case of facilities for container ships, 50,000 TEU;
  - (b) in the case of facilities for roll-on roll-off ships, 25,000 units;
  - (c) in the case of facilities for cargo ships of any other description, 500,000 tonnes;
  - (d) in the case of facilities for more than one of the types of ships mentioned in paragraphs (a) to (c), an equivalent quantity of material.
- (4) For the purposes of subsection (3)(d), facilities are capable of handling an equivalent quantity of material if the sum of the relevant fractions is one or more.
- (5) The relevant fractions are—
- (a) to the extent that the facilities are for container ships—

$$\frac{x}{50,000}$$

*Figure 1*

where x is the number of TEU that the facilities are capable of handling;

- (b) to the extent that the facilities are for roll-on roll-off ships—

$$\frac{y}{25,000}$$

*Figure 2*

where y is the number of units that the facilities are capable of handling;

- (c) to the extent that the facilities are for cargo ships of any other description—

$$\frac{z}{500,000}$$

*Figure 3*

where z is the number of tonnes of material that the facilities are capable of handling.

- (6) In this section—
- “cargo ship” (“*llong gargo*”) means a ship which is used for carrying cargo;
  - “container ship” (“*llong gynwysyddion*”) means a cargo ship which carries all or most of its cargo in containers;
  - “reserved trust port” (“*porthladd ymddiriedolaeth a gedwir yn ôl*”) has the meaning given in section 32 of the Wales Act 2017 (c. 4);
  - “roll-on roll-off ship” (“*llong gyrru i mewn ac allan*”) means a ship which is used for carrying wheeled cargo;
  - “TEU” (“*UCU*”) means a twenty-foot equivalent unit;

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“unit” (“*uned*”) in relation to a roll-on roll-off ship means any item of wheeled cargo (whether or not self-propelled).

## 11 Airports

- (1) The following kinds of development are significant infrastructure projects—
  - (a) the construction of an airport in Wales or the Welsh marine area in a case within subsection (2),
  - (b) the alteration of an airport in Wales or the Welsh marine area in a case within subsection (3), or
  - (c) an increase in the permitted use of an airport in Wales or the Welsh marine area in a case within subsection (5).
- (2) Construction of an airport is within this subsection if (when constructed) the airport is expected to be capable of providing—
  - (a) air passenger transport services for at least 1 million passengers per year, or
  - (b) air cargo transport services for at least 5,000 air transport movements of cargo aircraft per year.
- (3) Alteration of an airport is within this subsection if the alteration is expected—
  - (a) to increase by at least 1 million per year the number of passengers for whom the airport is capable of providing air passenger transport services, or
  - (b) to increase by at least 5,000 per year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services.
- (4) “Alteration”, in relation to an airport, includes the construction, extension or alteration of—
  - (a) a runway at the airport,
  - (b) a building at the airport, or
  - (c) a radar or radio mast, antenna or other apparatus at the airport.
- (5) An increase in the permitted use of an airport is within this subsection only if—
  - (a) it is an increase of at least 1 million per year in the number of passengers for whom the airport is permitted to provide air passenger transport services, or
  - (b) it is an increase of at least 5,000 per year in the number of air transport movements of cargo aircraft for which the airport is permitted to provide air cargo transport services.
- (6) In this section—
 

“air cargo transport services” (“*gwasanaethau cludo cargo awyr*”) means services for the carriage by air of cargo;

“air passenger transport services” (“*gwasanaethau cludo teithwyr awyr*”) means services for the carriage by air of passengers;

“air transport movement” (“*symudiad cludo awyr*”) means a landing or take-off of an aircraft;

“cargo” (“*cargo*”) includes mail;

“cargo aircraft” (“*awyren cargo*”) means an aircraft which is—

  - (a) designed to transport cargo but not passengers, and
  - (b) engaged in the transport of cargo on commercial terms;



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“permitted” (“*a ganiateir*”) means permitted by planning permission or infrastructure consent.

## *Water*

### **12 Dams and reservoirs**

The following kinds of development are significant infrastructure projects—

- (a) the construction of a dam or reservoir in Wales if the volume of water to be held back by the dam or stored in the reservoir is expected to exceed 10 million cubic metres;
- (b) the alteration of a dam or reservoir in Wales if the additional volume of water to be held back by the dam or stored in the reservoir as a result of the alteration is expected to exceed 10 million cubic metres.

### **13 Transfer of water resources**

(1) Development relating to the transfer of water resources is a significant infrastructure project if—

- (a) the development is carried out by one or more water undertakers,
- (b) the development takes place in Wales,
- (c) the volume of water to be transferred as a result of the development is expected to exceed 100 million cubic metres per year,
- (d) the development enables the transfer of water resources—
  - (i) between river basins in Wales,
  - (ii) between water undertakers’ areas in Wales, or
  - (iii) between a river basin in Wales and a water undertaker’s area in Wales,and
- (e) the development does not relate to the transfer of drinking water.

(2) In this section—

“river basin” (“*basn afon*”) means an area of land drained by a river and its tributaries;

“water undertaker” (“*ymgymerwr dŵr*”) means a company appointed as a water undertaker under section 6 of the Water Industry Act 1991 (c. 56) (appointment of relevant undertakers);

“water undertaker’s area” (“*ardal ymgymerwr dŵr*”) means the area for which a water undertaker is appointed under that Act.

## *Waste water*

### **14 Waste water treatment plants**

(1) The construction of a waste water treatment plant is a significant infrastructure project if—

- (a) the treatment plant is in Wales or the Welsh marine area, and
- (b) the treatment plant (when constructed) is expected to have a capacity exceeding a population equivalent of 500,000.

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- (2) The construction of infrastructure for the transfer or storage of waste water is a significant infrastructure project if—
- (a) the infrastructure is in Wales or the Welsh marine area,
  - (b) the main purpose of the infrastructure is—
    - (i) the transfer of waste water for treatment, or
    - (ii) the storage of waste water prior to treatment,
 or both, and
  - (c) the infrastructure is expected to have a capacity for the storage of waste water exceeding 350,000 cubic metres.
- (3) The alteration of a waste water treatment plant is a significant infrastructure project if—
- (a) the plant is in Wales or the Welsh marine area, and
  - (b) the effect of the alteration is expected to be to increase by more than a population equivalent of 500,000 the capacity of the plant.
- (4) The alteration of infrastructure for the transfer or storage of waste water is a significant infrastructure project if—
- (a) the infrastructure is in Wales or the Welsh marine area,
  - (b) the main purpose of the infrastructure is—
    - (i) the transfer of waste water for treatment, or
    - (ii) the storage of waste water prior to treatment,
 or both, and
  - (c) the effect of the alteration is expected to be to increase the capacity of the infrastructure for the storage of waste water by more than 350,000 cubic metres.
- (5) In this section, “waste water” includes domestic waste water, industrial waste water and urban waste water.
- (6) The following terms used in this section have the meanings given by regulation 2(1) of the Urban Waste Water Treatment (England and Wales) Regulations 1994 ([S.I. 1994/2841](#)) (as amended from time to time)—
- “domestic waste water” (“*dŵr gwastraff domestig*”);
- “industrial waste water” (“*dŵr gwastraff diwydiannol*”);
- “population equivalent” (“*cyfwerth poblogaeth*”);
- “urban waste water” (“*dŵr gwastraff trefol*”).

### *Waste*

## 15 Hazardous waste facilities

- (1) The construction of a hazardous waste facility is a significant infrastructure project if—
- (a) the facility is in Wales or the Welsh marine area,
  - (b) the main purpose of the facility is the final disposal or recovery of hazardous waste, and
  - (c) the facility is expected to have the capacity specified in subsection (2).

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- (2) The capacity is—
  - (a) in the case of the disposal of hazardous waste by landfill or in a deep storage facility, more than 100,000 tonnes per year;
  - (b) in any other case, more than 30,000 tonnes per year.
- (3) The alteration of a hazardous waste facility is significant infrastructure project if—
  - (a) the facility is in Wales or the Welsh marine area,
  - (b) the main purpose of the facility is the final disposal or recovery of hazardous waste, and
  - (c) the alteration is expected to increase the capacity of the facility—
    - (i) in the case of the disposal of hazardous waste by landfill or in a deep storage facility, by more than 100,000 tonnes per year;
    - (ii) in any other case, by more than 30,000 tonnes per year.
- (4) In this section, “deep storage facility” means a facility for the storage of waste underground in a deep geological cavity.
- (5) The following terms used in this section have the same meanings as in the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894) (as amended from time to time)—
  - “disposal” (“*gwaredu*”);
  - “hazardous waste” (“*gwastraff peryglus*”);
  - “recovery” (“*adfer*”).

## 16 Radioactive waste geological disposal facilities

- (1) Development relating to a radioactive waste geological disposal facility within subsection (4) or (6) is a significant infrastructure project.
- (2) A radioactive waste geological disposal facility means a facility which meets the conditions in subsection (3).
- (3) The conditions are that—
  - (a) the main purpose of the facility is expected to be the final disposal of radioactive waste,
  - (b) the part of the facility where radioactive waste is to be disposed of is expected to be constructed at a depth of at least 200 metres beneath the surface of the ground or seabed, and
  - (c) the natural environment which surrounds the facility is expected to act, in combination with any engineered measures, to inhibit the transit of radionuclides from the part of the facility where radioactive waste is to be disposed of to the surface.
- (4) Development is within this subsection if—
  - (a) it is the construction of one or more boreholes, and the carrying out of any associated excavation, construction or building work,
  - (b) the borehole or boreholes will be constructed, and any associated excavation, construction or building work will be carried out, in Wales or the Welsh marine area, and
  - (c) the conditions in subsection (5) are met in relation to each borehole.
- (5) The conditions are that—

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- (a) the borehole is expected to be constructed to a depth of at least 150 metres beneath the surface of the ground or seabed, and
  - (b) the main purpose of constructing the borehole is to obtain information, data or samples to determine the suitability of a site for the construction or use of a radioactive waste geological disposal facility.
- (6) Development is within this subsection if—
- (a) it is the construction of a radioactive waste geological disposal facility, and
  - (b) the facility (when constructed) will be in Wales or the Welsh marine area.
- (7) In this section—
- “disposal” (“*gwaredu*”) in relation to radioactive waste means emplacement in an appropriate facility without the intention to retrieve;
- “radioactive waste” (“*gwastraff ymbelydrol*”) has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016 ([S.I. 2016/1154](#)) (as amended from time to time) (see paragraph 3(1) of Part 2 of Schedule 23 to those regulations).

*Power to amend*

## 17 Power to add, vary or remove projects

- (1) Regulations may—
- (a) amend this Part to add a new type of significant infrastructure project or vary or remove an existing significant infrastructure project;
  - (b) make further provision, or amend or repeal existing provision, about the type of project that is, or is not, a significant infrastructure project.
- (2) Regulations under subsection (1)(b) may amend this Act.
- (3) Regulations under subsection (1) may only add a new type of project or vary an existing type of project if—
- (a) the project, or any variation of an existing project, is for the carrying out of works in one or more of the fields specified in subsection (4), and
  - (b) the works are to be carried out in Wales or the Welsh marine area or both.
- (4) The fields are—
- (a) energy;
  - (b) flood prevention;
  - (c) minerals;
  - (d) transport;
  - (e) water;
  - (f) waste water;
  - (g) waste.

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### *Interpretation*

#### **18 Cross-border projects**

- (1) In this Part, references to development being in Wales include development partly in Wales, unless reference is made to a development being wholly in Wales.
- (2) In this Part, references to development being in the Welsh marine area include development partly in the Welsh marine area.
- (3) If infrastructure consent is required for development that is partly in Wales or partly in Welsh marine area, infrastructure consent is required to the extent it is in Wales or the Welsh marine area (as the case may be).

## **PART 2**

### **REQUIREMENT FOR INFRASTRUCTURE CONSENT**

#### *The requirement*

#### **19 Requirement for infrastructure consent**

The consent of the Welsh Ministers (“infrastructure consent”) is required for development to the extent that the development is or forms part of a significant infrastructure project.

#### **20 Effect of requirement for infrastructure consent**

- (1) To the extent that infrastructure consent is required for development, none of the following is required for the development—
  - (a) planning permission;
  - (b) consent under section 36 or 37 of the Electricity Act 1989 (c. 29) (construction etc. of generating stations and installation of overhead lines);
  - (c) authorisation under the following Parts of the [Historic Environment \(Wales\) Act 2023 \(asc 3\)](#)—
    - (i) Part 2 (works affecting scheduled monuments: class authorisations and authorisation by scheduled monument consent);
    - (ii) Part 3 (works affecting listed buildings: authorisation by listed building consent);
    - (iii) Part 4 (demolition of buildings in conservation areas: authorisation by conservation area consent).
- (2) To the extent that infrastructure consent is required for development, the development may not be authorised by any of the following—
  - (a) an order under section 14 or 16 of the Harbours Act 1964 (c. 40) (orders in relation to harbours, docks and wharves);
  - (b) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as to railways, tramways, inland waterways etc.).

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- (3) If infrastructure consent is required for the construction, improvement or alteration of a highway, none of the following may be made or confirmed in relation to the highway or in connection with the construction, improvement or alteration of the highway—
- (a) an order under section 10 of the Highways Act 1980 (c. 66) (general provisions as to trunk roads) directing that the highway should become a trunk road;
  - (b) an order under section 14 of that Act (supplementary orders relating to trunk roads and classified roads);
  - (c) a scheme under section 16 of that Act (schemes authorising the provision of special roads);
  - (d) an order under section 18 of that Act (supplementary orders relating to special roads);
  - (e) an order or scheme under section 106 of that Act (orders and schemes providing for construction of bridges over or tunnels under navigable waters);
  - (f) an order under section 108 of that Act (orders authorising the diversion of navigable watercourses);
  - (g) an order under section 6 of the New Roads and Street Works Act 1991 (c. 22) (toll orders).
- (4) If infrastructure consent is required for the construction, improvement or alteration of a highway, section 110 of the Highways Act 1980 (c. 66) (power to authorise diversion of non-navigable waters) does not apply in relation to the highway or in connection with the construction, improvement or alteration of the highway.

*Powers to change the requirement or its effect*

## 21 Power to add or remove types of consent

- (1) The Welsh Ministers may by regulations—
- (a) amend section 20(1) or (2)—
    - (i) to add or remove a type of consent, or
    - (ii) to vary the cases in relation to which a type of consent is within those subsections;
  - (b) make further provision about—
    - (i) the types of consent that are, and are not, within section 20(1) or (2), or
    - (ii) the cases in relation to which a type of consent is, or is not, within either of those subsections.
- (2) Regulations made under subsection (1)(b) may amend, modify, repeal or revoke an enactment (including an enactment contained in this Act).
- (3) In this section, “consent” means—
- (a) consent, authorisation or permission required, under an enactment, to be obtained for development,
  - (b) consent, authorisation or permission, that—
    - (i) may authorise development, and
    - (ii) is given under an enactment, or
  - (c) notice that is required by an enactment to be given in relation to development.

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## **22 Directions specifying development as a significant infrastructure project**

- (1) The Welsh Ministers may give a direction specifying development as a significant infrastructure project.
- (2) The Welsh Ministers may only give a direction under subsection (1) if—
  - (a) the development will (when completed) be wholly or partly in Wales or the Welsh marine area,
  - (b) the development is or forms part of a project (or proposed project) that the Welsh Ministers consider to be of national significance to Wales, either by itself or when considered with one or more other projects, and
  - (c) the development is or forms part of a project (or proposed project) of a kind specified in regulations.
- (3) A direction under subsection (1) applies to a development partly in Wales or the Welsh marine area only to the extent that the development is in Wales or the Welsh marine area.
- (4) The Welsh Ministers may require an authority within subsection (5) to provide any information required by the Welsh Ministers for the purpose of enabling them to decide—
  - (a) whether to give a direction under subsection (1), and
  - (b) the terms in which such a direction should be given.
- (5) An authority is within this subsection if an application for a section 20 consent in relation to the development has been, or may be, made to it.

## **23 Directions for applications to be treated as applications for infrastructure consent**

- (1) If the Welsh Ministers give a direction under section 22 in relation to development, the Welsh Ministers may—
  - (a) if an application for a section 20 consent has been made in relation to the development, direct the application to be treated as an application for infrastructure consent;
  - (b) if a person proposes to make an application for such a consent in relation to the development, direct the proposed application to be treated as a proposed application for infrastructure consent.
- (2) A direction under this section may provide for specified provisions of any enactment (including an enactment contained in this Act)—
  - (a) to have effect in relation to the application, or proposed application, with any specified modifications, or
  - (b) to be treated as having been complied with in relation to the application or proposed application.
- (3) If the Welsh Ministers give a direction under this section, the relevant authority must refer the application, or proposed application, to the Welsh Ministers instead of dealing with it themselves.
- (4) If the Welsh Ministers are considering whether to give a direction under this section, the Welsh Ministers may direct the relevant authority to take no further action in relation to the application, or proposed application, until the Welsh Ministers have decided whether to give the direction.

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- (5) In this section, “relevant authority”—
- (a) in relation to an application for a section 20 consent that has been made, means the authority to which the application was made, and
  - (b) in relation to such an application that a person proposes to make, means the authority to which the person proposes to make the application.

## **24 Directions specifying that development is not a significant infrastructure project**

- (1) The Welsh Ministers may give a direction specifying development that would otherwise be a significant infrastructure project as not being a significant infrastructure project.
- (2) Development specified under this section is not to be treated as a significant infrastructure project for the purposes of this Act.
- (3) The Welsh Ministers may only give a direction under subsection (1) if the development will (when completed) be partly in Wales or the Welsh marine area.
- (4) As soon as reasonably practicable after giving a direction under subsection (1), the Welsh Ministers must—
  - (a) publish the direction, and
  - (b) lay a statement about the direction before Senedd Cymru explaining its effect and why it was made.

## **25 Directions under section 22 to 24: general provision**

- (1) This sections applies to directions under sections 22, 23 and 24.
- (2) A direction may be given subject to conditions.
- (3) A direction may specify the period for which it has effect.
- (4) The Welsh Ministers may give a direction following a qualifying request from a developer or where there is not a qualifying request from a developer.
- (5) The Welsh Ministers are not required to consider a request for a direction unless it is a qualifying request from a developer.
- (6) If the Welsh Ministers receive a qualifying request, they must give reasons for their decision to give or not to give the requested direction to the person who made the request.
- (7) In this section—
  - “developer” (“*datblygwr*”) means—
    - (a) a person who proposes to carry out any of the development to which the request relates;
    - (b) a person who has applied, or proposes to apply, for a section 20 consent in relation to any of that development;
    - (c) a person who, if a direction under section 22(1) is given in relation to that development, proposes to apply for infrastructure consent for any of that development;
  - “qualifying request” (“*archiad cymhwysol*”) means a written request for a direction that specifies the development to which it relates.



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## **26 Directions under section 22: regulations about procedure**

Regulations may make provision about the following procedural matters in connection with directions under section 22, 23 or 24—

- (a) time limits for making decisions following requests for directions;
- (b) the form of requests for directions;
- (c) information to be provided in connection with requests for directions;
- (d) the persons or persons of a description to be notified in connection with requests for directions.

## **PART 3**

### **APPLYING FOR INFRASTRUCTURE CONSENT**

#### *Assistance for applicants*

## **27 Provision of pre-application services**

- (1) Regulations may make provision for or in connection with the provision of pre-application services by a planning authority, Natural Resources Wales or the Welsh Ministers, including provision about—
  - (a) the circumstances in which pre-application services are required to be provided (including provision about the form and content of requests for pre-application services, and information that is to accompany a request);
  - (b) the nature of the services required to be provided, and when and how they are to be provided;
  - (c) the publication of a statement giving information about the range of pre-application services provided by a planning authority, Natural Resources Wales or the Welsh Ministers;
  - (d) other steps required to be taken by any person in connection with, or for the purposes of, the provision of services under the regulations.
- (2) References in this Act to pre-application services are to services provided to a person for the purpose of assisting the person in applying for an infrastructure consent order.

## **28 Obtaining information about interests in land**

- (1) Where a person is applying, or proposes to apply, for an infrastructure consent order subsections (2) and (3) apply for the purpose of enabling the person (“the applicant”) to comply with provisions of, or made under, section 29, section 30 and sections 64 to 72.
- (2) The Welsh Ministers may authorise the applicant to serve a notice on a person specified in subsection (4) requiring the person (“the recipient”) to give to the applicant in writing the name and address of any person the recipient believes is one or more of the following—
  - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;
  - (b) a person interested in the land;
  - (c) a person having power—
    - (i) to sell and convey the land, or

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- (ii) to release the land.
- (3) The Welsh Ministers may authorise the applicant to serve a notice on a person specified in subsection (4) requiring the person (“the recipient”) to give to the applicant in writing the name and address of any person the recipient believes is a person who, if the order sought by the application or proposed application were to be made and fully implemented, would or might be entitled to make a relevant claim—
- (a) as a result of the implementing of the order,
  - (b) as a result of the order having been implemented, or
  - (c) as a result of the use of the land once the order has been implemented.
- (4) The persons are—
- (a) an occupier of the land;
  - (b) a person who has an interest in the land as freeholder, mortgagee or lessee;
  - (c) a person who directly or indirectly receives rent for the land;
  - (d) a person who, in pursuance of an agreement between that person and a person interested in the land, is authorised to manage the land or to arrange for the letting of it.
- (5) Regulations may make provision about a notice under subsection (2) or (3), including provision about—
- (a) the form and content of a notice;
  - (b) how a notice is to be given;
  - (c) the timescale for responding to a notice.
- (6) A person commits an offence if the person fails without reasonable excuse to comply with a notice under subsection (2) or (3) served on the person.
- (7) A person commits an offence if, in response to a notice under subsection (2) or (3) served on the person—
- (a) the person gives information which is false in a material particular, and
  - (b) when the person does so, the person knows or ought reasonably to know that the information is false.
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (9) In subsections (2) to (4) “the land” means—
- (a) the land to which the application, or proposed application, relates, or
  - (b) any part of that land.
- (10) Any other expression that appears in either of paragraphs (b) and (c) of subsection (2) and also in section 5(1) of the Compulsory Purchase Act 1965 (c. 56) has in those paragraphs the meaning that it has in section 5(1) of that Act.
- (11) In subsection (4) as it applies for the purposes of subsection (3) “the land” also includes any relevant affected land (see subsection (12)).
- (12) Where the applicant believes that, if the order sought by the application or proposed application were to be made and fully implemented, there would or might be persons entitled—
- (a) as a result of the implementing of the order,
  - (b) as a result of the order having been implemented, or

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(c) as a result of the use of the land once the order has been implemented, to make a relevant claim in respect of any land or in respect of an interest in any land, that land is “relevant affected land” for the purposes of subsection (11).

(13) In this section, “relevant claim” means—

- (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for compulsory purchase of land or not made for injurious affection resulting from compulsory purchase);
- (b) a claim under 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);
- (c) a claim under section 101(3).

#### *Pre-application procedure*

## **29 Notice of proposed application**

(1) A person who proposes to make an application for infrastructure consent must notify the following of the proposed application—

- (a) the Welsh Ministers;
- (b) if the proposed development is in Wales, each planning authority for the area in which the proposed development is located;
- (c) if the proposed development is located in an area for which there is a community council, the community council;
- (d) each Member of the Senedd representing an area in which the proposed development is located;
- (e) each Member of the House of Commons representing an area in which the proposed development is located;
- (f) if the proposed development is in the Welsh marine area, Natural Resources Wales and each planning authority and community council the person considers appropriate;
- (g) each Member of the Senedd and Member of the House of Commons the person considers appropriate;
- (h) any other person or person of a description specified in regulations.

(2) The notice must comply with requirements specified in regulations.

(3) Regulations under subsection (2) may (among other requirements) include requirements relating to—

- (a) the form and content of a notice;
- (b) information, documents or other material that is to accompany a notice;
- (c) how and when a notice is to be given.

(4) If the Welsh Ministers receive a notice that complies with the requirements specified in regulations under subsection (2), they must give notice to the person that the notification has been accepted.

(5) Regulations may make provision about the giving of notice by the Welsh Ministers under subsection (4), including (among other things) provision about—

- (a) the form and content of the notice;
- (b) how it is to be given;

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- (c) the period within which it is to be given (including provision about circumstances in which the Welsh Ministers may extend that period in a particular case).
- (6) This section does not apply if the proposed application relates to infrastructure consent required by virtue of a direction made under section 22(1) following a qualifying request from a developer.

### **30 Pre-application consultation and publicity**

- (1) A person who proposes to make an application for infrastructure consent (“the applicant”) must carry out consultation on the proposed application.
- (2) Regulations may make provision for, or in connection with, the consultation required under this section, including (among other things) provision—
  - (a) about the persons or persons of a description required to be consulted;
  - (b) about how the consultation is to be carried out (including the form and content of documents, information and other materials that are to be provided to a person for the purposes of, or in connection with, the consultation);
  - (c) about the matters to be consulted on, including (among other things) the benefits of the proposed development for people living in the area of the proposed development;
  - (d) about responding to the consultation (including provision requiring a person or description of person consulted to respond to the consultation or to respond to the consultation in a particular way, or to respond within a particular time);
  - (e) about the timetable in connection with carrying out the consultation;
  - (f) requiring a person consulted by virtue of paragraph (a) to prepare and publish a report about the person’s compliance with any requirement imposed by virtue of paragraph (d) or (e) (including the form and content of the report and the time at which it is to be made).
- (3) The applicant must publicise the proposed application in the way specified in regulations.
- (4) If section 29 applies to a proposed application, a step taken in respect of the proposed application before the date on which notice is given by the Welsh Ministers under section 29(4) is not to be treated as consultation or publicity under this section.

### **31 Change in the person who proposes to apply for infrastructure consent**

- (1) The duties in section 29(1) and 30(1) do not apply to a person proposing to make an application for infrastructure consent (“person A”) if—
  - (a) notice has been given under section 29(1) by another person (“person B”) in respect of the same or substantially the same proposed development, and
  - (b) condition 1 or condition 2 applies.
- (2) Condition 1 is that the notice given by person B specifies that the application for infrastructure consent in respect of the proposed development will be made by person A.
- (3) Condition 2 is that arrangements for person A to make the application for infrastructure consent are made during or as a result of consultation on the proposed application under section 30 carried out by person B.

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### *Application procedure*

## **32 Applying for infrastructure consent**

- (1) Infrastructure consent may be given only if an application is made for it.
- (2) An application for infrastructure consent must be made to the Welsh Ministers.
- (3) An application for infrastructure consent must—
  - (a) specify the development to which it relates;
  - (b) include a draft infrastructure consent order;
  - (c) include a pre-application consultation report.
- (4) Regulations may make provision about applications for infrastructure consent, including (among other things) provision about—
  - (a) the form and content of an application (including the required draft infrastructure consent order);
  - (b) how an application is to be made;
  - (c) information, documents or other materials that must be included in an application;
  - (d) processing an application;
  - (e) varying or withdrawing an application;
  - (f) notices relating to applications;
  - (g) the period within which an application must be made and extension of that period.
- (5) Regulations under subsection (4) may confer a function, including a function involving the exercise of a discretion, on any person.
- (6) In subsection (3)(c), “pre-application consultation report” means a report giving details of—
  - (a) how the applicant complied with section 30;
  - (b) the responses received from persons by virtue of section 30 and the account taken of the responses.

## **33 Deciding on the validity of an application and notifying the applicant**

- (1) Where the Welsh Ministers receive an application for infrastructure consent, they must decide whether or not to accept the application as a valid application.
- (2) An application is a valid application if—
  - (a) it is received by the Welsh Ministers within the period specified in regulations under section 32(4)(g);
  - (b) it complies with the requirements imposed by or under section 32.
- (3) If the Welsh Ministers accept the application the Welsh Ministers must give notice of the decision to the applicant.
- (4) If the Welsh Ministers decide that the application cannot be accepted the Welsh Ministers must give notice of their decision to the applicant giving reasons for the decision.

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- (5) For the purposes of this Act an application is accepted as a valid application on the day on which the Welsh Ministers give the applicant a notice of the decision under subsection (1).

### **34 Notice of accepted applications and publicity**

- (1) This section applies where the Welsh Ministers accept an application for infrastructure consent as a valid application.
- (2) The Welsh Ministers must give notice of the application—
- (a) in the case of an application for development in Wales—
    - (i) to each planning authority for an area in which the proposed development is located;
    - (ii) if the proposed development is located in an area for which there is a community council, to the community council;
    - (iii) to each Member of the Senedd representing an area in which the proposed development is situated;
    - (iv) to each Member of the House of Commons representing an area in which the proposed development is situated;
  - (b) in the case of an application for development in the Welsh marine area—
    - (i) to Natural Resources Wales;
    - (ii) to each planning authority and community council they consider appropriate;
    - (iii) to each Member of the Senedd and Member of the House of Commons they consider appropriate;
  - (c) to any person or person of a description specified in regulations.
- (3) The Welsh Ministers must publicise the application in the way specified in regulations.
- (4) The Welsh Ministers must—
- (a) specify in any notice or publicity under this section, and
  - (b) in any direction under subsection (10), require the applicant to specify in any notice or publicity required by the direction,
- a deadline by which the Welsh Ministers must receive representations on the application.
- (5) The deadline must be after the end of the minimum representation period specified in regulations.
- (6) The Welsh Ministers must make available to the examining authority any representations they receive within the deadline specified in the publicity.
- (7) The Welsh Ministers may—
- (a) extend the deadline before it expires;
  - (b) extend the deadline more than once.
- (8) Where the Welsh Ministers extend the deadline in respect of the application, they must—
- (a) give a further notice under subsection 34(2) to the same persons,
  - (b) undertake further publicity under subsection (3), and

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- (c) if a direction was given under subsection (10), give a further direction under subsection (10) requiring the applicant to—
  - (i) give a further notice to the same persons, and
  - (ii) undertake further publicity in the same way.
- (9) The Welsh Ministers must—
  - (a) specify in any further notice or further publicity, and
  - (b) in any further direction, require the applicant to specify in any further notice or further publicity,  
the reasons for extending the deadline.
- (10) The Welsh Ministers may direct the applicant to—
  - (a) notify a person or person of a description specified in the direction of the application;
  - (b) publicise the application in the way specified in the direction.
- (11) The duties in subsections (2) and (3) do not require the Welsh Ministers to do anything an applicant is required to do by a direction under subsection (10).

### **35 Regulations about notices and publicity**

- (1) Regulations may—
  - (a) in relation to a notice given under section 33 or 34, or representations on an application given under section 34, make provision about—
    - (i) the form and content of the notice or the representations;
    - (ii) how the notice or the representations are given;
    - (iii) the timescales for giving the notice and representations;
  - (b) impose requirements on a person or person of a description specified in the regulations to respond to a notice under section 34(2);
  - (c) make provision about how a person may respond to publicity under section 34 and the timescales for responding;
  - (d) make provision about the publication of representations received in response to notice and publicity under section 34.
- (2) Regulations under subsection (1) may confer a function, including a function involving the exercise of a discretion, on any person.

### **36 Local impact reports**

- (1) A planning authority must respond to a notice given under section 34(2)(a), and may respond to a notice given under section 34(2)(b), by submitting a local impact report in respect of the application to the Welsh Ministers before the deadline specified in the notice.
- (2) A community council may respond to a notice given under section 34(2)(a) or (b) by submitting a local impact report to the Welsh Ministers before the deadline specified in the notice.
- (3) A planning authority or community council may submit a local impact report otherwise than in response to a notice given under section 34(2) before the deadline specified in publicity under section 34(3).

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- (4) In this Act, a local impact report in respect of an application is a report in writing that—
- (a) gives details of the likely impact of the proposed development on the area (or a part of the area) of the local planning authority or community council submitting the report, and
  - (b) complies with requirements specified in regulations about the form and content of a local impact report.

### 37 **Marine impact reports**

- (1) If the draft order submitted with an application for infrastructure consent contains provision for a deemed marine licence Natural Resources Wales must respond to a notice given under section 34(2)(b) by submitting a marine impact report in respect of the application to the Welsh Ministers before the deadline specified in the notice.
- (2) The Welsh Ministers may direct Natural Resources Wales to submit a marine impact report in respect of an application for infrastructure consent and Natural Resources Wales must submit the report within the deadline specified in the direction.
- (3) Natural Resources Wales may submit a marine impact report in respect of an application for infrastructure consent otherwise than in response to a notice given under section 34(2)(b) or a direction given under subsection (2) before the deadline specified in publicity under section 34(3).
- (4) In this Act, a marine impact report in respect of an application is a report in writing that—
  - (a) gives details of the likely impact of the proposed development on the marine environment, and
  - (b) complies with requirements specified in regulations about the form and content of a marine impact report.
- (5) In this section, “the marine environment” includes—
  - (a) the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features);
  - (b) flora and fauna which are dependent on, or associated with, a marine or coastal environment.

### 38 **Notice of persons interested in land to which compulsory acquisition request relates**

- (1) This section applies where—
  - (a) the Welsh Ministers have accepted an application for infrastructure consent as valid, and
  - (b) the application includes a request to authorise compulsory acquisition of land or of an interest in or right over land (a “compulsory acquisition request”).
- (2) The applicant must give to the Welsh Ministers a notice specifying the names, and such other information as may be specified in regulations, of each affected person.
- (3) Notice under subsection (2) must be given in the form and manner specified in regulations.



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- (4) A person is an “affected person” for the purposes of this section if the applicant, after making diligent inquiry, knows that the person is interested in the land to which the compulsory acquisition request relates or any part of that land.

### **39 Consultation post-application in relation to compulsory acquisition**

- (1) Regulations may make provision for and in connection with consultation by an applicant for infrastructure consent on an application for infrastructure consent that includes a request to authorise compulsory acquisition of land or of an interest in or right over land.
- (2) Regulations under subsection (1) may include (among other things) provision—
- (a) requiring specified persons to be consulted;
  - (b) about the circumstances in which consultation is required;
  - (c) about how the consultation is to be carried out (including the form and content of documents, information and other materials that are to be provided to a person for the purposes of, or in connection with, the consultation);
  - (d) about the timetable in connection with carrying out the consultation.

## **PART 4**

### **EXAMINING APPLICATIONS**

#### *Appointing an examining authority*

### **40 Appointing an examining authority**

- (1) The Welsh Ministers must appoint a person or a panel of persons to examine each valid application for infrastructure consent.
- (2) The Welsh Ministers may appoint a person or a panel of persons to examine an application to revoke or change an infrastructure consent order.
- (3) The Welsh Ministers must publish a document setting out the criteria to be applied in deciding whether to appoint a person or panel of persons under subsection (2).
- (4) The Welsh Ministers may at any time in relation to an application—
- (a) revoke an appointment of a person or a person on a panel under this section, or
  - (b) make an appointment of a person or person to a panel under this section.
- (5) Regulations may make further provision for or in connection with the appointment of an examining authority under subsection (1) or (2).
- (6) The regulations may include (among other things) provision for or in connection with—
- (a) appointing members to a panel (including provision about changing membership of a panel and the consequences of any such changes);
  - (b) allocating functions to persons on a panel and decision-making by a panel;
  - (c) replacing a panel with a person or a new panel or replacing a person with a panel or a new person (and the consequences of such changes);
  - (d) conditions of appointment.

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- (7) In this Act, “examining authority” means a person or panel of persons appointed under this section.

### *Examining applications*

#### **41 Examining authority to examine applications**

An examining authority has the function of examining an application in respect of which it is appointed.

#### **42 Choice of inquiry, hearing or written procedure**

- (1) The examining authority must determine the procedure for examining each application in respect of which it is appointed.
- (2) A determination must provide for the application to be examined in one or more of the following ways—
  - (a) at a local inquiry;
  - (b) at a hearing;
  - (c) on the basis of the application and any representations in writing (if any) about the application.
- (3) And a determination must provide for examination of the application to include a hearing, unless—
  - (a) the determination provides for a local inquiry to be conducted, or
  - (b) the examining authority considers that a hearing would not assist the examination.
- (4) The examining authority must make a determination before the end of the period specified in regulations.
- (5) A determination may be varied by a further determination at any time before the application being examined is decided under section 60.
- (6) The examining authority must notify any person or person of a description specified in regulations of a determination under this section.
- (7) The Welsh Ministers must publish the criteria to be applied by the examining authority in making determinations under this section.
- (8) The functions of an examining authority under this section are subject to any provision made by regulations under section 43 or 44.

#### **43 Open-floor hearings**

- (1) Regulations may require an examining authority to cause an open-floor hearing to be held in the circumstances specified in the regulations.
- (2) The regulations may make any requirement to cause an open-floor hearing to be held subject to conditions (including the exercise of discretion by the examining authority).

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- (3) In this section, an “open-floor hearing” is a hearing at which each interested party is entitled (subject to the examining authority’s powers of control over the conduct of the hearing) to make oral representations about the application.

#### **44 Examination procedure**

- (1) Regulations may make provision about the procedure to be followed in connection with the examination of an application under this Part (whether it is examined at a local inquiry, at a hearing or on the basis of the application and any representations in writing (if any) about the application).
- (2) The regulations may include provision about—
- (a) the procedure to be followed in connection with a decision under section 42;
  - (b) the procedure to be followed in connection with a requirement under section 43;
  - (c) the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or to the making of representations in writing;
  - (d) the conduct of the examination.
- (3) The regulations may include provision about the procedure to be followed—
- (a) where steps have been taken with a view to the holding of an inquiry or hearing which does not take place,
  - (b) where steps have been taken with a view to deciding any matter by an examining authority and the proceedings are the subject of a direction that the matter must instead be decided by the Welsh Ministers,
  - (c) where steps have been taken with a view to deciding any matter by the Welsh Ministers and the proceedings are the subject of a direction that the matter must instead be decided by the examining authority, or
  - (d) where steps have been taken in pursuance of a direction mentioned in paragraph (b) or (c) and a further direction is made revoking that direction,
- and may provide that such steps are to be treated as compliance, in whole or in part, with the requirements of the regulations.
- (4) The regulations may—
- (a) specify a time limit within which any party to proceedings must submit representations in writing and any supporting documents;
  - (b) enable the examining authority to extend the time limit in a particular case;
  - (c) enable the examining authority to make a report under section 52 taking into account only the representations in writing and supporting documents as were submitted within the time limit;
  - (d) enable the examining authority or the Welsh Ministers (as the case may be) to proceed to a decision taking into account only the representations in writing and supporting documents as were submitted within the time limit;
  - (e) enable the examining authority after giving the parties notice in writing of their intention to do so, to make a report under section 52 even though no representations in writing were submitted within the time limit, if it appears to it that it has sufficient material before it to make a recommendation on the merits of the application;

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- (f) enable the examining authority or the Welsh Ministers (as the case may be), after giving the parties written notice of its or their intention to do so, to proceed to a decision even though no representations in writing were submitted within the time limit, if it appears to it or them that it has or they have sufficient material before it or them to reach a decision on the merits of the application;
- (g) make provision about the location of proceedings at a hearing or local inquiry;
- (h) make provision about the conduct of proceedings at a hearing or local inquiry wholly or partly by means of equipment or other facility that enables persons who are not in the same place to attend the hearing or local inquiry and participate in it;
- (i) make provision about broadcasting or recording the proceedings at a hearing or local inquiry.

#### **45 Power to enter land in connection with examination**

- (1) A person authorised in writing by the Welsh Ministers may at a reasonable time enter land in Wales for the purpose of inspecting the land in connection with the examination of applications under this Part.
- (2) A person authorised under subsection (1) to enter land—
  - (a) must, if required, produce evidence of the person’s authority, and state the purpose of the person’s entry, before entering,
  - (b) may not demand admission as of right to any land which is occupied unless 14 days’ notice of the intended entry has been given to the occupier,
  - (c) may take on to the land any other persons that are necessary,
  - (d) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it, and
  - (e) must comply with any other conditions subject to which the Welsh Ministers’ authorisation is given.
- (3) A person commits an offence if the person intentionally obstructs a person acting in the exercise of power under subsection (1).
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine.

#### **46 Power to enter Crown land in connection with examination**

- (1) Section 45 applies to Crown land subject to subsections (2) and (3).
- (2) A person must not enter Crown land unless the person (“P”) has the permission of—
  - (a) a person appearing to P to be entitled to give it, or
  - (b) the appropriate Crown authority.
- (3) Subsections (2)(b), (3) and (4) of section 45 do not apply in relation to anything done by virtue of this section.

#### **47 Power of examining authority to hold local inquiry**

- (1) An examining authority may hold a local inquiry for the purposes of examining an application.

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- (2) An examining authority holding a local inquiry may by summons require any person—
  - (a) to attend the inquiry in accordance with the requirements specified in the summons under subsection (4) and to give evidence;
  - (b) to produce any documents in the person’s possessions or under the person’s control which relate to any matter in question at the inquiry.
- (3) The examining authority holding the inquiry may take evidence on oath, and for that purpose may administer oaths.
- (4) A summons must specify—
  - (a) the time at which attendance is required, and
  - (b) the place at which attendance is required or, if attendance is to be facilitated by other means, instructions on how to attend by those means.
- (5) A summons under this section does not require a person to attend the inquiry (whether attendance is required at a place or facilitated by other means) unless the person’s necessary expenses of attending are paid or offered to the person.
- (6) A person may not be required under this section to produce the title (or any instrument relating to the title) of any land which does not belong to a local authority.
- (7) It is an offence for a person to—
  - (a) refuse or deliberately fail to comply with a requirement of a summons issued under this section, or
  - (b) deliberately alter, suppress, conceal or destroy a document the person is required, or is liable to be required, to produce under this section.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction or conviction on indictment to a fine.
- (9) In this section, “local authority” means the council of a county, county borough or community in Wales.

#### **48 Access to evidence at inquiry**

- (1) At a local inquiry held under section 47—
  - (a) oral evidence must be heard in public, and
  - (b) documentary evidence must be available to the public for inspection.
- (2) But if a ministerial authority is satisfied that both of the conditions in subsection (3) are met in relation to such an inquiry, it may direct the examining authority conducting the inquiry that evidence of a kind specified in the direction is to be heard or available for inspection at that inquiry only by persons who are specified in the direction or of a kind specified in it.
- (3) The conditions are—
  - (a) that giving evidence of a particular description in public or making it available for public inspection would be likely to result in the disclosure of information about—
    - (i) national security, or
    - (ii) measures taken or to be taken to ensure the security of any land or other property, and

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- (b) that the public disclosure of the information would be against the national interest.
- (4) If a ministerial authority is considering giving a direction under this section, the Counsel General may appoint a person (“an appointed representative”) to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.
- (5) If there is no appointed representative when a ministerial authority gives a direction under this section, the Counsel General may at any time appoint a person as an appointed representative for the purposes of the inquiry.
- (6) Regulations may make provision about—
  - (a) the procedure to be followed by a ministerial authority before it gives a direction under this section in a case where there is an appointed representative;
  - (b) the functions of an appointed representative.
- (7) In this section and section 49, “ministerial authority” means the Welsh Ministers or the Secretary of State.

#### **49 Payment of appointed representative where access to evidence restricted**

- (1) This section applies if a person is appointed under section 48 as an appointed representative for the purposes of a local inquiry, whether or not the inquiry takes place.
- (2) A ministerial authority may direct a person (“the responsible person”) to pay the fees and expenses of the appointed representative.
- (3) The responsible person must be a person the ministerial authority considers is, or would have been, interested in the inquiry in relation to—
  - (a) national security, or
  - (b) the measures taken or to be taken to ensure the security of any land or other property.
- (4) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be decided by the ministerial authority that gave the direction.
- (5) The ministerial authority must cause the amount agreed between the appointed representative and the responsible person, or decided by the ministerial authority, to be certified.
- (6) The certified amount is recoverable from the responsible person as a debt.

#### **50 Assessors**

- (1) The examining authority or the Welsh Ministers may appoint a person to act as an assessor to assist the examining authority in the examination of an application under this Part.
- (2) A person may be appointed as an assessor only if it appears to the examining authority or the Welsh Ministers (as the case may be) that the person has expertise that makes the person suitable to assist the examining authority.

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## **51 Legal assistance**

- (1) The examining authority or the Welsh Ministers may appoint a barrister or solicitor to provide legal advice and assistance to the examining authority in connection with its examination of an application under this Part.
- (2) The assistance that may be given by a person appointed under subsection (1) includes carrying out on behalf of the examining authority any oral questioning of a person making representations at a hearing or inquiry.

## **52 Reports by examining authority**

- (1) This section applies to—
  - (a) an examining authority appointed under section 40(1) if the Welsh Ministers have the function of deciding the application;
  - (b) an examining authority appointed under 40(2), if the Welsh Ministers have the function of deciding the application under regulations made under section 91.
- (2) The examining authority must make a report to the Welsh Ministers on the application it examines setting out—
  - (a) the examining authority’s findings and conclusions in respect of the application, and
  - (b) the examining authority’s recommendations as to the decision to be made on the application.

## **53 Power to direct further examination**

- (1) Following receipt of a report under section 52, the Welsh Ministers may direct the examining authority to re-open its examination of the application in accordance with any requirements specified in the direction.
- (2) The duty of an examining authority in section 52 applies to any further examination required by virtue of this section.
- (3) A direction under subsection (1) must—
  - (a) include a statement explaining why it is given;
  - (b) be published as soon as reasonably practicable after it is given.

## **54 Orders relating to costs of parties on examination proceedings**

- (1) This section applies to proceedings in connection with the examination of an application under this Part (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing).
- (2) The Welsh Ministers may make orders about—
  - (a) the costs of the applicant, the Welsh Ministers, a planning authority or other party to proceedings (which may include costs in respect of an inquiry or hearing that does not take place), and
  - (b) the person or persons who must pay the costs.
- (3) But the Welsh Ministers may not order a person to pay the costs of another party unless they are satisfied that—
  - (a) the person has behaved unreasonably in relation to the proceedings, and

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- (b) the person’s unreasonable behaviour has caused the other party to incur unnecessary or wasted expenditure.
- (4) Costs payable by virtue of subsection (2) may be recovered as if they were payable under an order of the High Court, if the High Court so orders on the application of the person to whom the costs are due.
- (5) The power to make orders under this section must also be exercised in accordance with any provision made under section 44 (examination procedure).

## PART 5

### DECIDING APPLICATIONS FOR INFRASTRUCTURE CONSENT

#### *Decision maker*

#### **55 Function of deciding applications**

- (1) The examining authority has the function of deciding an application for infrastructure consent for a development of a kind specified in regulations.
- (2) The Welsh Ministers have the function of deciding any other application for infrastructure consent.
- (3) Subsections (1) and (2) are subject to any direction made under subsection (4).
- (4) In relation to an application for infrastructure consent, the Welsh Ministers may direct that—
  - (a) an examining authority has the function of deciding the application instead of the Welsh Ministers;
  - (b) the Welsh Ministers have the function of deciding the application instead of an examining authority.

#### *Statutory policies and other relevant matters*

#### **56 Deciding applications: general considerations**

- (1) In deciding an application for infrastructure consent, the examining authority or the Welsh Ministers (as the case may be) must—
  - (a) have regard to—
    - (i) any infrastructure policy statement that has effect in relation to the kind of development to which the application relates (a “relevant policy statement”),
    - (ii) the National Development Framework for Wales so far as relevant to the kind of development to which the application relates,
    - (iii) any marine plan (within the meaning of section 51(3) of the Marine and Coastal Access Act 2009 (c. 23)) prepared and adopted by the Welsh Ministers so far as relevant to the kind of development to which the application relates, and



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- (b) make their decision or its decision (as the case may be) in accordance with the relevant policy statement, framework or plan unless relevant considerations indicate otherwise.
- (2) The fact that any relevant policy statement, framework or plan identifies a location as suitable (or potentially suitable) for a particular kind of development does not prevent the Welsh Ministers or examining authority (as the case may be) from deciding an application otherwise than in accordance with the relevant policy statement, framework or plan if relevant considerations indicate otherwise.

## **57 Duty to have regard to specific matters when making decisions on applications**

In deciding an application for infrastructure consent, the examining authority or the Welsh Ministers (as the case may be) must have regard to—

- (a) any local impact report submitted to the Welsh Ministers before the deadline specified under section 36;
- (b) any marine impact report submitted to the Welsh Ministers before the deadline specified under section 37;
- (c) any examination carried out under Part 4;
- (d) any matters specified in regulations in relation to development of the kind to which the application relates;
- (e) the desirability of mitigating, and adapting to, climate change;
- (f) any other relevant consideration.

## **58 Matters that may be disregarded when making decisions on applications**

- (1) In deciding an application for infrastructure consent, the Welsh Ministers or the examining authority may disregard representations if the Welsh Ministers consider, or the examining authority considers (as the case may be), that the representations—
- (a) are vexatious or frivolous,
  - (b) relate to the merits of policy set out in—
    - (i) an infrastructure policy statement,
    - (ii) the National Development Framework for Wales, or
    - (iii) any marine plan (within the meaning of section 51(3) of the Marine and Coastal Access Act 2009 (c. 23)) prepared and adopted by the Welsh Ministers, or
  - (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.
- (2) In subsection (1), “representations” includes evidence.
- (3) Regulations may amend subsection (1)—
- (a) to specify further matters that may be disregarded;
  - (b) to change or remove matters specified under paragraph (a).

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### *Timetable*

#### **59 Timetable for deciding application for infrastructure consent**

- (1) The examining authority or the Welsh Ministers (as the case may be) must decide an application for infrastructure consent before the end of—
  - (a) 52 weeks beginning with the day on which the application is accepted as a valid application, or
  - (b) such other period as the applicant and the Welsh Ministers may agree.
- (2) The Welsh Ministers may, by direction, extend the periods mentioned in subsection (1).
- (3) A direction may be given—
  - (a) more than once in relation to the same application;
  - (b) after the end of the periods mentioned in subsection (1).
- (4) As soon as reasonably practicable after giving the direction, the Welsh Ministers must—
  - (a) notify the applicant and any other person specified in regulations of the direction,
  - (b) publish the direction, and
  - (c) lay a statement about the direction before Senedd Cymru explaining its effect and why it was given.
- (5) The Welsh Ministers must lay before Senedd Cymru annual reports on—
  - (a) their compliance with the duty imposed by subsection (1), and
  - (b) their exercise of the functions conferred by subsection (2).
- (6) Regulations may amend subsection (1)(a).

### *The decision*

#### **60 Grant or refusal of infrastructure consent**

- (1) When the Welsh Ministers have decided an application for infrastructure consent, the Welsh Ministers must either—
  - (a) make an order granting infrastructure consent (“an infrastructure consent order”), or
  - (b) refuse infrastructure consent.
- (2) The Welsh Ministers must notify the following of their decision to either make an infrastructure consent order or refuse infrastructure consent—
  - (a) the applicant;
  - (b) any planning authority or community council that has submitted a local impact report to the Welsh Ministers in respect of the application;
  - (c) Natural Resources Wales if it has submitted a marine impact report to the Welsh Ministers in respect of the application;
  - (d) any other person or persons of a description specified in regulations.
- (3) When the examining authority has decided an application for infrastructure consent, they must either—

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- (a) notify the Welsh Ministers of their decision that an infrastructure consent order is to be made, or
  - (b) refuse infrastructure consent.
- (4) The examining authority must notify the following of its decision either that an infrastructure consent order is to be made or to refuse infrastructure consent—
- (a) the applicant;
  - (b) any planning authority or community council that has submitted a local impact report to the Welsh Ministers in respect of the application;
  - (c) Natural Resources Wales if it has submitted a marine impact report to the Welsh Ministers in respect of the application;
  - (d) any other person or persons of a description specified in regulations.
- (5) When the Welsh Ministers receive a notice under subsection (3)(a), they must make an infrastructure consent order in respect of the application to which the notice relates.
- (6) Regulations may make provision regulating the procedure to be followed if—
- (a) the Welsh Ministers propose to make an infrastructure consent order on terms which are materially different from those proposed in the application;
  - (b) the Welsh Ministers propose to make an infrastructure consent order on terms which are materially different from those proposed in the application as a result of a notice under subsection (3)(a).

## **61 Development for which infrastructure consent may be granted**

- (1) Infrastructure consent may be granted for development which is—
- (a) development for which infrastructure consent is required;
  - (b) associated development.
- (2) “Associated development” means development which—
- (a) is associated with the development within subsection (1)(a) (or any part of it), and
  - (b) is to be carried out wholly in one or both of the following areas—
    - (i) Wales;
    - (ii) the Welsh marine area.
- (3) To the extent that infrastructure consent is granted for associated development, section 20 applies to the development as it applies to development for which infrastructure consent is required.

## **62 Reasons for decision to grant or refuse infrastructure consent**

- (1) When the Welsh Ministers have decided an application for infrastructure consent, they must prepare a statement of their reasons for deciding to—
- (a) make an infrastructure consent order, or
  - (b) refuse infrastructure consent.
- (2) When the examining authority have decided an application for infrastructure consent, it must prepare a statement of its reasons for deciding—
- (a) that an infrastructure consent order is to be made, or
  - (b) to refuse infrastructure consent.

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- (3) The examining authority or the Welsh Ministers (as the case may be) must provide a copy of the statement to—
- (a) the applicant;
  - (b) any planning authority or community council that has submitted a local impact report to the Welsh Ministers in respect of the application;
  - (c) Natural Resources Wales if it has submitted a marine impact report to the Welsh Ministers in respect of the application;
  - (d) any person or person of a description specified in regulations.
- (4) The examining authority or the Welsh Ministers (as the case may be) must publish the statement in such manner as they think, or it thinks, appropriate.

## PART 6

### INFRASTRUCTURE CONSENT ORDERS

#### *Provision in orders: general*

#### **63 What may be included in an infrastructure consent order**

- (1) An infrastructure consent order may impose requirements relating to the development for which consent is granted.
- (2) The requirements may, among other things, include—
  - (a) requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, or the giving of any notice which but for section 20(1) or provision made under section 84(1) would have been required for the development;
  - (b) requirements to obtain the approval of the Welsh Ministers or any other person, so far as not within paragraph (a).
- (3) An infrastructure consent order may make provision relating to, or to matters ancillary to, the development for which consent is granted.
- (4) The provision that may be made under subsection (3) includes, among other things, provision relating to any of the matters listed in Part 1 of Schedule 1.
- (5) Regulations may—
  - (a) add a matter to Part 1 of Schedule 1;
  - (b) remove or vary a matter listed in Part 1 of Schedule 1.
- (6) An infrastructure consent order may—
  - (a) apply, modify or exclude an enactment which relates to any matter for which provision may be made in the order;
  - (b) make amendments, repeals or revocations of enactments of local application that appear to the Welsh Ministers to be appropriate in consequence of a provision of the order or in connection with the order;
  - (c) include any provision that appears to the Welsh Ministers to be appropriate for giving full effect to any other provision of the order;

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- (d) include incidental, consequential, supplementary, transitional or saving provision.
- (7) With the exception of provision made under subsection (3) relating to any of the matters listed in paragraph 29 of Schedule 1, an infrastructure consent order may not include—
  - (a) provision creating offences,
  - (b) provision conferring power to create offences, or
  - (c) provision changing an existing power to create offences.
- (8) To the extent that provision for or relating to a matter may be included in an infrastructure consent order, none of the following may include provision of the same kind—
  - (a) an order under section 14 or 16 of the Harbours Act 1964 (c. 40) (orders in relation to harbours, docks and wharves);
  - (b) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as to railways, tramways, inland waterways etc.).

*Provision in orders authorising compulsory acquisition*

**64 Purpose for which compulsory acquisition may be authorised**

- (1) An infrastructure consent order may include provision authorising the compulsory acquisition of land only if the Welsh Ministers are satisfied that the conditions in subsections (2) and (3) are met.
- (2) The condition is that the land—
  - (a) is required for the development to which the development consent relates,
  - (b) is required to facilitate or is incidental to that development, or
  - (c) is replacement land which is to be given in exchange for the order land under section 70 or 71.
- (3) The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily.

**65 Land to which authorisation of compulsory acquisition can relate**

- (1) An infrastructure consent order may include provision authorising the compulsory acquisition of land only if—
  - (a) the land is in Wales or the Welsh marine area, and
  - (b) the Welsh Ministers are satisfied that one of the conditions in subsections (2) to (4) is met.
- (2) The condition is that the application for infrastructure consent included a request for compulsory acquisition of the land to be authorised.
- (3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.
- (4) The condition is that the procedure specified in regulations for the purpose of this section has been followed in relation to the land.

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## **66 Application of compulsory acquisition provisions**

- (1) This section applies in relation to an infrastructure consent order that includes provision authorising the compulsory acquisition of land.
- (2) Part 1 of the Compulsory Purchase Act 1965 (c. 56) (procedure for compulsory purchase) applies to the compulsory acquisition of land under the order—
  - (a) as it applies to a compulsory purchase to which Part 2 of the Acquisition of Land Act 1981 (c. 67) applies, and
  - (b) as if the order were a compulsory purchase order under that Act.
- (3) Part 1 of the Compulsory Purchase Act 1965, as applied by subsection (2), has effect with the omission of the following provisions—
  - (a) section 4 (time limit for exercise of compulsory purchase powers);
  - (b) section 10 (compensation for injurious affection).
- (4) Subsections (2) and (3) are subject to any contrary provision made by the infrastructure consent order.

## **67 Compensation for compulsory acquisition**

- (1) This section applies in relation to an infrastructure consent order that includes provision authorising the compulsory acquisition of land.
- (2) The order may not include provision the effect of which is to modify the application of a compensation provision, except to the extent necessary to apply the provision to the compulsory acquisition of land authorised by the order.
- (3) The order may not include provision the effect of which is to exclude the application of a compensation provision.
- (4) A “compensation provision” is an enactment that relates to compensation for the compulsory acquisition of land.

## **68 Statutory undertakers’ land**

- (1) This section applies in relation to land (“statutory undertakers’ land”) if—
  - (a) the land has been acquired by statutory undertakers for the purposes of their undertaking,
  - (b) a representation has been made about an application for infrastructure consent before the completion of the examination of the application, and the representation has not been withdrawn, and
  - (c) as a result of the representation the Welsh Ministers are satisfied that—
    - (i) the land is used for the purposes of carrying on the statutory undertakers’ undertaking, or
    - (ii) an interest in the land is held for those purposes.
- (2) An infrastructure consent order may include provision authorising the compulsory acquisition of statutory undertakers’ land only to the extent that the Welsh Ministers are satisfied of the matters set out in subsection (3).
- (3) The matters are that the nature and situation of the land are such that—
  - (a) it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or

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- (b) if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.
- (4) Subsections (2) and (3) do not apply in a case within subsection (5).
- (5) An infrastructure consent order may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the Welsh Ministers are satisfied of the matters set out in subsection (6).
- (6) The matters are that the nature and situation of the land are such that—
  - (a) the right can be purchased without serious detriment to the carrying on of the undertaking, or
  - (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.
- (7) In this section, “statutory undertakers” has the meaning given by section 8 of the Acquisition of Land Act 1981 (c. 67) and also includes the undertakers—
  - (a) that are deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment;
  - (b) that are statutory undertakers for the purposes of section 16(1) and (2) of that Act (see section 16(3) of that Act).
- (8) In the application of this section to a statutory undertaker which is a health service body (as defined in section 60(7) of the National Health Service and Community Care Act 1990 (c. 19)), references to land acquired or available for acquisition by the statutory undertakers are to be construed as references to land acquired or available for acquisition by the Welsh Ministers for use or occupation by the body.

## **69 National Trust land**

- (1) This section applies to land belonging to the National Trust which is held by the Trust inalienably.
- (2) An infrastructure consent order is subject to special Senedd procedure, to the extent that the order authorises the compulsory acquisition of land to which this section applies, if the condition in subsection (3) is met.
- (3) The condition is that—
  - (a) a representation has been made by the National Trust about the application for the infrastructure consent order before the completion of the examination of the application,
  - (b) the representation contains an objection to the compulsory acquisition of the land, and
  - (c) the objection has not been withdrawn.
- (4) In a case to which this section applies and to which section 70 or 71 also applies, special Senedd procedure—
  - (a) may be required by subsection (2) whether or not also required by section 70(3) or 71(2), and
  - (b) may be required by section 70(3) or 71(2) whether or not also required by subsection (2).

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- (5) In this section, “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the [National Trust Act 1907 \(c. cxxxvi\)](#) or section 8 of the [National Trust Act 1939 \(c. lxxxvi\)](#).

## 70 Commons, open spaces etc: compulsory acquisition of land

- (1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.
- (2) This section does not apply in a case to which section 71 applies.
- (3) An infrastructure consent order is subject to special Senedd procedure to the extent that the order authorises the compulsory acquisition of land to which this section applies, unless—
- (a) the Welsh Ministers are satisfied that one of subsections (4) to (7) applies, and
  - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.
- (4) This subsection applies if—
- (a) replacement land has been or will be given in exchange for the order land, and
  - (b) the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.
- (5) This subsection applies if—
- (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1),
  - (c) either—
    - (i) there is no suitable land available to be given in exchange for the order land, or
    - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and
  - (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special Senedd procedure.
- (6) This subsection applies if—
- (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1), and
  - (c) the order land is being acquired for a temporary (although possibly long-lived) purpose.
- (7) This subsection applies if—
- (a) the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and
  - (b) the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- (8) If an infrastructure consent order authorises the compulsory acquisition of land to which this section applies, it may include provision—



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- (a) for vesting replacement land given in exchange as mentioned in subsection (4) (a) in the prospective seller and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and
  - (b) for discharging the order land from all rights, trusts and incidents to which it is subject.
- (9) In this section—
- “common” (“*tir comin*”), “fuel or field garden allotment” (“*rhandir tanwydd neu ardd gae*”) and “open space” (“*man agored*”) have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);
  - “the order land” (“*tir y gorchymyn*”) means the land authorised to be compulsorily acquired;
  - “the prospective seller” (“*y darpar werthwr*”) means the person or persons in whom the order land is vested;
  - “replacement land” (“*tir amnewid*”) means land which is not less in area than the order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.

## **71 Commons, open spaces etc: compulsory acquisition of rights over land**

- (1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.
- (2) An infrastructure consent order is subject to special Senedd procedure to the extent that the order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, unless—
  - (a) the Welsh Ministers are satisfied that one of subsections (3) to (7) applies, and
  - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.
- (3) This subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons—
  - (a) the persons in whom it is vested,
  - (b) other persons, if any, entitled to rights of common or other rights, and
  - (c) the public.
- (4) This subsection applies if—
  - (a) replacement land has been or will be given in exchange for the order right, and
  - (b) the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the infrastructure consent order).
- (5) This subsection applies if—
  - (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1),
  - (c) either—
    - (i) there is no suitable land available to be given in exchange for the order right, or
    - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and

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- (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special Senedd procedure.
- (6) This subsection applies if—
- (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1), and
  - (c) the order right is being acquired for a temporary (although possibly long-lived) purpose.
- (7) This subsection applies if—
- (a) the order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and
  - (b) the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- (8) If an infrastructure consent order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, it may include provision—
- (a) for vesting replacement land given in exchange as mentioned in subsection (4) (a) in the persons in whom the order land is vested and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and
  - (b) for discharging the order land from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of the order right.
- (9) In this section—
- “common” (“*tir comin*”), “fuel or field garden allotment” (“*rhandir tanwydd neu ardd gae*”) and “open space” (“*man agored*”) have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);
- “the order land” (“*tir y gorchymyn*”) means the land to which this section applies over which the order right is to be exercisable;
- “the order right” (“*hawl y gorchymyn*”) means the right authorised to be compulsorily acquired;
- “replacement land” (“*tir amnewid*”) means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right—
- (a) the persons in whom the order land is vested,
  - (b) the persons, if any, entitled to rights of common or other rights over the order land, and
  - (c) the public.

## 72 Notice of authorisation of compulsory acquisition

- (1) Regulations must make provision imposing requirements on a prospective purchaser—
- (a) to give, publish or display a compulsory acquisition notice;

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- (b) to provide the public with access to a copy of the infrastructure consent order to which the notice relates.
- (2) A compulsory acquisition notice is a notice in the form specified in regulations—
- (a) describing the order land,
  - (b) in a case where the infrastructure consent order authorises the compulsory acquisition of a right over land by the creation of a new right, describing the right,
  - (c) stating that the infrastructure consent order includes provision authorising the compulsory acquisition of a right over the land by the creation of a right over it or (as the case may be) the compulsory acquisition of the land,
  - (d) in a case where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)—
    - (i) containing a statement specified in regulations about the effect of those Parts, and
    - (ii) inviting any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the prospective purchaser information about the person’s name, address and interest in land, using a form specified in regulations,
  - (e) stating where and when a copy of the order is available for inspection in accordance with regulations under subsection (1)(b), and
  - (f) stating that a person aggrieved by the order may challenge the order only in accordance with section 96.
- (3) In this section—
- “the order land” (“*tir y gorchymyn*”) means—
    - (a) in a case where the infrastructure consent order authorises the compulsory acquisition of a right over land by the creation of a new right, the land over which the right is to be exercisable or (in the case of a restrictive covenant) to which it applies;
    - (b) in any other case where the infrastructure consent order authorises the compulsory acquisition of land, the land authorised to be compulsorily acquired;
  - “the prospective purchaser” (“*y darpar brynwr*”) means—
    - (a) in a case where the infrastructure consent order authorises the compulsory acquisition of a right over land by the creation of a new right, the person for whose benefit the order authorises the creation of the right;
    - (b) in any other case where the infrastructure consent order authorises the compulsory acquisition of land, the person authorised by the order to compulsorily acquire the land.
- (4) The prospective purchaser must send a compulsory acquisition notice to the Chief Land Registrar and it is to be a local land charge in respect of the land to which it relates.

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*Provision in orders: specific limitations and powers*

**73 Public rights of way**

- (1) An infrastructure consent order may extinguish a public right of way over land only if the Welsh Ministers are satisfied that—
  - (a) an alternative right of way has been or will be provided, or
  - (b) the provision of an alternative right of way is not required.
- (2) The following provisions of this section apply if—
  - (a) an infrastructure consent order makes provision for the acquisition of land, compulsorily or by agreement,
  - (b) the order extinguishes a public right of way over the land, and
  - (c) the right of way is not a right enjoyable by vehicular traffic.
- (3) The order may not provide for the right of way to be extinguished from a date which is earlier than the date on which the order is published.
- (4) Subsection (5) applies if—
  - (a) the order extinguishes the right of way from a date (“the extinguishment date”) which is earlier than the date on which the acquisition of the land is completed, and
  - (b) at any time after the extinguishment date it appears to the Welsh Ministers that the proposal to acquire the land has been abandoned.
- (5) The Welsh Ministers must by order direct that the right is to revive.
- (6) Nothing in subsection (5) prevents the making of a further order extinguishing the right of way.

**74 Power to override easements and other rights**

In section 205(1) of the Housing and Planning Act 2016 (c. 22) (interpretation of sections 203 and 204), in the definition of “planning consent”—

- (a) in paragraph (a), omit “or”;
- (b) at the end insert “, or
- (c) infrastructure consent under the Infrastructure (Wales) Act 2024”.

**75 Extinguishment of rights, and removal of apparatus, of statutory undertakers etc.**

- (1) This section applies if an infrastructure consent order authorises the acquisition of land (compulsorily or by agreement) and—
  - (a) there subsists over the land a relevant right,
  - (b) a relevant restrictive covenant applies to the land, or
  - (c) there is on, under or over the land relevant apparatus.
- (2) “Relevant right” means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which—
  - (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or

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- (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.
- (3) “Relevant restrictive covenant” means a restrictive covenant that benefits statutory undertakers in carrying on their undertaking.
- (4) “Relevant apparatus” means—
  - (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or
  - (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network.
- (5) The order may include provision for the extinguishment of the relevant right or relevant restrictive covenant, or the removal of the relevant apparatus, only if the Welsh Ministers are satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates
- (6) In this section, “statutory undertakers” means persons who are, or are deemed to be, statutory undertakers for the purpose of any provision of Part 11 of TCPA 1990.
- (7) In this section—
  - “electronic communications apparatus” (*“cyfarfpar cyfarthrebu electronig”*) has the meaning given in paragraph 5 of the electronic communications code;
  - “electronic communications code” (*“cod cyfarthrebu electronig”*) means the code set out in Schedule 3A to the Communications Act 2003 (c. 21);
  - “operator of an electronic communications code network” (*“gweithredwr rhwydwaith cod cyfarthrebu electronig”*) has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003.

## 76 Crown land

- (1) An infrastructure consent order may not include provision authorising the compulsory acquisition of an interest in Crown land unless—
  - (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
  - (b) the appropriate Crown authority consents to the acquisition.
- (2) An infrastructure consent order may not include any other provision applying in relation to Crown land, or rights benefiting the Crown, unless the appropriate Crown authority consents to the inclusion of the provision.
- (3) The reference in subsection (2) to rights benefiting the Crown does not include rights which benefit the general public.
- (4) In this section, “the Crown” includes the Duchy of Lancaster and the Duchy of Cornwall.

## 77 Operation of generating stations

An infrastructure consent order may include provision authorising the operation of a generating station only if the development to which the order relates is or includes the construction or extension of the generating station.

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## **78 Keeping electric lines installed above ground**

An infrastructure consent order may include provision authorising an electric line to be kept installed above ground only if the development to which the order relates is or includes the installation of the line above ground.

## **79 Diversion of watercourses**

- (1) An infrastructure consent order may include provision authorising the diversion of any part of a navigable watercourse only if the condition in subsection (2) is met.
- (2) The new length of watercourse must be navigable in a reasonably convenient manner by vessels of a kind that are accustomed to using the part of the watercourse which is to be diverted.
- (3) In deciding whether the condition in subsection (2) is met, the effect of any bridge or tunnel must be ignored if the construction of the bridge or tunnel is part of the development for which consent is granted by the infrastructure consent order.
- (4) If an infrastructure consent order includes provision authorising the diversion of any part of a navigable watercourse, the order is also to be taken to authorise the diversion of any tow path or other way adjacent to that part.

## **80 Highways**

- (1) An infrastructure consent order may include provision authorising the charging of tolls in relation to a highway only if a request to that effect has been included in the application for the order.
- (2) If an infrastructure consent order includes provision authorising the charging of tolls in relation to a highway, the order is treated as a toll order for the purposes of sections 7 to 18 of the New Roads and Street Works Act 1991 (c. 22).

## **81 Harbours**

- (1) An infrastructure consent order may include provision for the creation of a harbour authority only if—
  - (a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and
  - (b) the creation of a harbour authority is necessary or expedient for the purposes of the development.
- (2) An infrastructure consent order may include provision changing the powers or duties of a harbour authority only if—
  - (a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and
  - (b) the authority has requested the inclusion of the provision or has consented in writing to its inclusion.
- (3) An infrastructure consent order may include provision authorising the transfer of property, rights or liabilities from one harbour authority to another only if—
  - (a) the development to which the order relates is or includes the construction or alteration of harbour facilities, and
  - (b) the order makes provision for the payment of compensation of an amount—

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- (i) determined in accordance with the order, or
  - (ii) agreed between the parties to the transfer.
- (4) Subject to subsection (6), an infrastructure consent order which includes provision for the creation of a harbour authority, or changing the powers or duties of a harbour authority, may also make other provision in relation to the authority.
- (5) Subject to subsection (6), the provision which may be included in relation to a harbour authority includes in particular—
  - (a) any provision in relation to a harbour authority which could be included in a harbour revision order under section 14 of the Harbours Act 1964 (c. 40) by virtue of any provision of Schedule 2 to that Act;
  - (b) provision conferring power on the authority to change provision made in relation to it (by the order or by virtue of this paragraph), where the provision is about—
    - (i) the procedures (including financial procedures) of the authority;
    - (ii) the power of the authority to impose charges;
    - (iii) the power of the authority to delegate any of its functions;
    - (iv) the welfare of officers and employees of the authority and financial and other provision made for them.
- (6) The order may not include provisions—
  - (a) which, by virtue of any other provision of this Act, are not permitted to be included in an infrastructure consent order;
  - (b) conferring power on a harbour authority to delegate, or make changes to its powers so as to permit the delegation of, any of the functions mentioned in paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964.

## **82 Discharge of water**

- (1) This section applies if—
  - (a) an infrastructure consent order includes provision authorising the discharge of water into inland waters or underground strata, and
  - (b) but for the order, the person to whom infrastructure consent is granted would have had no power to take water, or to require discharges to be made, from the inland waters or other source from which the discharges authorised by the order are intended to be made.
- (2) The order does not have the effect of conferring any such power on that person.

## **83 Deemed consent under a marine licence**

- (1) An infrastructure consent order may include provision deeming a marine licence to have been issued under Part 4 of the Marine and Coastal Access Act 2009 (c. 23) for any activity for which the Welsh Ministers are the appropriate licensing authority.
- (2) Subsections (3) and (4) apply if an infrastructure consent order includes provision—
  - (a) deeming a marine licence to have been granted under Part 4 of the Marine and Coastal Access Act 2009 subject to conditions specified in the order, and
  - (b) deeming those conditions to have been attached to the marine licence by the Welsh Ministers under that Part.



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- (3) A person who fails to comply with a condition of the kind mentioned in subsection (2) does not commit an offence under section 104 of this Act.
- (4) Sections 68 (notice of applications) and 69(3) and (5) (representations) of the Marine and Coastal Access Act 2009 do not apply in relation to the deemed marine licence.
- (5) No provision in or made under or by virtue of this Act prevents a deemed marine licence from being varied, suspended, revoked or transferred in accordance with section 72 of the Marine and Coastal Access Act 2009.
- (6) In this section, “the appropriate licensing authority” has the meaning given by section 113 of the Marine and Coastal Access Act 2009.

#### **84 Removing consent requirements and deeming consents**

- (1) If a condition in subsection (2) or (3) is met, an infrastructure consent order may include provision that—
  - (a) removes a requirement for a specified consent of a relevant authority to be granted;
  - (b) deems a specified consent of a relevant authority to have been granted.
- (2) The condition is that the relevant authority has consented to the inclusion of the provision before the end of the specified period.
- (3) The condition is that the relevant authority has not refused to give consent for the provision to be included before the end of the specified period.
- (4) Regulations may provide exceptions to the requirement to meet the conditions in subsections (2) and (3).
- (5) In this section—
  - “consent” (“*cydsyniad*”) means—
    - (a) a consent or authorisation that is required, under an enactment, to be obtained for development,
    - (b) a consent or authorisation, that—
      - (i) may authorise development, and
      - (ii) is given under an enactment, or
    - (c) a notice that is required by an enactment to be given in relation to development;
  - “relevant authority” (“*awdurdod perthnasol*”) means the authority that would otherwise have the function of deciding whether to grant the specified consent;
  - “specified” (“*penodedig*”) means specified in regulations.

#### *Procedure for infrastructure consent orders*

#### **85 Infrastructure consent orders: publication and procedure**

- (1) This section applies in relation to an infrastructure consent order.
- (2) The Welsh Ministers must publish the order in such manner as the Welsh Ministers think appropriate, except in a case within subsection (3).



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- (3) If the order includes provision—
- (a) made under section 63(3) relating to any of the matters listed in paragraphs 28 and 29 of Schedule 1, or
  - (b) made in the exercise of any of the powers conferred by section 63(6)(a) or 63(6)(b),
- the order must be contained in a statutory instrument.
- (4) As soon as practicable after the instrument containing the order is made, the Welsh Ministers must lay before Senedd Cymru a copy of—
- (a) the instrument,
  - (b) the latest version of any plan supplied by the applicant in connection with the application for the order contained in the instrument, and
  - (c) statement of reasons prepared under section 62.

*Changing and revoking infrastructure consent orders etc.*

## **86 Meaning of “decision documents” and “error”**

- (1) This section applies for the purposes of sections 87 and 88.
- (2) “Decision document” means—
- (a) in the case of a grant of infrastructure consent, the infrastructure consent order;
  - (b) in the case of a refusal of infrastructure consent, the notice of refusal given to the applicant.
- (3) “Error” includes omission.

## **87 Power to correct errors in decision documents**

- (1) This section applies where a decision document is issued which contains an error.
- (2) The Welsh Ministers may correct the error in the decision document.
- (3) The power conferred by subsection (2) may be exercised—
- (a) on receipt of a request in writing to correct the error from any person, or
  - (b) without such request being made.
- (4) If the decision document is an infrastructure consent order—
- (a) the power conferred by subsection (2) must be exercised by order, and
  - (b) if the order to be corrected is contained in a statutory instrument, the power conferred by subsection (2) is to be exercised by statutory instrument.
- (5) If the decision document is a notice of refusal given to the applicant, the power conferred by subsection (2) must be exercised by giving the applicant a notice.

## **88 Correcting errors: regulations**

- (1) Regulations may make provision for or in connection with the procedure for correcting an error in a decision document and may (among other things) make provision about—
- (a) any consultation that must take place;

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- (b) the circumstances in which the Welsh Ministers must publish a statement explaining the reason for correcting the error.
- (2) Regulations may make provision about—
  - (a) the effect of making a correction under section 87(2) and not making a correction;
  - (b) when a correction made under section 87(2) takes effect.

*Making changes to, and revoking, infrastructure consent orders*

## **89 Definitions**

- (1) This section applies for the purposes of sections 90 and 91.
- (2) “The applicant”, in relation to an infrastructure consent order, means the person who applied for the order.
- (3) “A successor in title of the applicant” means a person who—
  - (a) derives title to the land from the applicant (whether directly or indirectly), and
  - (b) has an interest in the land.
- (4) “The land”, in relation to an infrastructure consent order, means the land to which the order relates or any part of that land.

## **90 Power to change or revoke infrastructure consent orders**

- (1) The Welsh Ministers may by order make a change to, or revoke, an infrastructure consent order.
- (2) The provision that may be made by way of a change to an infrastructure consent order includes provision that may be made under section 63, subject to this section.
- (3) The power conferred by subsection (1) may be exercised on an application made by—
  - (a) the applicant or a successor in title of the applicant;
  - (b) a person with an interest in the land;
  - (c) any other person for whose benefit the infrastructure consent order has effect.
- (4) The power to revoke an infrastructure consent order conferred by subsection (1) may be exercised on an application made by a planning authority if the Welsh Ministers are satisfied that—
  - (a) the infrastructure consent order grants infrastructure consent for development on land all or part of which is in the planning authority’s area,
  - (b) the development has begun but has been abandoned, and
  - (c) the amenity of other land in the planning authority’s area or an adjoining area is adversely affected by the condition of the land.
- (5) The Welsh Ministers may refuse to exercise the power on an application made under subsection (3) or (4) if, in particular, the Welsh Ministers consider that the development that would be authorised as a result of the change should properly be the subject of an application under section 32 for infrastructure consent.
- (6) The power conferred by subsection (1) may be exercised by the Welsh Ministers without an application being made under subsection (3) or (4).

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- (7) The power conferred by subsection (1) includes power to—
  - (a) require the removal or alteration of building works;
  - (b) require the discontinuance of a use of land;
  - (c) impose specified requirements in connection with the continuance of a use of land;
  - (d) impose new requirements in connection with the development for which consent is granted by the infrastructure consent order;
  - (e) remove or vary existing requirements;
  - (f) make new provision relating to, or to matters ancillary to, the development for which consent is granted;
  - (g) remove or vary existing provision of that kind.
- (8) Subject to subsection (7)(a), the exercise of the power does not affect any building or other operations carried out in pursuance of the infrastructure consent order before the power is exercised.
- (9) The power conferred by subsection (1) may not be exercised in relation to provision included in an infrastructure consent order by virtue of paragraph 24 or 25 of Schedule 1 (deemed marine licence under Marine and Coastal Access Act 2009 (c. 23)).

## **91 Procedure: changing and revoking infrastructure consent orders**

- (1) An application under section 90 must—
  - (a) be made in the form specified by regulations;
  - (b) be made in the way specified in the regulations;
  - (c) be accompanied by information of a kind specified by regulations.
- (2) Where a person has an interest in some, but not all, of the land to which an infrastructure consent order relates, the person may make an application under section 90 only in respect of as much of the consent as order as affects the land in which the person has an interest.
- (3) Regulations may make provision about the procedure for changing or revoking an infrastructure consent order and may (among other things) make provision about—
  - (a) the procedure to be followed before an application under section 90 is made;
  - (b) the making of such application;
  - (c) the decision-making process in relation to the exercise of the power conferred by section 90(1);
  - (d) the making of the decision as to whether to exercise the power conferred by section 90(1);
  - (e) the effect of a decision to exercise the power in section 90(1).
- (4) Paragraphs (c) to (e) of subsection (3) apply in relation to the exercise of the power conferred by section 90(1)—
  - (a) on an application under section 90, or
  - (b) without an application being made (see section 90(6)).
- (5) Regulations under subsection (3) may confer a function, including a function involving the exercise of a discretion, on any person.

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- (6) If an infrastructure consent order is changed or revoked in the exercise of the power conferred by section 90(1), the Welsh Ministers must give notice of the change or revocation to—
- (a) the applicant or a successor in title of the applicant,
  - (b) the person who made the application under section 90 (if different to the person mentioned in paragraph (a)), and
  - (c) any person or person of a description specified in regulations.
- (7) If an infrastructure consent order was required to be contained in a statutory instrument, an order changing or revoking the infrastructure consent order made in the exercise of the power conferred by section 90(1) must also be contained in a statutory instrument.

## **92 Changing and revoking infrastructure consent orders: formalities**

- (1) This section applies to—
- (a) an order made under section 87;
  - (b) a notice issued under section 87;
  - (c) an order made under section 90.
- (2) The Welsh Ministers must publish the order or the notice (as the case may be) in such manner as they think appropriate.
- (3) But if the order is required to be contained in a statutory instrument (by virtue of section 87(4) or section 91(7)), as soon as practicable after the instrument containing the order is made, the Welsh Ministers must lay before Senedd Cymru a copy of the instrument.

## **93 Changing or revoking an infrastructure consent order: compensation**

Schedule 2 makes provision about compensation for changing or revoking an infrastructure consent order.

### *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

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- (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.

## **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—

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- (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 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;”;

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(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—

“(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—

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*“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
  - (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



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- 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.
- (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.

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- (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;
  - (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).

### *Interpretation*

#### **102 Meaning of “land”**

In this Part, “land” includes any interest in or right over land.

## **PART 7**

### **ENFORCEMENT**

#### *Offences*

#### **103 Development without infrastructure consent**

- (1) A person commits an offence if the person carries out, or causes to be carried out, development for which infrastructure consent is required at a time when no infrastructure consent is in force in respect of the development.
- (2) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

#### **104 Breach of terms of infrastructure consent order**

- (1) A person commits an offence if, without reasonable excuse, the person—
- (a) carries out, or causes to be carried out, development in breach of the terms of an infrastructure consent order, or
  - (b) otherwise fails to comply with the terms of an infrastructure consent order.
- (2) Subsection (1) is subject to section 83(3).
- (3) In proceedings against a person for an offence under this section it is a defence for the person to prove that—
- (a) the breach or failure to comply occurred only because of an error in the order, and
  - (b) the error has been corrected under section 87.

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- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

### **105 Time limits**

- (1) A person may not be charged with an offence under section 103 or 104 after the end of—
- (a) the relevant 4-year period, or
  - (b) if subsection (3) applies, the extended period.
- (2) The “relevant 4-year period” means—
- (a) in the case of an offence under section 103, the period of 4 years beginning with the day on which the development was substantially completed;
  - (b) in the case of an offence under section 104, the period of 4 years beginning with the later of—
    - (i) the day on which the development was substantially completed, and
    - (ii) the day on which the breach or failure to comply occurred.
- (3) This subsection applies if during the relevant 4-year period—
- (a) an information notice has been given under section 111, or
  - (b) an injunction has been applied for under section 122.
- (4) The “extended period” means the period of 4 years beginning with—
- (a) the date on which the information notice was given, if subsection (3)(a) applies;
  - (b) the date of the application for the injunction, if subsection (3)(b) applies;
  - (c) the later (or latest) of those dates, if both paragraphs (a) and (b) of subsection (3) apply.

### **106 Powers to enter land for enforcement purposes**

- (1) A person authorised in writing by a planning authority may enter land in the authority’s area to assess whether an offence under section 103 or 104 is being, or has been, committed on or in respect of the land.
- (2) A person authorised in writing by the Welsh Ministers may enter land in Wales to assess whether an offence under section 103 or 104 is being, or has been, committed on or in respect of the land.
- (3) A power to enter land under this section may be exercised—
- (a) at any reasonable time, and
  - (b) only if there are reasonable grounds for entering the land for the purpose in question.
- (4) A person authorised to enter land under this section may not demand entry as of right to a building used as a dwelling unless 24 hours’ notice of the intended entry has been given to every occupier of the building.
- (5) A person authorised to enter land under this section—
- (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land,

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- (b) may take on to the land any other persons that are necessary, and
- (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.

### **107 Warrant to enter land**

- (1) This section applies if a justice of the peace is satisfied on sworn information in writing—
  - (a) that there are reasonable grounds for entering land to assess whether an offence under section 103 or 104 is being, or has been, committed on or in respect of the land, and
  - (b) that—
    - (i) admission to the land has been refused or a refusal is reasonably expected, or
    - (ii) the case is one of urgency.
- (2) The justice of the peace may issue a warrant conferring a power to enter the land on any person authorised in writing by a person who may authorise entry under section 106 for the purpose in question.
- (3) For the purposes of subsection (1)(b), admission to land is to be treated as having been refused if no reply is received to a request for admission within a reasonable period.
- (4) A warrant under this section confers a power to enter land—
  - (a) on one occasion only, and
  - (b) only at a reasonable time, unless the case is one of urgency.
- (5) A person authorised to enter land under this section—
  - (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land,
  - (b) may take on to the land any other persons that are necessary, and
  - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (6) A warrant under this section ceases to have effect at the end of 1 month beginning with the day it is issued.

### **108 Rights of entry: supplementary provisions**

- (1) This section applies where a person has a power to enter land conferred by section 106 or by a warrant under section 107.
- (2) A person who intentionally obstructs a person exercising the power of entry commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine.
- (4) If damage is caused to land or other property in the exercise of the power of entry, a person suffering the damage may recover compensation from the planning authority that authorised the entry or (as the case may be) from the Welsh Ministers if they authorised the entry.

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- (5) A claim for compensation under subsection (4) must be made in writing within 12 months beginning with the day the damage was caused (or if the damage was caused over more than one day, the last day it was caused).
- (6) Any question of disputed compensation under subsection (4) is to be referred to and determined by the Upper Tribunal.
- (7) Section 4 of the Land Compensation Act 1961 (c. 33) (costs) applies to the determination of a question referred under subsection (6) as it applies to the determination of a question under section 1 of that Act, but as if references to the acquiring authority were references to the person from whom compensation is claimed.

### **109 Rights of entry: Crown land**

Sections 106 and 107 do not apply to Crown land.

### **110 Marine enforcement powers**

After section 243 of the Marine and Coastal Access Act 2009 (c. 23) insert—

#### **“243A Infrastructure planning: enforcement in the Welsh inshore region**

- (1) The Welsh Ministers may appoint persons for the purposes of enforcing the Infrastructure (Wales) Act 2024.
- (2) For the purposes referred to in subsection (1), a person appointed under this section has—
  - (a) the common enforcement powers conferred by this Act;
  - (b) the power conferred by section 263.
- (3) The powers that a person appointed under this section has for the purposes referred to in subsection (1) may be exercised—
  - (a) in the Welsh inshore region (and in relation to any vessel, aircraft or marine structure in that region);
  - (b) in Wales.
- (4) But the powers which a person appointed under this section has for the purposes referred to in subsection (1) may not be exercised in relation to any British warship.”

#### *Information notices*

### **111 Power to require information**

- (1) This section applies where—
  - (a) the relevant planning authority consider that an offence under section 103 or 104 may have been committed on or in respect of the land in its area;
  - (b) the Welsh Ministers consider that an offence under section 103 or 104 may have been committed on or in respect of land in Wales;

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- (c) the Welsh Ministers consider that an offence under section 103 or 104 may have been committed in or in respect of the Welsh marine area.
- (2) The relevant planning authority may serve an information notice on any person—
  - (a) who is the owner or occupier of the land or has any other interest in it, or
  - (b) carrying out operations on the land or is using it for any purpose.
- (3) The Welsh Ministers may serve an information notice on any person who—
  - (a) is the owner or occupier of the land or has any other interest in it,
  - (b) is carrying out operations on the land or is using it for any purpose, or
  - (c) is carrying out operations in the Welsh marine area.
- (4) The information notice must—
  - (a) specify the matters that the planning authority, or Welsh Ministers, consider may constitute an offence, and
  - (b) require the person on whom it is served (“the recipient”) to give the information specified in the notice, so far as the recipient is able to do so.
- (5) The information that may be specified in the notice is information about—
  - (a) any operations being carried out,
  - (b) any use of land,
  - (c) any other activities being carried out, and
  - (d) any matter relating to the provisions of an infrastructure consent order.
- (6) An information notice must inform the person on whom it is served of the likely consequences of a failure to respond to the notice and, in particular, that enforcement action may be taken.
- (7) The recipient of an information notice must comply with the requirements of the notice by giving the required information in writing to the relevant planning authority, or if the notice was given by the Welsh Ministers, to the Welsh Ministers.

## **112 Offences of failing to comply with information notices**

- (1) A person on whom an information notice has been served commits an offence if, at any time after the end of 21 days beginning with the day on which the notice is served, the person has not complied with a requirement of the notice.
- (2) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person had a reasonable excuse for failing to comply with the requirement.
- (3) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same information notice by reference to different periods.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- (5) A person commits an offence if, in purported compliance with a requirement of an information notice the person—
  - (a) provides information which the person knows to be false or misleading in a material respect, or

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- (b) recklessly provides information which is false or misleading in a material respect.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction or on conviction on indictment to a fine.

#### *Notices of unauthorised development*

### **113 Notice of unauthorised development**

- (1) Subsection (2) applies if a person is found guilty of an offence under section 103 committed on or in respect of any land in Wales.
- (2) The relevant planning authority or the Welsh Ministers may give a notice of unauthorised development to the person specifying the steps required to be taken—
  - (a) to remove the development, and
  - (b) to restore the land on which the development has been carried out to its condition before the development was carried out.
- (3) Subsection (4) applies if a person is found guilty of an offence under section 104 committed on or in respect of any land in Wales.
- (4) The relevant planning authority or the Welsh Ministers may give a notice of unauthorised development to the person requiring the person to remedy the breach or failure to comply.
- (5) A notice of unauthorised development must specify the period within which any steps specified in the notice must be taken.
- (6) A notice of unauthorised development may specify different periods for taking different steps.
- (7) Where different periods apply to different steps, references in this Part to the period for compliance with a notice of unauthorised development, in relation to any step, are to the period within which the step is required to be taken.
- (8) Regulations may specify additional matters that must be specified in a notice of unauthorised development.

#### *Compliance with notices of unauthorised development*

### **114 Order to permit steps required by notice of unauthorised development**

- (1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit the owner to take steps required by a notice of unauthorised development.
- (2) The court may make such an order if it satisfied that the other person is preventing the owner from taking steps required by the notice.

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## **115 Power to enter land and take steps required by notice of unauthorised development**

- (1) If the period within which a notice of unauthorised development requires any step to be taken has ended and the step has not been taken, the planning authority that issued the notice, or the Welsh Ministers, if they issued the notice, may at any reasonable time enter the land to which the notice relates and take the step.
- (2) A person who intentionally obstructs a person exercising a power under subsection (1) commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine.

## **116 Recovery of costs of compliance with notice of unauthorised development**

- (1) Where a relevant planning authority or the Welsh Ministers exercise the power under section 115(1) to enter land and take a step required by a notice of unauthorised development, the planning authority or the Welsh Ministers (as the case may be) may recover from a person who is then an owner of the land the costs reasonably incurred in doing so.
- (2) If a relevant planning authority or the Welsh Ministers seek to recover costs under subsection (1) from an owner of land who—
  - (a) is entitled to receive the rack rent of the land merely as agent or trustee for another person (the “principal”), and
  - (b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.
- (3) If subsection (2) prevents a relevant planning authority or the Welsh Ministers recovering the whole of its or their costs from an agent or trustee, the relevant planning authority, or the Welsh Ministers may recover the costs from the principal, or partly from the principal and partly from the agent or trustee.
- (4) Where a notice of unauthorised development has been served in respect of development—
  - (a) costs incurred by the owner or occupier of the land for the purpose of complying with the notice, and
  - (b) amounts paid by the owner of the land under subsection (1) in respect of costs incurred by the relevant planning authority, or the Welsh Ministers, in taking steps required by it or them,are to be deemed to be incurred or paid for the use and at the request of the person found guilty of the offence under section 103 or 104.
- (5) The costs recoverable by a relevant planning authority or the Welsh Ministers under subsection (1) are, until recovered, a charge on the land to which the notice of unauthorised development relates.
- (6) The charge takes effect as a local land charge at the beginning of the day after the day the planning authority or the Welsh Ministers complete the step to which the costs relate.



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- (7) Subsection (8) applies where—
- (a) a relevant planning authority or the Welsh Ministers remove materials from land in the course of taking steps required by a notice of unauthorised development, and
  - (b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.
- (8) The relevant planning authority or the Welsh Ministers—
- (a) may sell the materials, and
  - (b) if it or they do so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by them from the person.
- (9) Costs may not be recovered under this section from the Crown.

#### *Temporary stop notices*

### **117 Power to issue temporary stop notice**

- (1) A relevant planning authority may issue a temporary stop notice if it considers that—
- (a) an activity has been or is being carried out in relation to land in its area that constitutes an offence under section 103 or 104, and
  - (b) the activity (or any part of that activity) ought to be stopped immediately.
- (2) A temporary stop notice must—
- (a) specify the activity that the planning authority considers to constitute an offence,
  - (b) prohibit the carrying out of the activity (or of so much of the activity as is specified in the notice),
  - (c) set out the authority's reasons for issuing the notice, and
  - (d) state the effect of section 120 (offence of breaching temporary stop notice).
- (3) The planning authority must display a copy of the temporary stop notice on the land to which it relates; and the copy must specify the date on which it is first displayed.
- (4) But if it is not reasonably practicable to display a copy of the notice on the land, the planning authority may instead display a copy in a prominent place as near to the land as is reasonably practicable.
- (5) The planning authority may serve a copy of a temporary stop notice on any person the authority considers—
- (a) to be carrying out the activity that the notice prohibits,
  - (b) to be an occupier of the land to which the notice relates,
  - (c) to have an interest in the land, or
  - (d) to be a person who has the benefit of an infrastructure consent order to which the notice relates.

### **118 Restrictions on power to issue temporary stop notice**

- (1) A temporary stop notice may not prohibit—
- (a) the use of a building as a dwelling, or

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- (b) the carrying out of an activity of a kind, or in circumstances, specified in regulations.
- (2) A temporary stop notice may not prohibit the carrying out of an activity that has been carried out (whether or not continuously) for at least 4 years before the day on which a copy of the notice is first displayed in accordance with section 117.
- (3) Subsection (2) does not prevent a temporary stop notice prohibiting—
  - (a) activity consisting of or incidental to building, engineering, mining, or other operations, or
  - (b) the deposit of waste.

### **119 Duration etc. of temporary stop notice**

- (1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 117.
- (2) A temporary stop notice ceases to have effect—
  - (a) at the end of the period of 28 days beginning with the day the copy of it is first displayed in accordance with section 117,
  - (b) if it specifies a shorter period beginning with that day, at the end of that period, or
  - (c) on the date on which the court grants an injunction under section 122.
- (3) But if the planning authority withdraws the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.
- (4) A planning authority may not issue a second or subsequent temporary stop notice in relation to the same activity unless the authority has, since issuing the previous notice, taken other enforcement action in relation to the activity referred to in section 117(1).
- (5) In subsection (4) the reference to taking other enforcement action is a reference to—
  - (a) issuing a notice of unauthorised development under section 113;
  - (b) obtaining an injunction under section 122.

### **120 Offence of breaching temporary stop notice**

- (1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out an activity prohibited by the notice or causes or permits such an activity to be carried out.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for a person to prove that—
  - (a) a copy of the temporary stop notice was not served on the person, and
  - (b) the person did not know, and could not reasonably have been expected to know, of the existence of the notice.
- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

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## **121 Compensation for loss due to notice**

- (1) This section applies where—
  - (a) an activity specified in a temporary stop notice is, at the time the notice takes effect, authorised by an infrastructure consent order granted before the day the notice takes effect, or
  - (b) a relevant planning authority withdraws a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where—
  - (a) an activity specified in the temporary stop notice is authorised by an infrastructure consent order granted on or after the day the notice takes effect, or
  - (b) the planning authority withdraws the notice after the grant of that consent.
- (3) Any person who has an interest in the land to which the notice relates on the day the notice takes effect is entitled, on making a claim to the relevant planning authority, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section in respect of the prohibition of an activity which, at any time when the temporary stop notice has effect, constitutes or contributes to an offence under section 103 or 104.
- (6) No compensation is payable under this section for loss or damage that the claimant could have avoided by—
  - (a) providing information that the claimant was required to provide by a notice served by the planning authority under section 111 of this Act or section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), or
  - (b) co-operating with the planning authority in any other way when responding to the notice.
- (7) A claim for compensation under this section must be made in writing within 12 months beginning—
  - (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
  - (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

## **122 Injunction to restrain prohibited activity**

- (1) A planning authority may apply to the High Court or the county court for an injunction restraining an actual or expected activity that constitutes an offence under section 103 or 104 in relation to land in the area of the planning authority.
- (2) The Welsh Ministers may apply to the High Court or the county court for an injunction restraining an actual or expected activity that constitutes an offence under section 103 or 104 in relation to land in Wales.
- (3) On an application under this section the court may grant an injunction on any terms it considers appropriate for the purpose of restraining the activity.

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- (4) An injunction may not be issued under this section against the Crown.

*General*

**123 Meaning of “relevant planning authority”**

In this Part, the relevant planning authority in relation to any land is the planning authority for the area in which the land is situated.

**PART 8**

SUPPLEMENTARY FUNCTIONS

*Fees*

**124 Fees for performance of infrastructure consent functions and services**

- (1) Regulations may make provision for or in connection with the charging of fees by—
  - (a) a specified public authority for performing an infrastructure consent function;
  - (b) a specified public authority for the provision of an infrastructure consent service.
- (2) “Infrastructure consent function” means a function conferred by, under or by virtue of this Act.
- (3) “Infrastructure consent service” means any advice, information or other assistance (including a response to a consultation or participating in the examination of an application by making a written submission, attending or giving evidence at a hearing or attending or giving evidence to a local inquiry) provided in connection with—
  - (a) an application or proposed application—
    - (i) for an infrastructure consent, or
    - (ii) to make a change to, or revoke, an infrastructure consent order, or
  - (b) any other specified matter relating to significant infrastructure projects.
- (4) Regulations under subsection (1) may, among other things, make provision about—
  - (a) when a fee (including a supplementary fee) may, and may not, be charged;
  - (b) the amount that may be charged (including provision specifying the amount or provision conferring a power to specify the amount);
  - (c) what may, and may not, be taken into account in calculating the amount charged;
  - (d) who is liable to pay a fee charged;
  - (e) to whom fees are to be paid;
  - (f) when a fee charged is payable;
  - (g) the recovery of fees charged;
  - (h) waiver, reduction or repayment of fees;
  - (i) the effect of paying or failing to pay fees charged (including provision permitting a public authority specified under subsection (1) to not do

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- something the authority would otherwise be required to do under an enactment until any outstanding fees for doing it are paid);
- (j) the transfer of fees payable to one person to another person;
  - (k) the supply or publication of information for any purpose of the regulations.
- (5) Regulations under subsection (1) may confer a function, including a function involving the exercise of a discretion, on any person.
- (6) Regulations under subsection (1)(a) may provide for the amounts of fees to be calculated by reference to costs incurred—
- (a) in the performance of any infrastructure consent function, and
  - (b) in doing anything that is calculated to facilitate, or is conducive or incidental to, the performance of any infrastructure consent function.
- (7) In this section, “specified” means specified in regulations.

### *Right of entry*

## **125 Powers of entry to survey land**

- (1) A person authorised in writing by the Welsh Ministers may at any reasonable time enter land in Wales for the purpose of surveying and taking levels of land, in connection with—
- (a) a valid application for infrastructure consent,
  - (b) a proposed application for infrastructure consent, or
  - (c) an infrastructure consent order that includes provision authorising the compulsory acquisition of that land or of an interest in it or right over it.
- (2) Authorisation may be given by the Welsh Ministers under subsection (1)(b) in relation to land only if it appears to the Welsh Ministers that the proposed applicant is considering a project of real substance genuinely requiring entry onto the land.
- (3) A person authorised under subsection (1) to enter land—
- (a) must, if required, produce evidence of the person’s authority, and state the purpose of the person’s entry, before entering,
  - (b) may not demand admission as of right to any land which is occupied unless 14 days’ notice of the intended entry has been given to the occupier,
  - (c) may take on to the land any other persons that are necessary,
  - (d) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it, and
  - (e) must comply with any other conditions subject to which the Welsh Ministers’ authorisation is given.
- (4) Power conferred by subsection (1) to survey land includes power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals or other matter in it, subject to subsections (5) and (6).
- (5) No person may carry out under subsection (1) any works authorised by virtue of subsection (4) unless notice of the person’s intention to do so was included in the notice required by subsection (3)(b).
- (6) Authorisation by the appropriate Minister is required for the carrying out under subsection (1) of works authorised by virtue of subsection (4) if—

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- (a) the land in question is held by statutory undertakers, and
  - (b) they object to the proposed works on the ground that execution of the works would be seriously detrimental to the carrying-on of their undertaking.
- (7) In subsection (6)—
- “the appropriate Minister” (“*y Gweinidog priodol*”) means—
    - (a) in the case of land in Wales held by water or sewerage undertakers, the Welsh Ministers, and
    - (b) in any other case the Secretary of State;
  - “statutory undertakers” (“*ymgymerwyr stadudol*”) means persons who are, or who are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of the TCPA 1990.
- (8) A person commits an offence if the person intentionally obstructs a person acting in the exercise of power under subsection (1).
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine.
- (10) If any damage is caused to land or other property—
- (a) in the exercise of a power of entry conferred under subsection (1), or
  - (b) in the making of a survey for the purpose of which any such power of entry has been conferred,
- a person suffering the damage may recover compensation from the person exercising the power of entry.
- (11) Any question of disputed compensation under subsection (10) must be referred to and determined by the Upper Tribunal.

## **126 Powers of entry to survey land: Crown land**

- (1) Section 125(1) applies to Crown land subject to subsections (2) and (3).
- (2) A person must not enter Crown land unless the person (“P”) has the permission of—
  - (a) a person appearing to P to be entitled to give it, or
  - (b) the appropriate Crown authority.
- (3) In section 125(4) (power of entry to survey land includes power to search and bore), the words “subject to subsections (5) and (6)” do not apply.
- (4) Subsections (3)(b), (5), (6), (8), and (9) of section 125 do not apply in relation to anything done by virtue of this section.

### *Infrastructure policy statements*

## **127 Infrastructure policy statements**

- (1) The Welsh Ministers may by notice designate a document as an infrastructure policy statement for the purposes of this Act, if the document—
  - (a) is issued by the Welsh Ministers, and
  - (b) sets out a policy to guide decision making under this Act in relation to one or more kinds of significant infrastructure project.

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- (2) In this Act, “infrastructure policy statement” means a document designated under subsection (1).
- (3) The Welsh Ministers may withdraw the designation of a document as an infrastructure policy statement by notice in writing.
- (4) The Welsh Ministers must publish and lay before Senedd Cymru—
  - (a) each notice designating a document as an infrastructure policy statement;
  - (b) each notice of the withdrawal of the designation of a document as an infrastructure policy statement.
- (5) If a document designated as an infrastructure policy statement has not previously been published, the Welsh Ministers must publish it.
- (6) If a document designated as an infrastructure policy statement has not previously been laid before Senedd Cymru, the Welsh Ministers must lay it before the Senedd.

*Register of applications and pre-application services*

**128 Register of applications and pre-application services**

- (1) The Welsh Ministers must maintain a register of—
  - (a) applications received by them for infrastructure consent;
  - (b) applications received by them for pre-application services;
  - (c) pre-application services provided by them.
- (2) If the Welsh Ministers receive a valid application for infrastructure consent, they must cause details of the application to be entered in the register.
- (3) If the Welsh Ministers receive an application for pre-application services, they must cause details of the application to be entered in the register.
- (4) If the Welsh Ministers provide pre-application services, they must cause details of the services provided to be entered into the register.
- (5) The Welsh Ministers must publish the register.
- (6) Regulations may make provision for or in connection with requiring each planning authority to maintain a register of—
  - (a) applications received by the Welsh Ministers for infrastructure consent for development wholly or partly in the area of the planning authority;
  - (b) applications received by the planning authority for pre-application services;
  - (c) pre-application services provided by the planning authority.
- (7) Regulations may make provision for or in connection with requiring Natural Resources Wales to maintain a register of—
  - (a) applications received by Natural Resources Wales for pre-application services;
  - (b) pre-application services provided by Natural Resources Wales.
- (8) Regulations may, in relation to a register required to be maintained by or under this section, make provision about—
  - (a) the form and content of a register;

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- (b) public access to documents relating to entries in the register, including provision requiring the documents to be deposited, stored and made accessible as a facility of the register;
- (c) the timing of entries to a register.

#### *Statutory consultees*

### **129 Power to consult and duty to respond to consultation**

- (1) The Welsh Ministers or an examining authority may consult a public authority specified in regulations about a valid application for infrastructure consent.
- (2) The public authority consulted must give a substantive response.
- (3) That response must be given before the end of—
  - (a) a period specified in regulations, or
  - (b) if the authority and the Welsh Ministers or examining authority (as the case may be) agree otherwise in writing, whatever period is specified in their agreement.
- (4) Regulations may make provision—
  - (a) about information that is to be provided by the Welsh Ministers or an examining authority to an authority for the purposes of consultation under subsection (1);
  - (b) about the requirements of a substantive response;
  - (c) requiring an authority consulted under subsection (1) to give a report to the Welsh Ministers about the authority's compliance with subsection (2) (including provision as to the form and content of the report, and the time at which it is to be made).

#### *Welsh Ministers' directions*

### **130 Directions to public authorities**

- (1) The Welsh Ministers may give a direction requiring a public authority to which this section applies to do things in relation to an application made to the Welsh Ministers.
- (2) This section applies to the following public authorities—
  - (a) a planning authority;
  - (b) Natural Resources Wales;
  - (c) a devolved Welsh authority specified in regulations.
- (3) Directions given under this section—
  - (a) may relate to a particular application or description of application, or to applications generally;
  - (b) may be given to a particular public authority or description of public authority or to public authorities generally.
- (4) Regulations may make provision for or in connection with the recovery of costs incurred by public authorities for things done in pursuance of directions under this section.



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### **131 Power to disapply requirements**

- (1) Regulations may provide for a power for the Welsh Ministers to direct that requirements imposed by, under or by virtue of this Act do not apply in a case specified in the direction.
- (2) The regulations—
  - (a) must specify the requirements that may be dis-applied by direction;
  - (b) must require the Welsh Ministers to, as soon as reasonably practicable after making a direction—
    - (i) publish the direction, and
    - (ii) lay a statement about the direction before Senedd Cymru explaining its effect and why it was made;
  - (c) may authorise directions to apply in a particular case or cases generally.

#### *Regulations about Crown applications*

### **132 Applications by the Crown**

- (1) This section applies to an application made by or on behalf of the Crown for infrastructure consent or change to or revocation of an infrastructure consent order (“a Crown application”).
- (2) The Welsh Ministers may by regulations modify or exclude any enactment (including an enactment contained in this Act) relating to—
  - (a) the procedure to be followed before a Crown application is made;
  - (b) the making of a Crown application;
  - (c) the decision-making process for such an application.

## **PART 9**

### **GENERAL PROVISIONS**

#### *Development*

### **133 Meaning of “development”**

- (1) In this Act, “development” has the same meaning as it has in TCPA 1990, subject to subsections (2), (3) and (4).
- (2) For the purposes of this Act—
  - (a) the conversion of a generating station with a view to its being fuelled by crude liquid petroleum, a petroleum product or natural gas is treated as a material change in the use of the generating station;
  - (b) an increase in the permitted use of an airport is treated as a material change in the use of the airport.
- (3) For the purposes of this Act, the following works are taken to be development (to the extent that they would not be otherwise)—

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- (a) works for the demolition of a listed building or its alteration or extension in a way that would affect its character as a building of special architectural or historic interest;
  - (b) works for the demolition of a building in a conservation area;
  - (c) works resulting in the demolition or destruction of or any damage to a scheduled monument;
  - (d) works for the purpose of removing or repairing a scheduled monument or any part of it or making any alterations or additions to the monument or any part of it;
  - (e) flooding or tipping operations on land in, on or under which a scheduled monument is situated.
- (4) For the purposes of this Act, “development” includes operations and changes of use in the sea and other areas covered with waters.
- (5) In this section—
- “conservation area” (“*ardal gadwraeth*”) means an area designated under section 158 of the [Historic Environment \(Wales\) Act 2023 \(asc 3\)](#);
  - “flooding operations” (“*gweithdrediadau i foddi tir*”) has the meaning given by section 75(1) of the [Historic Environment \(Wales\) Act 2023](#);
  - “listed building” (“*adeilad rhestredig*”) has the meaning given by section 76 of the [Historic Environment \(Wales\) Act 2023](#);
  - “permitted” (“*a ganiateir*”) means permitted by planning permission or infrastructure consent;
  - “petroleum products” (“*cynhyrchion petroliwm*”) has the meaning given by section 21 of the [Energy Act 1976 \(c. 76\)](#);
  - “scheduled monument” (“*heneb gofrestredig*”) has the meaning given by section 3(7) of the [Historic Environment \(Wales\) Act 2023](#);
  - “tipping operations” (“*gweithdrediadau tipio*”) has the meaning given by section 75(1) of the [Historic Environment \(Wales\) Act 2023](#).

### *Crown land*

## **134 Crown land and “the appropriate Crown authority”**

- (1) This section applies for the purposes of this Act.
- (2) “Crown land” means land in which there is a Crown interest or a Duchy interest.
- (3) “Crown interest” means an interest which—
  - (a) belongs to His Majesty in right of the Crown or in right of His private estates, or
  - (b) belongs to a government department or is held in trust for His Majesty for the purposes of a government department.
- (4) “Duchy interest” means—
  - (a) an interest belonging to His Majesty in right of the Duchy of Lancaster, or
  - (b) an interest belonging to the Duchy of Cornwall.
- (5) “Appropriate Crown authority”, in relation to Crown land, means—

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- (a) in the case of land belonging to His Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
  - (b) in relation to any other land belonging to His Majesty in right of the Crown, the government department having the management of the land;
  - (c) in relation to land belonging to His Majesty in right of His private estates, a person appointed by His Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Welsh Ministers;
  - (d) in relation to land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (e) in relation to land belonging to the Duchy of Cornwall, a person appointed by the Duke of Cornwall or by the possessor for the time being of the Duchy;
  - (f) in the case of land belonging to a government department or held in trust for His Majesty for the purposes of a government department, the department.
- (6) “The Crown” is to be treated as including the Senedd Commission.
- (7) Any question that arises about who is the appropriate Crown authority in relation to any land must be referred to the Treasury, whose decision is final.
- (8) In this section—
- (a) references to His Majesty’s private estates are to be read in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37);
  - (b) references to a government department include a Minister of the Crown and the Senedd Commission (and see section 85 of the Government of Wales Act 2006 (c. 32), which provides for references to a government department to include the Welsh Ministers, the First Minister and the Counsel General).

### *Offences*

#### **135 Offences by bodies corporate**

- (1) This section applies to an offence under sections 28, 103, 104, 112 and 120.
- (2) Where the offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—
- (a) a senior officer of the body, or
  - (b) a person who was purporting to be a senior officer of the body,
- the senior officer or person (as well as the body corporate) is guilty of the offence, and is liable to be proceeded against and punished accordingly.
- (3) In this section, “senior officer” means a director, manager, secretary or other similar officer of the body corporate.
- (4) But in the case of a body corporate whose affairs are managed by its members, “director” means a member of the body.

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### *Giving notices and other documents*

#### **136 Giving notices and other documents**

- (1) This section applies where a provision in or made under this Act requires or authorises a person to—
  - (a) notify another person of something, or
  - (b) give a document to another person (whether the provision uses the word “serve” or “give” or other term).
- (2) The notification or other document may be given to the person in question—
  - (a) by handing it to the person, or, in the case of a person who is a body corporate, handing it to the secretary or clerk of the body at its registered or principal office;
  - (b) by leaving it at the person’s usual or last known place of residence or, if the person has given an address for service, at that address,
  - (c) by sending it by post in a pre-paid letter—
    - (i) addressed to the person at the person’s usual or last known place of residence, or, in the case of a person who is a body corporate, addressed to the secretary or clerk of the body at its registered or principal office;
    - (ii) if the person has given an address for service, addressed to the person at that address;
  - (d) if the person has given an address for service using electronic communications, by sending it to the person at that address using an electronic communication which complies with the conditions in subsection (3);
  - (e) by any other way specified in regulations.
- (3) The conditions are that the document is—
  - (a) capable of being accessed by the person to whom it is sent,
  - (b) legible in all material respects, and
  - (c) capable of being used for subsequent reference.
- (4) A requirement to give more than one copy of a document to a person is complied with by sending only one copy of the document to the person electronically, unless the provision requires the copies to be given in hard copy.
- (5) For the purposes of this section the principal office of a company registered outside the United Kingdom is their principal office within the United Kingdom.
- (6) A notification or other document given to a person by leaving it at the person’s address under subsection (2)(b) is to be treated for the purposes of this Act as having been given at the time at which it was left at that address.
- (7) A notification or other document given to a person by sending it electronically in accordance with this section is to be treated for the purposes of this Act as having been given, unless the contrary is proved, on the day on which the electronic communication was sent.
- (8) Subsection (2)(c) and (d) do not apply to the giving of—
  - (a) notice under section 106(4) (notice to enter land without warrant);
  - (b) notice under section 111 (information notices);

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- (c) notice under section 113 (notice of unauthorised development).
- (9) See section 233 of the Local Government Act 1972 (c. 70) for additional provision about the methods by which local authorities may serve documents.

### **137 Giving notices etc. to persons occupying or with an interest in land**

- (1) This section (in addition to section 136) applies where a provision contained in or made under this Act requires or authorises notification or a document to be given—
  - (a) to a person as having an interest in land, or
  - (b) to a person as an occupier of land.
- (2) Where the notification or other document is to be given to a person as having an interest in land, and the name of the person cannot be discovered after making reasonable inquiries, the notification or document may be addressed to the person as “the owner” of the land, describing the land.
- (3) Where the notification or other document is to be given to a person as an occupier of land it may be addressed to the person by name or as “the occupier” of the land, describing the land.
- (4) Subsection (5) applies—
  - (a) where—
    - (i) a notification or other document is to be given to a person as having an interest in land,
    - (ii) the person’s usual or last known place of residence cannot be discovered after making reasonable inquiries, and
    - (iii) the person has not given an address for the service of the document, or
  - (b) where a document is to be given to a person as an occupier of land.
- (5) The notification or other document is given for the purpose of this Act if it is addressed to the person, clearly marked as an important communication affecting the person’s property, and is—
  - (a) sent to the land by post and not returned as undelivered,
  - (b) handed to a person who is, or appears to be, resident or employed in or on the land, or
  - (c) attached conspicuously to the land or to an object on or near the land.

### **138 Giving documents to the Crown**

- (1) This section applies where a provision contained in or made under this Act requires a notification or other document to be given to the Crown.
- (2) The notification or other document must be given to the appropriate Crown authority.
- (3) Sections 136 and 137 (general provisions about methods of service) do not apply.
- (4) In this section, “the Crown” includes—
  - (a) the Duchy of Lancaster;
  - (b) the Duchy of Cornwall.

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### *General*

#### **139 Duties to publish**

- (1) Where this Act imposes a duty to publish something, it must be published electronically.
- (2) The duty to publish electronically is, where the person has a website, a duty to publish on that website.
- (3) Nothing in this section prevents the person subject to the duty from publishing in another way as well as publishing electronically.

#### **140 Regulations and orders: restrictions**

- (1) Subsection (2) applies to—
  - (a) regulations under section 30, section 34, section 35, section 48(6), section 63(5), section 91(3), section 124 and section 129;
  - (b) infrastructure consent orders and orders under section 90.
- (2) Regulations and orders—
  - (a) may include provision that would require the consent of the appropriate Minister under paragraph 8(1)(a) or (c), 10 or 11 of Schedule 7B to the Government of Wales Act 2006 (c. 32) if the provision were included in an Act of Senedd Cymru;
  - (b) may include provision that would require consultation of the appropriate Minister under paragraph 11(2) of Schedule 7B to that Act if the provision were included in an Act of Senedd Cymru.
- (3) Regulations and orders under this Act, except regulations and orders to which subsection (2) applies in so far as they make provision authorised by subsection (2)—
  - (a) may not include provision that would require the consent of the appropriate Minister under paragraph 8, 10 or 11 of Schedule 7B to the Government of Wales Act 2006 if the provision were included in an Act of Senedd Cymru;
  - (b) may not include provision that would require consultation of the appropriate Minister under paragraph 11(2) or (2A) of Schedule 7B to that Act if the provision were included in an Act of Senedd Cymru.
- (4) In this section, “appropriate Minister” has the meaning given by paragraph 8(5) of Schedule 7B to the Government of Wales Act 2006.

#### **141 Regulations: procedure**

- (1) A power to make regulations under this Act is to be exercised by statutory instrument.
- (2) A power to make regulations under this Act includes power to make—
  - (a) different provision for different purposes or different areas;
  - (b) incidental, supplementary, consequential, transitional or saving provision.
- (3) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (4) Subsection (3) applies to a statutory instrument containing regulations under any of the following provisions—

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- (a) section 17;
  - (b) section 21;
  - (c) section 22(2)(c);
  - (d) section 55(1);
  - (e) section 58(3);
  - (f) section 59(6);
  - (g) section 63(5);
  - (h) section 124;
  - (i) section 130;
  - (j) section 131;
  - (k) section 132;
  - (l) section 144, but only where the regulations amend, repeal or otherwise modify a provision of an Act of Parliament or an Act or Measure of Senedd Cymru;
  - (m) paragraph 2(1) of Schedule 2.
- (5) A statutory instrument containing regulations made by the Welsh Ministers under this Act to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of Senedd Cymru.

#### **142 Directions: general**

A direction given under or by virtue of this Act must be in writing.

#### **143 General interpretation**

(1) In this Act—

“airport” (“*maes awyr*”) has the meaning given by section 82(1) of the Airports Act 1986 (c. 31);

“alteration” (“*addasu*”), in relation to an airport, must be read in accordance with section 11(4);

“alteration” (“*addasu*”), in relation to a highway, includes stopping up the highway or diverting, improving, raising or lowering it;

“building” (“*adeilad*”) has the meaning given by section 336(1) of TCPA 1990;

“construction” (“*adeiladu*”), in relation to so much of a generating station as comprises or is to comprise renewable energy installations, has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (c. 20) (see section 104 of that Act) (and related expressions must be read accordingly); and in this definition “renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act);

“Crown land” (“*tir y Goron*”) has the meaning given by section 134;

“development” (“*datblygiad*”) has the meaning given by section 133;

“devolved Welsh authority” (“*awdurdod Cymreig datganoledig*”) has the meaning given by section 157A of the Government of Wales Act 2006 (c. 32);

“electric line” (“*llinell drydan*”) has the same meaning as in Part 1 of the Electricity Act 1989 (c. 29) (see section 64(1) of that Act);

“enactment” (“*deddfiad*”) includes any enactment whenever passed or made;

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“examining authority” (“*awdurdod archwilio*”) has the meaning given by section 40(7);

“extension” (“*estyniad*”), in relation to a generating station, has the meaning given by section 36(9) of the Electricity Act 1989 (and “extend” must be read accordingly);

“gas” (“*nwy*”) includes natural gas;

“generating station” (“*gorsaf gynhyrchu*”) has the same meaning as in Part 1 of the Electricity Act 1989 (see section 64(1) of that Act);

“goods” (“*nwyddau*”) has the meaning given by section 83(1) of the Railways Act 1993 (c. 43);

“harbour” (“*harbwr*”) and “harbour authority” (“*awdurdod harbwr*”) have the meanings given by section 57(1) of the Harbours Act 1964 (c. 40);

“highway” (“*priffordd*”) has the meaning given by section 328 of the Highways Act 1980;

“highway authority” (“*awdurdod priffyrdd*”) has the same meaning as in the Highways Act 1980 (c. 66) (see sections 1 to 3 of that Act);

“improvement” (“*gwella*”), in relation to a highway, has the meaning given by section 329(1) of the Highways Act 1980;

“infrastructure consent” (“*cydsyniad seilwaith*”) means the consent required by section 19;

“infrastructure consent order” (“*gorchymyn cydsyniad seilwaith*”) means an order made under this Act granting infrastructure consent;

“infrastructure policy statement” (“*datganiad polisi seilwaith*”) has the meaning given by section 127(2);

“land” (“*tir*”) includes buildings, monuments and land covered with waters (including the sea bed); and in relation to Part 6 (infrastructure consent orders) must be read in accordance with section 102;

“LNG facility” (“*cyfleuster LNG*”) must be read in accordance with section 3;

“local impact report” (“*adroddiad ar yr effaith leol*”) has the meaning given by section 36(4);

“marine impact report” (“*adroddiad effaith ar y môr*”) has the meaning given by section 37(4);

“minerals” (“*mwynau*”) includes all substances ordinarily worked for removal (including in the sea);

“monument” (“*heneb*”) has the same meaning as in the [Historic Environment \(Wales\) Act 2023 \(asc. 3\)](#) (see section 2 of that Act);

“natural gas” (“*nwy naturiol*”) means any gas derived from natural strata (including gas originating outside the United Kingdom);

“planning authority” (“*awdurdod cynllunio*”) means a local planning authority within the meaning given by Part 1 of the TCPA 1990 for an area in Wales;

“planning permission” (“*caniatâd cynllunio*”) means permission under Part 3 of TCPA 1990;

“pre-application services” (“*gwasanaethau cyn gwneud cais*”) is to be interpreted in accordance with section 27(2);

“public authority” (“*awdurdod cyhoeddus*”) means any person who has any function of a public nature;



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“rail freight interchange” (“*cyfnewidfa nwyddau rheilffordd*”) means a facility for the transfer of goods between railway and road, or between railway and another form of transport;

“railway” (“*rheilffordd*”) has the meaning given by section 67(1) of the Transport and Works Act 1992 (c. 42);

“regulations” (“*rheolidau*”) means regulations made by the Welsh Ministers;

“section 20 consent” (“*cydsyniad adran 20*”) means a permission, authorisation, consent, order, or scheme mentioned in section 20 (effect of requirement for infrastructure consent on other consenting regimes);

“significant infrastructure project” (“*prosiect seilwaith arwyddocaol*”) has the meaning given by Part 1;

“special road” (“*ffordd arbennig*”) means a highway which is a special road in accordance with section 16 of the Highways Act 1980 (c. 66) or by virtue of an infrastructure consent order;

“special Senedd procedure” (“*gweithdrefn arbennig y Senedd*”) means the procedure specified in the standing orders of Senedd Cymru for subordinate legislation that is subject to special Senedd procedure;

“standard” (“*safonol*”), in relation to a volume of gas, means the volume of gas at a pressure of 101.325 kiloPascals and a temperature of 273 Kelvin;

“TCPA 1990” (“*DCGTh 1990*”) means the Town and Country Planning Act 1990 (c. 8);

“trunk road” (“*cefnffordd*”) means a highway which is a trunk road by virtue of—

- (a) section 10(1) or 19 of the Highways Act 1980,
- (b) an order or direction under section 10 of that Act, or
- (c) an infrastructure consent order,

or under any other enactment;

“use” (“*defnyddio*”) has the meaning given by section 336(1) of TCPA 1990;

“Wales” (“*Cymru*”) means the combined area of the counties and county boroughs in Wales (see Parts 1 and 2 of Schedule 4 to the Local Government Act 1972 (c. 70));

“Welsh marine area” (“*ardal forol Cymru*”) means the sea adjacent to Wales out as far as the seaward boundary of the territorial sea; and the question of which parts of the sea are adjacent to Wales is to be determined in accordance with article 6 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

- (2) A reference in this Act to a right over land includes—
  - (a) a reference to a right to do, or to place and maintain, anything in, on or under land or in the space above its surface;
  - (b) a reference to a restrictive covenant.
- (3) A reference in this Act to the acquisition of land, as it applies to a right over land, and a reference to the acquisition of a right over land includes—
  - (a) acquiring the right by the creation of a new right as well as by the acquisition of an existing one;
  - (b) the imposition of a restrictive covenant.

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(4) A reference in this Act to the sea includes the bed and subsoil of the sea.

#### **144 Power to make consequential and transitional provision etc.**

- (1) If the Welsh Ministers consider it appropriate for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may, by regulations, make—
  - (a) supplementary, incidental or consequential provision;
  - (b) transitional or saving provision.
- (2) Regulations under subsection (1) may amend, modify, repeal or revoke any enactment (including an enactment contained in this Act).

#### **145 Consequential amendments and repeals**

Schedule 3 makes provision in consequence of this Act.

#### **146 Transitional and saving provision**

- (1) Sections 19 and 20 have no effect in relation to a development if the conditions in subsections (2) and (3) apply.
- (2) The first condition is that—
  - (a) an application for a section 20 consent in relation to the development was made before the coming into force of sections 19 and 20 and the application has not been withdrawn,
  - (b) a notification under section 62E(1) of the TCPA 1990 of a proposed application in relation to the development was made before the coming into force of sections 19 and 20 and the notification has not been withdrawn, or
  - (c) on the coming into force of sections 19 and 20, the making or confirmation of an order or scheme mentioned in subsection (2) or (3) of section 20 in relation to the development is under consideration by the Welsh Ministers, other than in response to an application.
- (3) The second condition is that—
  - (a) the question of whether to grant or make the section 20 consent is under consideration, where the transition period has not ended,
  - (b) where subsection (2)(b) applies and the transition period has not ended—
    - (i) the first 12 months of the transition period has not ended without an application for planning permission being made in relation to the development, or
    - (ii) an application is made during the first 12 months of the transition period and the question of whether to grant planning permission is under consideration;
  - (c) the section 20 consent is granted or made before the end of the transition period.
- (4) In subsection (3), the “transition period” means the period of 24 months beginning with the day sections 19 and 20 come into force.
- (5) The Welsh Ministers may, in relation to a development, direct that—

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- (a) a different transition period applies for the purposes of subsection (3)(a), (b) or (c), or
  - (b) a period other than 12 months applies for the purposes of paragraph (b) of that subsection.
- (6) Regulations may make provision for the purposes of subsection (2) or (3) about—
- (a) when an application or notification is to be treated as made;
  - (b) what under consideration means.
- (7) If a section 20 consent (“the original consent”) has effect (whether by virtue of subsection (1) or otherwise), nothing in section 20 prevents the original consent, or a section 20 consent that replaces it, from being varied or replaced.
- (8) If the original consent, or a section 20 consent that replaces it, is varied or replaced, section 19 does not apply to the development to which the consent as varied, or the replacement consent, relates (and so infrastructure consent is not required for that development).
- (9) A section 20 consent replaces an earlier section 20 consent for the purposes of this section if (but only if)—
- (a) it is granted or made on an application for consent for development without complying with conditions subject to which the earlier section 20 consent was granted or made, and
  - (b) it is granted subject to, or made on, different conditions or unconditionally.
- (10) The provisions of the TCPA 1990 have effect as if the amendments made to that Act by paragraph 4 of Schedule 3 had not been made in so far as the provisions of the TCPA 1990 relate to a development to which sections 19 and 20 do not apply by virtue of this section.

#### **147 Coming into force**

- (1) The following provisions of this Act come into force on the day after the day on which this Act receives Royal Assent—
- (a) Part 1;
  - (b) the provisions of Parts 2 to 8 that—
    - (i) confer power to make regulations, or
    - (ii) make provision about what is (or is not) permitted to be done in the exercise of a power to make regulations;
  - (c) this Part, except section 145.
- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2) may—
- (a) appoint different days for different purposes;
  - (b) make transitory, transitional or saving provision in connection with the coming into force of a provision brought into force by the order.

#### **148 Short title**

The short title of this Act is the Infrastructure (Wales) Act 2024.

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## SCHEDULE 1

(introduced by section 63)

### PROVISION RELATING TO, OR TO MATTERS ANCILLARY TO, DEVELOPMENT

#### PART 1

##### THE MATTERS

- 1 The acquisition of land, compulsorily or by agreement.
- 2 The creation, suspension or extinguishment of, or interference with, interests in or rights over land (including navigation over water), compulsorily or by agreement.
- 3 The abrogation or modification of agreements relating to land.
- 4 Carrying out specified excavation, mining, quarrying or boring operations in a specified area.
- 5 The operation of a generating station.
- 6 Keeping electric lines installed above ground.
- 7 The protection of the property or interests of any person.
- 8 The imposition or exclusion of obligations or liability in respect of acts or omissions.
- 9 Carrying out surveys or taking soil samples.
- 10 Cutting down, uprooting, topping or lopping trees or shrubs or cutting back their roots.
- 11 The removal, disposal or re-siting of apparatus.
- 12 Carrying out civil engineering or other works.
- 13 The diversion of navigable or non-navigable watercourses.
- 14 The stopping up or diversion of highways.
- 15 Charging tolls, fares (including penalty fares) and other charges.
- 16 The designation of a highway as a trunk road or special road.
- 17 The specification of the classes of traffic authorised to use a highway.
- 18 The appropriation of a highway for which the person proposing to construct or improve a highway is the highway authority.
- 19 The transfer to the person proposing to construct or improve a highway of a highway for which that person is not the highway authority.
- 20 The specification of the highway authority for a highway.
- 21 The operation and maintenance of a transport system.
- 22 Entering into an agreement for the provision of police services.
- 23 The discharge of water into inland waters or underground strata.
- 24 Deeming a marine licence under Part 4 of the Marine and Coastal Access Act 2009 (c. 23) to have been given by the Welsh Ministers for activities specified in the order and subject to such conditions as may be specified in the order.

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- 25 Deeming any such conditions to have been attached to the marine licence by the Welsh Ministers under that Part.
- 26 The creation of a harbour authority.
- 27 Changing the powers and duties of a harbour authority.
- 28 The making of byelaws by any person and their enforcement.
- 29 (1) The creation of offences within sub-paragraph (2) in connection with—
- (a) non-payment of tolls, fares or other charges,
  - (b) a person’s failure to give the person’s name or address in accordance with provision relating to penalty fares,
  - (c) enforcement of byelaws, or
  - (d) construction, improvement, maintenance or management of a harbour.
- (2) An offence is within this sub-paragraph if—
- (a) it is triable only summarily,
  - (b) a person guilty of the offence is not liable to imprisonment, and
  - (c) any fine to which a person guilty of the offence may be liable cannot be higher than level 3 on the standard scale.
- 30 The transfer of property, rights, liabilities or functions.
- 31 The transfer, leasing, suspension, discontinuance and revival of undertakings.
- 32 The payment of contributions.
- 33 The payment of compensation.
- 34 The submission of disputes to arbitration.
- 35 The alteration of borrowing limits.

## PART 2

### INTERPRETATION

- 36 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Transport system” means any of the following—
- (a) a railway;
  - (b) a tramway;
  - (c) a trolley vehicle system;
  - (d) a system using a mode of guided transport prescribed by order under section 2 of the Transport and Works Act 1992 (c. 42).
- (3) “Maintenance”, in relation to a transport system, includes the inspection, repair, adjustment, alteration, removal, reconstruction or replacement of the system.
- (4) The following terms have the meanings given by section 67(1) (interpretation) of the Transport and Works Act 1992 (c. 42)—
- “guided transport” (“*trafnidiaeth gyfeiriedig*”);
  - “tramway” (“*tramffordd*”);
  - “trolley vehicle system” (“*system cerbydau troli*”).

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## SCHEDULE 2

(Introduced by section 93)

### COMPENSATION FOR CHANGING OR REVOKING INFRASTRUCTURE CONSENT ORDERS

#### *Changing or revoking an infrastructure consent order: compensation*

- 1 (1) This paragraph applies where—
- (a) an infrastructure consent order is changed or revoked by an order under section 90, and
  - (b) the case in which the power is exercised is one falling within section 90(6).
- (2) Any person interested in the land to which the infrastructure consent order relates or interested in minerals on such land, or for whose benefit the infrastructure consent order has effect, is entitled, on making a claim to the Welsh Ministers, to be paid compensation by the Welsh Ministers for—
- (a) any expenditure incurred by the person in carrying out work that becomes abortive because of the change or revocation of the infrastructure consent order;
  - (b) any other loss or damage suffered by the person that is directly attributable to the change or revocation.
- (3) Regulations may make provision about the way in which, and the period within which, a claim for compensation under this paragraph must be made.
- (4) For the purpose of this paragraph, expenditure incurred in the preparation of plans for the purposes of any work, or on other similar matters preparatory to any work, is to be treated as expenditure incurred in carrying out the work.
- (5) Subject to that, no compensation is payable under this paragraph in respect of—
- (a) work carried out before the making of the infrastructure consent order that is changed or revoked, or
  - (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the infrastructure consent order was made.

#### *Compensation for depreciation: introduction and key terms*

- 2 (1) Paragraphs 3 to 9 apply where compensation becomes payable by the Welsh Ministers under paragraph 1 which includes compensation for depreciation of more than the minimum amount specified in regulations.
- (2) In this paragraph and paragraphs 3 to 10—
- (a) “acquiring authority”, in relation to the acquisition or proposed acquisition of an interest in land (whether compulsorily or by agreement), means the public authority or other person by whom the interest is acquired or is proposed to be acquired;
  - (b) “compulsory acquisition” does not include the transfer of property from one person to another by an enactment;
  - (c) “compensation for depreciation” means compensation payable in respect of loss or damage consisting of depreciation of the value of an interest in land;
  - (d) “interest in land” means the fee simple or a tenancy of the land (and does not include any other interest in it);

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- (e) “compensation notice” has the meaning given in paragraph 4(1);
- (f) “registered”, in relation to a compensation notice, means registered in the local land charges register kept under section 3 of the Local Land Charges Act 1975 (c. 76).

#### *Apportionment of compensation for depreciation and determination of disputes*

- 3 (1) The Welsh Ministers—
- (a) if they consider that it is practicable to do so, must apportion the compensation for depreciation between different parts of the land to which the claim for compensation relates, and
  - (b) if they apportion the compensation, must give details of the apportionment to the claimant and to any other person with an interest in land which the Welsh Ministers consider is substantially affected by the apportionment.
- (2) In carrying out an apportionment, the Welsh Ministers must divide the land into parts and distribute the compensation for depreciation between those parts according to how they consider different parts of the land are differently affected by the order in consequence of which the compensation is payable.
- (3) If any of the following persons dispute an apportionment of compensation, they may refer the apportionment to the Upper Tribunal—
- (a) the claimant;
  - (b) any other person to whom details of the apportionment have been given;
  - (c) any other person who establishes that they have an interest in land which is substantially affected by the apportionment.
- (4) The claimant and every other person to whom details of an apportionment have been given are entitled to be heard by the Upper Tribunal on the reference.
- (5) On a reference of an apportionment, the Upper Tribunal must—
- (a) either confirm or vary the apportionment, and
  - (b) notify the parties of its decision.
- (6) Where on a reference to the Upper Tribunal it is shown that an apportionment—
- (a) relates wholly or partly to the same matters as a previous apportionment, and
  - (b) is consistent with the previous apportionment so far as it relates to those matters,
- the Tribunal must not vary the apportionment in a way that is inconsistent with the previous apportionment so far as it relates to those matters.
- (7) Sub-paragraphs (1) and (2) apply to an apportionment by the Upper Tribunal as if references to the Welsh Ministers were references to the Tribunal.

#### *Notice of compensation for depreciation*

- 4 (1) Where compensation becomes payable which includes compensation for depreciation of more than the minimum amount specified in regulations under paragraph 2 the Welsh Ministers must cause notice of that fact (a “compensation notice”) to be served—
- (a) on the council of the county or county borough for the area in which the land or any part of the land to which the notice relates is situated, and

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- (b) if that council is not the planning authority for the area in which the land or any part of the land is situated, on the planning authority for the area.
- (2) A compensation notice must specify—
- (a) the order in consequence of which the compensation is payable and the land to which the claim for compensation relates, and
  - (b) the amount of the compensation and any apportionment of it under paragraph 3.
- (3) A compensation notice is a local land charge, and for the purposes of the Local Land Charges Act 1975 (c. 76) the county or county borough council on which the notice is served is the originating authority as respects the charge.

*Development not to be carried out until compensation paid or secured*

- 5 (1) A person must not carry out development to which this paragraph applies on land in respect of which a compensation notice has been registered until any amount that is recoverable in respect of the compensation specified in the notice by virtue of paragraph 6 has been paid or secured to the satisfaction of the Welsh Ministers in accordance with paragraph 7.
- (2) This paragraph applies to—
- (a) development that—
    - (i) is of a residential, commercial or industrial character, and
    - (ii) consists wholly or mainly of the construction of houses, flats, shop or office premises or industrial buildings (including warehouses), or any combination of them;
  - (b) development that consists of mining operations;
  - (c) development to which, having regard to the probable value of the development, the Welsh Ministers consider it reasonable that this paragraph should apply.
- (3) This paragraph does not apply to development by virtue of subparagraph (2)(c) if, on an application made to them, the Welsh Ministers have certified that, having regard to the probable value of the development, they do not consider it reasonable that this paragraph should apply.
- (4) Where the compensation specified in the compensation notice became payable in consequence of an order changing an infrastructure consent order, this paragraph does not apply to development in accordance with the changed infrastructure consent order.

*Amount recoverable by Welsh Ministers in respect of compensation*

- 6 (1) The amount recoverable in respect of the compensation specified in a registered compensation notice is—
- (a) if the land on which development is to be carried out includes all of the land to which the notice relates (whether alone or with other land), the amount of compensation specified in the notice;
  - (b) if the land on which development is to be carried out includes only part of the land to which the notice relates (whether alone or with land to which the notice does not relate), the amount of the compensation specified in the notice that is attributable to that part.



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- (2) But the Welsh Ministers may defer recovery of all or part of the amount that would otherwise be recoverable in connection with a particular development of land if they consider, having regard to the probable value of any proper development of that land, that no proper development of it is likely to be carried out unless they exercise their powers under this sub-paragraph.
- (3) If the Welsh Ministers defer recovery of only part of the amount that would otherwise be recoverable in respect of any land, they must cause the registered compensation notice in question to be amended so that the amount of compensation stated in it, so far as attributable to that land, is the amount they have deferred.
- (4) Where an amount has become recoverable in respect of compensation in connection with the development of land, no amount is recoverable in respect of the compensation attributable to that land in connection with any later development of it.
- (5) Sub-paragraph (4) does not apply to an amount to the extent that recovery of the amount was deferred in connection with the earlier development.
- (6) No amount is recoverable by virtue of this paragraph in respect of any compensation by reference to which an amount has become recoverable from an acquiring authority under paragraph 8 (recovery on compulsory acquisition or sale).
- (7) For the purposes of this Schedule, the amount of the compensation specified in a compensation notice that is attributable to a part of the land to which the notice relates is to be calculated—
  - (a) if the notice includes an apportionment of the compensation between different parts of the land under paragraph 3, on the basis that—
    - (i) the compensation is distributed between those parts in accordance with the apportionment, and
    - (ii) the compensation attributed to each part is distributed evenly by area over that part;
  - (b) if the notice does not include an apportionment, on the basis that the compensation is distributed evenly by area over the land to which the notice relates.

*Payment etc. of amount recoverable*

- 7 (1) An amount recoverable by virtue of paragraph 6 in connection with the development of land is payable to the Welsh Ministers—
  - (a) as a single capital payment,
  - (b) as a series of instalments of capital and interest combined, or
  - (c) as a series of other annual or periodical payments, of the amounts, and payable at the times, that the Welsh Ministers direct.
- (2) Before giving a direction under sub-paragraph (1)(c), the Welsh Ministers must take into account any representations made by the person by whom the development is to be carried out.
- (3) If the amount payable under sub-paragraph (1) is not paid as a single capital payment, it must be secured by the person by whom the development is to be carried out in the way (whether by mortgage, covenant or otherwise) that the Welsh Ministers direct.
- (4) If a person begins development to which paragraph 5 applies in breach of that paragraph, the Welsh Ministers may serve a notice on the person—

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- (a) specifying the amount they consider to be recoverable under paragraph 6 in respect of the compensation in question, and
  - (b) requiring the person to pay that amount to the Welsh Ministers within a period specified in the notice.
- (5) The period specified in the notice must be at least 3 months beginning with the day after the day on which the notice is served.

*Recovery of compensation from acquiring authority on compulsory acquisition or sale*

- 8 (1) This paragraph applies where—
- (a) an interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers,
  - (b) a compensation notice is registered in respect of any of the land, whether before or after the completion of the acquisition or sale, and
  - (c) the compensation specified in the notice is payable in consequence of a change or revocation of an infrastructure consent order that was made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected.
- (2) The Welsh Ministers are entitled to recover from the acquiring authority an amount equal to the amount of the compensation specified in the compensation notice that is attributable to the land acquired or sold.
- (See paragraph 6(7) for provision about calculating the amount of compensation that is attributable to a part of the land to which a compensation notice relates.)
- (3) If, immediately after the completion of the acquisition or sale, a person other than the acquiring authority continues to have an interest in the land acquired or sold, the amount that is recoverable under this paragraph does not become payable until that interest either ceases to exist or becomes vested in the acquiring authority.
- (4) No amount is recoverable under this paragraph in connection with the acquisition or sale if the Welsh Ministers are satisfied that the interest in question is being acquired for the purposes of the use of the land as an open space.
- (5) A power under any enactment to pay a grant in respect of expenditure incurred by the acquiring authority in connection with the acquisition or sale includes the power to pay a grant in respect of any amount recoverable from the authority under this paragraph.
- (6) In sub-paragraph (1)(a), “authority possessing compulsory purchase powers” means—
- (a) a person who could be or has been authorised to acquire the interest in question compulsorily for the purpose for which the interest is sold, or
  - (b) a community council on whose behalf a county council or county borough council could be or has been authorised to acquire the interest for that purpose (see section 125 of the Local Government Act 1972 (c. 70)).
- (7) In a case where a notice to treat is deemed to be served by virtue of an enactment, the reference in sub-paragraph (1)(c) to the service of the notice to treat is to be read as a reference to the date on which the notice is deemed to be served.
- (8) For the purpose of assessment of compensation for the compulsory acquisition of an interest in land where a compensation notice relating to the land is registered under

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this Schedule, section 12 of the Land Compensation Act 1961 (c. 33) applies subject to any necessary modifications.

*General provisions about compensation for depreciation*

- 9 (1) The rules in section 5 of the Land Compensation Act 1961 (c. 33) have effect for the purpose of assessing any compensation for depreciation that is payable under this Schedule, so far as relevant and with any necessary modifications, as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (2) Where an interest in land is subject to a mortgage—
- (a) any compensation for depreciation that is payable under this Schedule in respect of the interest must be assessed as if the interest were not subject to the mortgage;
  - (b) a claim for compensation for depreciation may be made by any mortgagee of the interest, but that does not affect the right of the person whose interest is subject to the mortgage to make a claim;
  - (c) no compensation for depreciation is payable in respect of the interest of the mortgagee (as distinct from the interest that is subject to the mortgage);
  - (d) any compensation for depreciation that is payable in respect of the interest subject to the mortgage must be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee; and it must be applied by the mortgagee to whom it is paid as if it were proceeds of sale.

*Determination of claims for compensation*

- 10 (1) Any question of disputed compensation under this Schedule is to be referred to and determined by the Upper Tribunal.
- (2) Section 4 of the Land Compensation Act 1961 (c. 33) applies to the determination of a question referred under this paragraph as it applies to the determination of a question referred under section 1 of that Act, but as if references to the acquiring authority were references to the Welsh Ministers.

SCHEDULE 3

(Introduced by section 145)

CONSEQUENTIAL AMENDMENTS AND REPEALS

*Harbours Act 1964 (c. 40)*

- 1 (1) The Harbours Act 1964 is amended as follows.
- (2) In section 14(1A), after paragraph (b) insert—
- “(c) section 20(2) of the Infrastructure (Wales) Act 2024 (exclusion of powers to authorise development to the extent that infrastructure consent is required);
  - (d) section 63(8) of that Act (exclusion of power to include ancillary provision in orders).”
- (3) In section 16(3A), after paragraph (b) insert—

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- “(c) section 20(2) of the Infrastructure (Wales) Act 2024 (exclusion of powers to authorise development to the extent that infrastructure consent is required);
- (d) section 63(8) of that Act (exclusion of power to include ancillary provision in orders).”

*Highways Act 1980 (c. 66)*

- 2 (1) The Highways Act 1980 is amended as follows.
  - (2) In section 10(2A), after “required” insert “and section 20(3) of the Infrastructure (Wales) Act 2024 (exclusion of powers to make or confirm orders in relation to highways for which infrastructure consent required)”.
  - (3) In section 14(1A), after “required” insert “and section 20(3) of the Infrastructure (Wales) Act 2024 (exclusion of powers to make or confirm orders in relation to highways for which infrastructure consent required)”.
  - (4) In section 16(3A), after “required” insert “and section 20(3) of the Infrastructure (Wales) Act 2024 (exclusion of powers to make or confirm orders in relation to highways for which infrastructure consent required)”.
  - (5) In section 18(1A), after “required” insert “and section 20(3) of the Infrastructure (Wales) Act 2024 (exclusion of powers to make or confirm orders in relation to highways for which infrastructure consent required)”.
  - (6) In section 106(4A), after “required” insert “and section 20(3) of the Infrastructure (Wales) Act 2024 (exclusion of powers to make or confirm orders or schemes in relation to highways for which infrastructure consent required)”.
  - (7) In section 108(1A), after “required” insert “and section 20(3) of the Infrastructure (Wales) Act 2024 (exclusion of powers to make or confirm orders in relation to highways for which infrastructure consent required)”.
  - (8) In section 110(1A), after “required” insert “and section 20(4) of the Infrastructure (Wales) Act 2024 (exclusion of power to authorise diversion of non-navigable waters in relation to highways for which infrastructure consent required)”.
  - (9) In section 329(1)—
    - (a) in the definition of “special road” after “2008” insert “or an infrastructure consent order under the Infrastructure (Wales) Act 2024”;
    - (b) in the definition of “trunk road” after “2008,” insert “or an infrastructure consent order under the Infrastructure (Wales) Act 2024,”.
  - (10) In section 337—
    - (a) omit “or” at the end of paragraph (a);
    - (b) after paragraph (b) insert—
      - “(c) the carrying out of any development for which infrastructure consent is required under the Infrastructure (Wales) Act 2024 and for which infrastructure consent has not been given under that Act.”

*Electricity Act 1989 (c. 29)*

- 3 (1) The Electricity Act 1989 is amended as follows.

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- (2) In section 36—
  - (a) in subsection (1A), after “required” insert “and section 20(1) of the Infrastructure (Wales) Act 2024 (exclusion of requirement for other consents for development for which infrastructure consent is required).”;
  - (b) in subsection (1B), after “2008” insert “and subsection (1) does not apply if the operation is authorised by an infrastructure consent order under the Infrastructure (Wales) Act 2024.”
- (3) In section 37(2A)(b), after “planning permission” insert “, infrastructure consent order.”.

#### *Town and Country Planning Act 1990 (c. 8)*

- 4 (1) The TCPA 1990 is amended as follows.
  - (2) In section 57(1A), after “required” insert “and section 20(1) of the Infrastructure (Wales) Act 2024 (exclusion of requirement for planning permission etc. for development for which infrastructure consent is required)”.
  - (3) Omit sections 62D to 62L.
  - (4) In section 62M(4)(a) omit “, provided that the development to which it relates is not a development of national significance for the purpose of section 62D”.
  - (5) In section 62P—
    - (a) in subsection (1), omit “62D,”;
    - (b) in subsection (2), omit “62D or”.
  - (6) In section 62Q—
    - (a) in subsection (1)(a), omit “62D, 62F,”;
    - (b) in subsection (4)(a)—
      - (i) omit “section 62D or”;
      - (ii) for “the section in question” substitute “that section”;
    - (c) in subsection (4)(b)—
      - (i) omit “62F or”;
      - (ii) for “the section in question” substitute “that section”.
  - (7) In section 62R(1)—
    - (a) omit “62D,”;
    - (b) omit “62F,” in both places it occurs.
  - (8) In section 62S—
    - (a) omit “developments of national significance and”;
    - (b) after “Welsh Ministers” insert “under section 62M or 62O”.
  - (9) In section 70(1)(a), omit “section 62D(5),”.
  - (10) In section 70A(1)(a), as it applies in relation to Wales, omit “62D, 62F,”.
  - (11) In section 75A—
    - (a) in subsection (1)(a), omit “62D,”;
    - (b) in subsection (2), omit “62D,”;
    - (c) in subsection (3), omit “62D,”.

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- (12) In section 87, omit subsection (5).
- (13) In section 88, omit subsection (11).
- (14) In section 211 (preservation of trees in conservation areas)—
  - (a) in subsection (1A) after “consent” insert “or by infrastructure consent order”;
  - (b) in subsection (5A) after “consent” insert “or by infrastructure consent order”.
- (15) In section 252—
  - (a) omit subsections (3A), (6B), (6C) and (6D);
  - (b) in subsection (12), omit the definition of “development of national significance”.
- (16) In section 253(2)(aa), omit “62D, 62F,”.
- (17) In section 257(4)(c), omit “62D, 62F,”.
- (18) In section 284(3), omit paragraphs (aa) and (ab).
- (19) In section 303—
  - (a) in subsection (1B)(a), omit “section 62D (developments of national significance),”;
  - (b) in subsection (1C)—
    - (i) omit paragraph (a);
    - (ii) in paragraph (b), omit “62D, 62F,”.
- (20) In section 319B—
  - (a) in subsection (5A), omit “62D,”;
  - (b) in subsection (7), omit paragraph (za);
  - (c) in subsection (8A), omit “62D,”.
- (21) In section 324(1), omit paragraph (bb).
- (22) In section 333—
  - (a) in subsection (3F), omit paragraphs (b) and (c);
  - (b) in subsection (5C), omit “62L(9),”.
- (23) In section 336(1) (interpretation), at the appropriate place, insert—
 

““infrastructure consent order has the meaning given in section 143 of the Infrastructure (Wales) Act 2024;”.
- (24) In Schedule 1A, in paragraph 8(2A), omit “62D, 62F,”.
- (25) In Schedule 4D—
  - (a) in the Schedule title, omit “DEVELOPMENTS OF NATIONAL SIGNIFICANCE AND”;
  - (b) omit paragraph 1;
  - (c) in paragraph 3—
    - (i) omit “1 or” in both places it occurs;
    - (ii) omit “or consent” in both places it occurs;
    - (iii) omit “(as the case may be)”;
  - (d) in paragraph 4—
    - (i) omit “1 or” in both places it occurs;

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- (ii) omit “or consent” in both places it occurs;
  - (e) in paragraph 7, omit “or consent”;
  - (f) omit paragraph 8(2);
  - (g) in paragraph 9—
    - (i) omit “or consent”;
    - (ii) omit “paragraph 1 or”;
  - (h) in paragraph 10—
    - (i) omit “or consent” in both places it occurs;
    - (ii) omit “1 or”;
  - (i) in paragraph 11(1)—
    - (i) omit “or consent”;
    - (ii) omit “1 or”;
  - (j) in paragraph 11(2), omit “1 or”;
  - (k) in paragraph 12—
    - (i) omit “or consent”;
    - (ii) omit “1 or”;
  - (l) in paragraph 13—
    - (i) omit “or consent” in each place it occurs;
    - (ii) omit “1 or” in each place it occurs;
    - (iii) omit “, as the case may be,”;
  - (m) in paragraph 14, omit “or consent”.
- (26) In Schedule 16, in Part 1, for “62D” substitute “62M”.

*Planning (Hazardous Substances) Act 1990 (c. 10)*

- 5 (1) The Planning (Hazardous Substances) Act 1990 is amended as follows.
- (2) In section 9(2)(c), after “permission in principle” insert “, infrastructure consent”.
  - (3) In section 10(1), after “specified planning permission” insert “, infrastructure consent”.
  - (4) In section 12, after subsection (2B) insert—
    - “(2C) On making an order granting infrastructure consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.”
  - (5) In section 14(2)(b), after “planning permission”, in each place it appears, insert “, infrastructure consent”.
  - (6) In section 39, in the appropriate place, insert—
    - ““infrastructure consent has the meaning given in section 143 of the Infrastructure (Wales) Act 2024;”.

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*New Roads and Street Works Act 1991 (c. 22)*

- 6 (1) The New Roads and Street and Works Act 1991 is amended as follows.
- (2) In section 6(1A), after “required)” insert “and section 20(3) (exclusion of powers to make or confirm orders in relation to highways for which infrastructure consent is required)”.

*Transport and Works Act 1992 (c. 42)*

- 7 (1) The Transport and Works Act 1992 is amended as follows.
- (2) In section 1(1A) (exclusions relating to orders as to railways, tramways etc.) after paragraph (b) insert—
- “(c) section 20(2) of the Infrastructure (Wales) Act 2024 (exclusion of powers to authorise development for which infrastructure consent is required);
  - (d) section 63(8) of that Act (exclusion of powers to include ancillary provision in orders).”
- (3) In section 3(1A) (exclusions relating to orders as to inland waterways etc.) after paragraph (b) insert—
- “(c) section 20(2) of the Infrastructure (Wales) Act 2024 (exclusion of powers to authorise development for which infrastructure consent is required);
  - (d) section 63(8) of that Act (exclusion of powers to include ancillary provision in orders).”

*Coal Industry Act 1994 (c. 21)*

- 8 (1) The Coal Industry Act 1994 is amended as follows.
- (2) In section 53—
- (a) in subsection (1), after “planning permission” insert “or infrastructure consent”;
  - (b) in subsection (2), after “such an application” insert “for planning permission, or where an examining authority or the Welsh Ministers consider any coal-mining proposals included in such an application for infrastructure consent.”;
  - (c) in subsection (4)—
    - (i) in paragraph (a), after “Town and Country Planning Act 1990” insert “, but “development” has the meaning given by section 133 of the Infrastructure (Wales) Act 2024 so far as it relates to coal-mining proposals included in an application for infrastructure consent”;
    - (ii) after the definition of ““development” and “planning permission””, insert—
      - ““examining authority” has the meaning given by section 40(7) of the Infrastructure (Wales) Act 2024;
      - “infrastructure consent has the meaning given by section 143 of the Infrastructure (Wales) Act 2024.”.



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#### *Planning and Compulsory Purchase Act 2004 (c. 5)*

- 9 (1) The Planning and Compulsory Purchase Act 2004 is amended as follows.
- (2) In section 60(3), for “development of national significance for the purposes of section 62D of the principal Act (development of national significance: applications to be made to Welsh Ministers)” substitute “a significant infrastructure project for the purposes of the Infrastructure (Wales) Act 2024”.

#### *Marine and Coastal Access Act 2009 (c. 23)*

- 10 (1) The Marine and Coastal Access Act 2009 is amended as follows.
- (2) In section 58, after subsection (5) insert—
- “(5A) This section does not apply to a decision on an application for infrastructure consent under the Infrastructure (Wales) Act 2024.”

#### *Flood and Water Management Act 2010 (c. 29)*

- 11 (1) The Flood and Water Management Act 2010 is amended as follows.
- (2) In Schedule 3, in paragraph 7(3) after “(nationally significant infrastructure projects)” insert “or work requiring infrastructure consent under section 19 of the Infrastructure (Wales) Act 2024.”.

#### *Planning (Wales) Act 2015 (anaw 4)*

- 12 (1) The Planning (Wales) Act 2015 is amended as follows.
- (2) In section 1(6), for “to the Welsh Ministers. It makes provision” to the end substitute “either to the Welsh Ministers or a local planning authority”.
- (3) Omit sections 19 to 22.
- (4) In Schedule 4—
- (a) in paragraph 5, omit “section 62D(5)”;
  - (b) in paragraph 6, omit “62D, 62F”;
  - (c) in paragraph 7, in the inserted section 75A of the TCPA 1990—
    - (i) in subsection (1)(a), omit “62D”;
    - (ii) in subsection (2), omit “62D”;
    - (iii) in subsection (3), omit “62D”;
  - (d) omit paragraphs 8 and 9;
  - (e) in paragraph 13, omit “62D, 62F”;
  - (f) in paragraph 14(b), omit “62D, 62F”;
  - (g) in paragraph 15(3)(c), omit paragraphs (aa) and (ab) inserted into section 284(3) of the TCPA 1990;
  - (h) in paragraph 18, in the inserted section 303 of the TCPA 1990—
    - (i) in subsection (1B)(a), omit “section 62D (developments of national significance)”;
    - (ii) in subsection (1C), omit paragraph (a) and in paragraph (b), omit “62D, 62F”;
  - (i) in paragraph 20—

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- (i) in sub-paragraph (2), omit “62D,”;
- (ii) in sub-paragraph (3), omit paragraph (za) inserted into section 319B(7) of the TCPA 1990;
- (iii) in sub-paragraph (4), in subsection (8A) inserted into section 319B of the TCPA 1990, omit “62D,”;
- (j) in paragraph 21, omit paragraph (bb) inserted into section 324(1) of the TCPA 1990;
- (k) in paragraph 22, in sub-paragraph (2A) inserted into paragraph 8 of Schedule 1A to the TCPA 1990, omit “62D, 62F,”;
- (l) in paragraph 23(2), for “62D” substitute “62M”.

*Infrastructure Act 2015 (c. 7)*

- 13 (1) The Infrastructure Act 2015 is amended as follows.
- (2) In Schedule 6, in paragraph 11(6), after paragraph (a) insert—  
 “(aa) infrastructure consent under the Infrastructure (Wales) Act 2024;”.

*Housing and Planning Act 2016 (c. 22)*

- 14 (1) The Housing and Planning Act 2016 is amended as follows.
- (2) In section 205(1), in the definition of “planning consent”—
- (a) in paragraph (a), after “Act,” omit “or”;
  - (b) in paragraph (b), after “2008” insert—  
 “, or  
 (c) infrastructure consent under the Infrastructure (Wales) Act 2024”.

*Historic Environment (Wales) Act 2023 (asc 3)*

- 15 (1) The Historic Environment (Wales) Act 2023 is amended as follows.
- (2) In section 11 (requirement for works to be authorised by scheduled monument consent), after subsection (2) insert—  
 “(3) This section is subject to section 20(1)(c)(i) of the Infrastructure (Wales) Act 2024 (class authorisations and authorisation by scheduled monument consent not required for development to the extent that infrastructure consent required).”
- (3) In section 58(4) (exception to offence of damaging certain monuments of special historical interest), after paragraph (b) insert—  
 “(c) works for which infrastructure consent has been given under the Infrastructure (Wales) Act 2024.”
- (4) In section 88 (requirement for works to be authorised by listed building consent: exceptions), after subsection (3) insert—  
 “(4) This section is subject to section 20(1)(c)(ii) of the Infrastructure (Wales) Act 2024 (authorisation by listed building consent not required for development to the extent that infrastructure consent is required).”

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- (5) In section 118(2) (exception to offence of intentionally damaging listed building), after paragraph (e) insert—
- “(f) anything for which infrastructure consent has been given under the Infrastructure (Wales) Act 2024.”
- (6) In section 161 (requirement for demolition to be authorised by conservation area consent), after subsection (5) insert—
- “(6) This section is subject to section 20(1)(c)(iii) of the Infrastructure (Wales) Act 2024 (authorisation by conservation area consent not required for development to the extent that infrastructure consent required).”