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WELSH STATUTORY INSTRUMENTS

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**2016 No. 58**

**The Town and Country Planning (Environmental  
Impact Assessment) (Wales) Regulations 2016**

**PART 13**

Miscellaneous

**Application to the High Court**

**55.** For the purposes of Part 12 of the 1990 Act (validity of certain decisions), the reference in section 288(1)(b)(1) to action of the Welsh Ministers not being within the powers of the 1990 Act is to be taken to extend to a grant of planning permission or subsequent consent not being permitted by reason of regulations 3 or 41.

**Hazardous waste and material change of use**

**56.** A change in the use of land or buildings to a use for a purpose mentioned in paragraph 9 of Schedule 1 involves a material change in the use of that land or those buildings for the purposes of section 55(1) of the 1990 Act (meaning of “development” and “new development”).

**Extension of the period for an authority’s decision on a planning application**

**57.—(1)** For the purposes of section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions), in determining the time which has elapsed without the relevant planning authority giving notice to the applicant of their decision, where—

- (a) the authority have notified an applicant in accordance with regulation 10(1) that the submission of an environmental statement is required; and
- (b) the Welsh Ministers have given a screening direction in relation to the development in question,
- (c) no account is to be taken of any period before the issue of the direction.

(2) Where it falls to an authority to determine an EIA application, articles 22 (time periods for decision) and 23 (applications made under planning condition) of the 2012 Order have effect as if each of the references in article 22(2)(a) and 23 to a period of 8 weeks were a reference to a period of 16 weeks.

**Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with**

**58.** Provisions included in a development order by virtue of section 60 of the 1990 Act (permission granted by development order)(2) which enable the Welsh Ministers to give directions,

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(1) Section 288(1)(b) was amended by the [Planning \(Wales\) Act 2015 \(anaw 4\)](#), section 27 and Schedule 4, paragraph 16.

(2) There are amendments to section 60 which are not relevant to these Regulations.

must enable them to direct that development which is both of a description mentioned in Column 1 of the table in Schedule 2, and of a class described in the direction is EIA development for the purposes of these Regulations.

### **Application to the Crown**

**59.**—(1) These Regulations apply to the Crown with the following modifications.

(2) In relation to an application made to the Welsh Ministers other than an application under section 62D of the 1990 Act (developments of national significance: applications for planning permission), regulation 11 (application referred to the Welsh Ministers without an environmental statement) is to be read as if—

(a) in paragraph (1)—

(i) before “referred” in the first place it occurs, it read “made to the Welsh Ministers under section 293A of the 1990 Act (urgent Crown development: application)(3) or”; and

(ii) before “referral” it read “making or the”; and

(b) in paragraph (2), before “referred” in the first place it occurs, it read “made under section 293A of the 1990 Act or”.

### **Revocation of statutory instruments and transitional provisions**

**60.**—(1) The statutory instruments in Schedule 8 are revoked, to the extent shown in that Schedule.

(2) Nothing in paragraph (1) affects the continued application of the instruments revoked by that paragraph, and these Regulations do not apply, in relation to—

(a) any application lodged or received by an authority before the commencement date,

(b) any undetermined ROMP application to which those instruments apply in accordance with the Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009,

(c) any appeal in relation to an application under sub-paragraph (a) or (b), or

(d) any matter in relation to which a local planning authority have, before that date, issued an enforcement notice under section 172 of the 1990 Act.

(3) In this regulation, “ROMP” (“*ROMP*”) and “ROMP application” (“*cais ROMP*”) have the same meaning as in regulation 52(1).

### **Consequential amendments**

**61.** The instruments in Schedule 9 are amended to the extent shown in that Schedule.

(3) Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c.5) (the “2004 Act”) and has been amended by section 16 and Schedule 2, paragraphs 8 and 9 and section 27 and paras 1 and 17(1) to (3) of Schedule 4 to the Planning (Wales) Act 2015 (anaw. 4). Section 118(3) of the 2004 Act provides that a reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) to an enactment amended by the 2004 Act must be taken as a reference to the enactment as so amended.