

SCHEDULE 5

Article 22

Duty to consult before the grant of permission

Table

<i>Paragraph</i>	<i>Description of Development</i>	<i>Specialist Consultee</i>
(a)	Development within an area which has been notified to the Welsh Ministers by the Health and Safety Executive for the purpose of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances (otherwise than on a relevant nuclear site) and which involves the provision of— (i) more than 500 square metres of office floor space; or (ii) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area	The Health and Safety Executive
(b)	Development within an area which has been notified to the Welsh Ministers by the Office for Nuclear Regulation for the purpose of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances on a relevant nuclear site and which involves the provision of— (i) more than 500 square metres of office floor space; or (ii) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area	The Office for Nuclear Regulation
(c)	Development likely to result in a material increase in the volume or a material change in the character of traffic— (i) entering or leaving a trunk road; or (ii) using a level crossing over a railway	The Welsh Ministers The operator of the network which includes or consists of the railway in question, and the Welsh Ministers
(d)	Development likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a classified road or proposed highway	The local highway authority concerned
(e)	Development likely to prejudice the improvement or construction of a classified road or proposed highway	The local highway authority concerned

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- (f) Development which involves the provision of a building or pipe-line in an area of coal working notified by the Coal Authority to the Welsh Ministers The Coal Authority
- (g) Development involving or including mining operations The Natural Resources Body for Wales
- [^{F1}(h) (i) Development which has a direct physical impact on a scheduled monument. The Welsh Ministers]
- (ii) Development likely to be visible from a scheduled monument and which meets one of the following criteria—
 - a) it is within a distance of 0.5 kilometres from any point of the perimeter of a scheduled monument;
 - b) it is within a distance of 1 kilometre from the perimeter of a scheduled monument and is 15 metres or more in height, or has an area of 0.2 hectares or more;
 - c) it is within a distance of 2 kilometres from the perimeter of a scheduled monument and is 50 metres or more in height, or has an area of 0.5 hectares or more;
 - d) it is within a distance of 3 kilometres from the perimeter of a scheduled monument and is 75 metres or more in height, or has an area of 1 hectare or more; or
 - e) it is within a distance of 5 kilometres from the perimeter of a scheduled monument and is 100 metres or more in height, or has an area of 1 hectare or more.
- (iii) Development likely to affect the site of a registered historic park or garden or its setting;
- (iv) Development within a registered historic landscape that requires an Environmental Impact Assessment; or
- (v) Development likely to have an impact on the outstanding universal value of a World Heritage Site
- (i) Development involving the carrying out of works or operations in the bed of or on the banks of a river or stream The Natural Resources Body for Wales
- (j) Development for the purpose of refining or storing mineral oils and their derivatives The Natural Resources Body for Wales
- (k) ^{F2} ^{F2}
- (l) Development relating to the retention, treatment or disposal of sewage, trade-waste, slurry or sludge (other than the laying of sewers, the construction of pumphouses in a line of sewers, the construction of septic tanks and cesspools serving single The Natural Resources Body for Wales

- dwellinghouses or single caravans or single buildings in which not more than ten people will normally reside, work or congregate, and works ancillary thereto)
- (m) Development affecting the use of land as a cemetery The Natural Resources Body for Wales
- (n) Development— The Natural Resources Body for Wales
- (i) in or likely to affect a site of special scientific interest; or
- (ii) within an area which has been notified to the Welsh Ministers by the Natural Resources Body for Wales and which is within two kilometres, of a site of special scientific interest, of which notification has been given, or has effect as if given, to the Welsh Ministers by the Natural Resources Body for Wales, in accordance with section 28 of the Wildlife and Countryside Act 1981 (sites of special scientific interest)
- M1
- (o) Development involving any land on which there is a theatre The Theatres Trust
- (p) Development which is not for agricultural purposes, is not in accordance with the provisions of a development plan and involves— The Welsh Ministers
- (i) the loss of not less than 20 hectares of grades 1, 2 or 3a agricultural land which is for the time being used (or was last used) for agricultural purposes; or
- (ii) the loss of less than 20 hectares of grades 1, 2 or 3a agricultural land which is for the time being used (or was last used) for agricultural purposes, in circumstances in which the development is likely to lead to a further loss of agricultural land amounting cumulatively to 20 hectares or more
- (q) Development within 250 metres of land which— The Natural Resources Body for Wales
- (i) is or has, at any time in the 30 years before the relevant application, been used for the deposit of refuse or waste; and
- (ii) has been notified to the Welsh Ministers by the Natural Resources Body for Wales for the purposes of this provision
- (r) Development which— The Sports Council for Wales
- M2
- (i) is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field; or
- (ii) is on land which has been:
- (aa) used as a playing field at any time in the 5 years before the making of the relevant application and which remains undeveloped; or

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- (bb) allocated for use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement; or
- (iii) involves the replacement of the grass surface of a playing pitch on a playing field with an artificial, man-made or composite surface
- (s) Development likely to affect— The Canal & River Trust
 - (i) any inland waterway (whether natural or artificial) or reservoir owned or managed by the Canal & River Trust; or
 - (ii) any canal feeder channel, watercourse, let off or culvert,

which is within an area which has been notified for the purposes of this provision to the Welsh Ministers by the Canal & River Trust
- (t) Development—
 - (i) involving the siting of new establishments;
 - (ii) consisting of modifications to existing establishments covered by Article 11 of Directive 2012/18/EU ^{M4}; or
 - (iii) which is new, including transport routes, locations of public use and residential areas in the vicinity of existing establishments, where the siting or development may be the source of or increase the risk or consequences of a major accident
 - (a) The control of major accident hazards competent authority; and
 - (b) in relation to development falling within paragraph (iii), any person who is the person in control of the land on which any existing establishment in question is located either—
 - (i) according to the register held by the hazardous substances authority under regulation 22 of the Planning (Hazardous Substances) (Wales) Regulations 2015 ^{M3}; or
 - (ii) where the control of major accident hazards competent authority has notified the local planning authority pursuant to regulation 34(3) of those Regulations.
- [^{F3}(u) Development— The Natural Resources Body for Wales
 - (i) on land designated as Flood Zone C2;
 - (ii) involving or including emergency services development or highly vulnerable development on land designated as Flood Zone C1 or on land that has been notified to the local planning authority by the Natural Resources Body for Wales for the purpose of this provision

(v)	Any development	The water and sewerage undertaker concerned]
[^{F4} (w)	Development— (i) involving waste development; (ii) involving the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or (iii) carried out on a site having an area of 1 hectare or more.	The Fire and Rescue Authority concerned]

Textual Amendments

- F1** Sch. 5 Table para. (h) substituted (1.4.2019) by [The Developments of National Significance \(Procedure\) \(Wales\) \(Amendment\) Order 2019 \(S.I. 2019/290\)](#), art. 1(1), **Sch. 3 para. 2(a)** (with art. 1(2))
- F2** Sch. 5 Table para. (k) omitted (1.4.2019) by virtue of [The Developments of National Significance \(Procedure\) \(Wales\) \(Amendment\) Order 2019 \(S.I. 2019/290\)](#), art. 1(1), **Sch. 3 para. 2(b)** (with art. 1(2))
- F3** Sch. 5 Table paras. (u), (v) inserted (1.4.2019) by [The Developments of National Significance \(Procedure\) \(Wales\) \(Amendment\) Order 2019 \(S.I. 2019/290\)](#), art. 1(1), **Sch. 3 para. 2(c)** (with art. 1(2))
- F4** Sch. 5 Table para (w) inserted (24.1.2022) by [The Development Procedure \(Consultees\) \(Wales\) \(Miscellaneous Amendments\) Order 2021 \(S.I. 2021/1189\)](#), arts. 1(2)(b), **3(2)(b)** (with art. 1(5))

Marginal Citations

- M1** 1981 (c. 69); *see* section 27AA of that Act. Section 28 was substituted by section 75(1) of, and paragraph 1 of Schedule 9 to, the [Countryside and Rights of Way Act 2000 \(c. 37\)](#) and was amended by section 148 of, and paragraphs 2(2), (3) and (7) of Schedule 13 to, the [Marine and Coastal Access Act 2009 \(c. 23\)](#). There are other amendments which are not relevant to this instrument.
- M2** The Sports Council for Wales is known as Sport Wales.
- M3** [S.I. 2015/1597 \(W. 196\)](#).
- M4** O.J. L 197, 24.7.2012, p 1.

Interpretation of Table

In the above Table—

(a) in paragraphs (a) and (b)—

“floor space” (“*arwynebedd llawr*”) means the total floor space in a building or buildings;

“industrial process” (“*proses ddiwydiannol*”) means a process for or incidental to any of the following purposes—

- (i) the making of any article or part of any article (including a ship or vessel, or a film, video or sound recording);
- (ii) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
- (iii) the getting, dressing or treatment of minerals in the course of any trade or business other than agriculture, and other than a process carried out on land used as a mine or adjacent to and occupied together with a mine (and in this sub-paragraph, “mine” (“*mwynglawdd*”) means any site on which mining operations are carried out);

“relevant nuclear site” (“*safle niwclear perthnasol*”) means a site which is—

- (i) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013) ^{M5};

- (ii) an authorised defence site (within the meaning given by regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998^{M6}); or
- (iii) a new nuclear build site (within the meaning given by regulation 2A(1) those Regulations)^{M7}.
- (b) in paragraph (c), “network” (“*rhwydwaith*”) and “operator” (“*gweithredwr*”) have the same meaning as in section 83(1) of the Railways Act 1993 (the provision of railway services)^{M8};
- (c) in paragraphs (d) and (e), “classified road” (“*ffordd ddosbarthiadol*”) means a highway or proposed highway which—
 - (i) is a classified road or a principal road by virtue of section 12(1) of the Highways Act 1980 (general provision as to principal and classified roads)^{M9}; or
 - (ii) is classified for the purposes of any enactment by the Welsh Ministers by virtue of section 12(3) of that Act;
- (d) [^{F5}in paragraph (h)—
 - (i) “scheduled monument” (“*heneb gofrestredig*”) has the same meaning as in section 1(11) of the Ancient Monuments and Archaeological Area Act 1979 (scheduled monuments);
 - (ii) reference to the height of development is to be construed as a reference to its height when measured from ground level; and for the purposes of this paragraph “ground level” (“*lefel y ddaear*”) means the level of the surface of the ground immediately adjacent to the development in question or, where the level of the surface of the ground on which it is situated is not uniform, the level of the highest part of the surface adjacent to it;
 - (iii) “registered historic park or garden” (“*parc hanesyddol cofrestredig neu ardd hanesyddol gofrestredig*”) and “registered historic landscape” (“*tirwedd hanesyddol gofrestredig*”) means the park, garden or landscape included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales maintained by the Welsh Ministers;
 - (iv) “World Heritage Site” (“*Safle Treftadaeth y Byd*”) means land appearing on the World Heritage List kept under article 11(2) of the UNESCO Convention for the Protection of the World Cultural and Natural Heritage adopted at Paris on 16th November 1972;]
- (e) in paragraph (l)—

“dwellinghouse” (“*ty annedd*”) does not include a building containing one or more flats, or a flat contained within such a building (and in this paragraph, “flat” (“*fflat*”) means a separate and self-contained set of premises constructed or adapted for the purpose of dwelling and forming part of a building from some other part of which is divided horizontally);

“slurry” (“*slyri*”) means animal faeces and urine (whether or not water has been added for handling); and

“caravan” (“*carafan*”) has the same meaning as in section 29(1) of the Caravan Sites and Control of Development Act 1960 (caravan sites)^{M10};
- (f) in paragraph (n), “site of special scientific interest” (“*safle o ddiddordeb gwyddonol arbennig*”) means land to which section 28(1) of the Wildlife and Countryside Act 1981 (sites of special scientific interest) applies;
- (g) in paragraph (o), theatre” (“*theatr*”) has the same meaning as in section 5 of the Theatres Trust Act 1976 (interpretation)^{M11};

- (h) in paragraph (r)—
 - (i) “playing field” (“*maes chwarae*”) means the whole of a site which encompasses at least one playing pitch;
 - (ii) “playing pitch” (“*llain chwarae*”) means a delineated area which, together with any run-off area, is of 0.2 hectares or more, and which is used for association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo or cycle polo;
- (i) in paragraph (t)—
 - (i) expressions appearing both in that paragraph and in Directive 2012/18/EU have the same meaning as in that Directive; and
 - (ii) “control of major accident hazards competent authority” (“*awdurdod COMAH cymwys*”) means—
 - (aa) in relation to a relevant nuclear site, the Office of Nuclear Regulation and the Natural Resources Body for Wales, acting jointly;
 - (bb) otherwise, the Health and Safety Executive and the Natural Resources Body for Wales acting jointly;
- (j) [F⁶in paragraph (u)—
 - (i) “emergency services development” (“*datblygiad gwasanaethau brys*”) and “highly vulnerable development” (“*datblygiad a all fod mewn perygl mawr*”) have the same meaning as set out in the Town and Country Planning (Notification) (Wales) Direction 2012.
 - (ii) “Flood Zone C2” (“*Parth Llifogydd C2*”) means an area of a floodplain without significant flood defence infrastructure;
 - (iii) “emergency services development” (“*datblygiad gwasanaethau brys*”) and “highly vulnerable development” (“*datblygiad a all fod mewn perygl mawr*”) have the same meaning as set out in the Town and Country Planning (Notification) (Wales) Direction 2012.]

Textual Amendments

- F5** Words in Sch. 5 substituted (1.4.2019) by The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019 (S.I. 2019/290), art. 1(1), **Sch. 3 para. 3(a)** (with art. 1(2))
- F6** Words in Sch. 5 inserted (1.4.2019) by The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019 (S.I. 2019/290), art. 1(1), **Sch. 3 para. 3(b)** (with art. 1(2))

Marginal Citations

- M5** 2013 c. 32.
- M6** S.I. 1998/494. The definition of “authorised defence site” was inserted by article 6(2) of, and paragraphs 70 and 72(a) of Schedule 3 to, the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469).
- M7** Regulation 2A was inserted by article 6(2) of and paragraphs 70 and 73 of, Schedule 3 to that Order.
- M8** 1993 c. 43. There are amendments to section 83 which are not relevant to this instrument.
- M9** 1980 c. 66.
- M10** 1960 c. 62. There are amendments to section 29 which are not relevant to this instrument.
- M11** 1976 c. 27.

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