

## [<sup>F1</sup>SCHEDULE 1

Regulation 2(1)

Descriptions of development for the purposes of the definition of “Schedule 1 development”

### Textual Amendments

- F1** Regulations revoked (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567\)](#), **regs. 1(2), 65(1)** (subject to savings and transitional provisions in **regs. 63, 65(2)-(10)**)

### Interpretation

In this Schedule—

“airport” (“*maes awyrr*”) means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14) <sup>M1</sup>;

“express road” (“*gwibffordd*”) means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975 <sup>M2</sup>;

“nuclear power station” (“*gorsaf bŵer niwclear*”) and “other nuclear reactor” (“*adweithydd niwclear arall*”) do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor is not to be treated as development of the description mentioned in paragraph 2(b) of this Schedule.

### Marginal Citations

- M1** See Command Paper 6614.  
**M2** See Command Paper 6993.

### Marginal Citations

- M1** See Command Paper 6614.  
**M2** See Command Paper 6993.

### Descriptions of development

The carrying out of development to provide any of the following—

(1) Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

(2)

(a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more; and

(b) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

(3)

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (revoked)*. (See end of Document for details)

- (a) Installations for the reprocessing of irradiated nuclear fuel;
- (b) Installations designed—
  - (i) for the production or enrichment of nuclear fuel,
  - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste,
  - (iii) for the final disposal of irradiated nuclear fuel,
  - (iv) solely for the final disposal of radioactive waste,
  - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
- (4)
  - (a) Integrated works for the initial smelting of cast-iron and steel;
  - (b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
- (5) Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—
  - (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;
  - (b) for friction material, with an annual production of more than 50 tonnes of finished products; and
  - (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.
- (6) Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—
  - (a) for the production of basic organic chemicals;
  - (b) for the production of basic inorganic chemicals;
  - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
  - (d) for the production of basic plant health products and of biocides;
  - (e) for the production of basic pharmaceutical products using a chemical or biological process;
  - (f) for the production of explosives.
- (7)
  - (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;
  - (b) Construction of motorways and express roads;
  - (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometres or more in a continuous length.
- (8)
  - (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes;
  - (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.

(9) Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Council Directive [75/442/EEC](#)<sup>M3</sup> under heading D9), or landfill of hazardous waste as defined in regulation 6 of the Hazardous Waste (Wales) Regulations 2005<sup>M4</sup>.

(10) Waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Council Directive [75/442/EEC](#) under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

(11) Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

- (a) (12) (a) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year;
- (b) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.

(13) Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Council Directive [91/271/EEC](#)<sup>M5</sup>.

(14) Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.

(15) Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

(16) Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres:

(17) Installations for the intensive rearing of poultry or pigs with more than—

- (a) 85,000 places for broilers or 60,000 places for hens;
- (b) 3,000 places for production pigs (over 30 kg); or
- (c) 900 places for sows.

(18) Industrial plants for—

- (a) the production of pulp from timber or similar fibrous materials;
- (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.

(19) Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.

(20) Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

(21) Storage sites pursuant to Directive [2009/31/EC](#) of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide<sup>M6</sup>.

(22) Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to Directive [2009/31/EC](#) from installations covered by this Schedule, or where the total yearly capture of carbon dioxide is 1.5 megatonnes or more.

(23) Any change to or extension of development listed in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (revoked). (See end of Document for details)

#### Marginal Citations

- M3** O.J. No. L 194, 25.7.1975, p. 39. Council Directive 75/442/EEC was amended by Council Directive 91/156/EEC (O.J. No. L 78, 26.3.1991, p. 32) and by Commission Decision 94/3/EC (O.J. No. L 5, 7.1.1994, p. 15).
- M4** [S.I. 2005/1806](#) (W. 138).
- M5** O.J. No. L 135, 30.5.1991, p. 40.
- M6** O. J. No L 140, 5.6.2009, p. 114.

#### Marginal Citations

- M3** O.J. No. L 194, 25.7.1975, p. 39. Council Directive 75/442/EEC was amended by Council Directive 91/156/EEC (O.J. No. L 78, 26.3.1991, p. 32) and by Commission Decision 94/3/EC (O.J. No. L 5, 7.1.1994, p. 15).
- M4** [S.I. 2005/1806](#) (W. 138).
- M5** O.J. No. L 135, 30.5.1991, p. 40.
- M6** O. J. No L 140, 5.6.2009, p. 114.

## SCHEDULE 2

Regulation 2(1)

Descriptions of development and applicable thresholds and criteria  
for the purposes of the definition of “Schedule 2 development”

**1.** In the table below—

“area of the works” (“*arwynebedd gwaith*”) includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

“controlled waters” (“*dyfroedd a reolir*”) has the same meaning as in the Water Resources Act 1991 <sup>M7</sup>;

“floorspace” (“*arwynebedd llawr*”) means the floorspace in a building or buildings.

#### Marginal Citations

- M7** [1991 c. 57](#). See section 104.

**2.** The table below sets out the descriptions of development and applicable thresholds and criteria for the purpose of classifying development as Schedule 2 development.

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**Column 1 Description of development**      **Column 2 Applicable thresholds and criteria**

The carrying out of development to provide any of the following—

*1 Agriculture and aquaculture*

- (a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes; The area of the development exceeds 0.5 hectare.

- (b) Water management projects for agriculture, including irrigation and land drainage projects; The area of the works exceeds 1 hectare.
- (c) Intensive livestock installations (unless included in Schedule 1); The area of new floorspace exceeds 500 square metres.
- (d) Intensive fish farming; The installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year.
- (e) Reclamation of land from the sea. All development.

### *2 Extractive industry*

- (a) Quarries, open cast mining and peat extraction (unless included in Schedule 1); All development except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres.
- (b) Underground mining;
- (c) Extraction of minerals by fluvial or marine dredging; All development.
- (d) Deep drillings, in particular—
- (i) geothermal drilling; (i) In relation to any type of drilling, the area of the works exceeds 1 hectare; or
- (ii) drilling for the storage of nuclear waste material; (ii) in relation to geothermal drilling and drilling for the storage of nuclear waste material, the drilling is within 100 metres of any controlled waters
- (iii) drilling for water supplies; with the exception of drillings for investigating the stability of the soil.
- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale. The area of the development exceeds 0.5 hectare.

### *3 Energy industry*

- (a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1); The area of the development exceeds 0.5 hectare.
- (b) Industrial installations for carrying gas, steam and hot water; The area of the works exceeds 1 hectare.
- (c) Surface storage of natural gas; (i) The area of any new building, deposit or structure exceeds 500 square metres; or
- (d) Underground storage of combustible gases; (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled waters.
- (e) Surface storage of fossil fuels;

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- (f) Industrial briquetting of coal and lignite; The area of new floorspace exceeds 1,000 square metres.
- (g) Installations for the processing and storage of radioactive waste (unless included in Schedule 1); (i) The area of new floorspace exceeds 1,000 square metres; or (ii) the installation resulting from the development will require the grant of an environmental permit under [F2the Environmental Permitting (England and Wales) Regulations 2016] in relation to a radioactive substances activity described in paragraph 11(2)(b), (2)(c) or (4) of Part 2 of Schedule 23 to those Regulations, or the variation of such a permit.
- (h) Installations for hydroelectric energy production; The installation is designed to produce more than 0.5 megawatts.
- (i) Installations for the harnessing of wind power for energy production (wind farms). (i) The development involves the installation of more than 2 turbines; or (ii) the hub height of any turbine or height of any other structure exceeds 15 metres.
- (j) Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to Directive [2009/31/EC](#) from installations not included in Schedule 1. All development.

#### *4 Production and processing of metals*

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting; The area of new floorspace exceeds 1,000 square metres.
- (b) Installations for the processing of ferrous metals—
- (i) hot-rolling mills;
  - (ii) smitheries with hammers;
  - (iii) application of protective fused metal coats.
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;

- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

#### *5 Mineral industry*

- (a) Coke ovens (dry coal distillation); The area of new floorspace exceeds 1,000 square metres.
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

#### *6 Chemical industry (unless included in Schedule 1)*

- (a) Treatment of intermediate products and production of chemicals; The area of new floorspace exceeds 1,000 square metres.
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.
  - (i) The area of any new building or structure exceeds 0.05 hectare; or
  - (ii) more than 200 tonnes of petroleum, petrochemical or chemical products is to be stored at any one time.

#### *7 Food industry*

- (a) Manufacture of vegetable and animal oils and fats; The area of new floorspace exceeds 1,000 square metres.
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;

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- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

*8 Textile, leather, wood and paper industries*

- (a) Industrial plants for the production of paper and board (unless included in Schedule 1); The area of new floorspace exceeds 1,000 square metres.
- (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;
- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

*9. Rubber industry*

Manufacture and treatment of elastomer-based products. The area of new floorspace exceeds 1,000 square metres.

*10. Infrastructure projects*

- (a) Industrial estate development projects; The area of the development exceeds 5 hectares.
- (b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;
  - (i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or
  - (ii) the development includes more than 150 dwellinghouses; or
  - (iii) the overall area of the development exceeds 5 hectares.
- (d) Construction of railways (unless included in Schedule 1); The area of the works exceeds 1 hectare.
- (e) Construction of airfields (unless included in Schedule 1);
  - (i) The development involves an extension to a runway; or
  - (ii) the area of the works exceeds 1 hectare.
- (f) Construction of roads (unless included in Schedule 1); The area of the works exceeds 1 hectare.
- (g) Construction of harbours and port installations including fishing harbours The area of the works exceeds 1 hectare.



(unless included in Schedule 1);

(h) Inland-waterway construction not included in Schedule 1, canalisation and flood-relief works; The area of the works exceeds 1 hectare.

(i) Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1);

(j) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;

(k) Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the purposes of geological storage (unless included in Schedule 1); (i) The area of the works exceeds 1 hectare; or, (ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.

(l) Installations of long-distance aqueducts;

(m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works; All development.

(n) Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule 1; The area of the works exceeds 1 hectare.

(o) Works for the transfer of water resources between river basins not included in Schedule 1;

(p) Motorway service areas. The area of the development exceeds 0.5 hectare.

#### *11 Other projects*

(a) Permanent racing and test tracks for motorised vehicles; The area of the development exceeds 1 hectare.

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|--|--|
| (b) Installations for the disposal of waste (unless included in Schedule 1); | (i) The disposal is by incineration; or<br>(ii) the area of the development exceeds 0.5 hectare; or<br>(iii) the installation is to be sited within 100 metres of any controlled waters. |
| (c) Waste-water treatment plants (unless included in Schedule 1);            | The area of the development exceeds 1,000 square metres.   |
| (d) Sludge-deposition sites;   | (i) The area of deposit or storage exceeds 0.5 hectare; or   |
| (e) Storage of scrap iron, including scrap vehicles;                         | (ii) a deposit is to be made or scrap stored within 100 metres of any controlled waters  |
| (f) Test benches for engines, turbines or reactors;                          | The area of new floorspace exceeds 1,000 square metres.  |
| (g) Installations for the manufacture of artificial mineral fibres;          |  |
| (h) Installations for the recovery or destruction of explosive substances;   |  |
| (i) Knackers' yards.   |  |

*12 Tourism and leisure*

- |   |  |
|---|--|
| (a) Ski-runs, ski-lifts and cable-cars and associated developments;                       | (i) The area of the works exceeds 1 hectare; or<br>(ii) the height of any building or other structure exceeds 15 metres. |
| (b) Marinas;  | The area of the enclosed water surface exceeds 1,000 square metres.  |
| (c) Holiday villages and hotel complexes outside urban areas and associated developments; | The area of the development exceeds 0.5 hectare.   |
| (d) Theme parks;  |  |
| (e) Permanent camp sites and caravan sites;   | The area of the development exceeds 1 hectare.   |
| (f) Golf courses and associated developments.   | The area of the development exceeds 1 hectare.   |

*13 Changes and extensions*

- |   |  |
|---|--|
| (a) Any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph 23 of that Schedule) where that development is already authorised, executed or in the process of being executed. | The development as changed or extended may have significant adverse effects on the environment.  |
| (b) Any change to or extension of development of a description listed in  | (a) The thresholds and criteria in the corresponding part of Column 2 of this table applied to the development as changed or extended are met or exceeded; and |

paragraphs 1 to 12 of (b) in such a case the development as changed or extended may column 1 of this table, where have significant adverse effects on the environment. that development is already authorised, executed or in the process of being executed.

(c) Development of a All development. description mentioned in Schedule 1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

#### Textual Amendments

**F2** Words in [Sch. 2 para. 2](#) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), [reg. 1\(1\)](#), [Sch. 29 para. 106\(a\)](#) (with [regs. 1\(3\)](#), [77-79](#), [Sch. 4](#))

### SCHEDULE 3

Regulation 4(6)

#### Selection criteria for screening Schedule 2 development

##### Characteristics of development

1. The characteristics of development must be considered having regard, in particular, to—
  - (a) the size of the development;
  - (b) the cumulation with other development;
  - (c) the use of natural resources;
  - (d) the production of waste;
  - (e) pollution and nuisances;
  - (f) the risk of accidents, having regard in particular to substances or technologies used.

##### Location of development

2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—
  - (a) the existing land use;
  - (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
  - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
    - (i) wetlands;
    - (ii) coastal zones;
    - (iii) mountain and forest areas;
    - (iv) nature reserves and parks;

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- (v) areas classified or protected under Member States' legislation, areas designated by Member States pursuant to Council Directive 2009/147/EC on the conservation of wild birds<sup>M8</sup> and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>M9</sup>;
- (vi) areas in which the environmental quality standards laid down in EU legislation have already been exceeded;
- (vii) densely populated areas;
- (viii) landscapes of historical, cultural or archaeological significance.

#### Marginal Citations

- M8** O.J. No. L 20, 26.1.2010, p. 7.  
**M9** O.J. No. L 206, 22.7.1992, p. 7.

#### Characteristics of the potential impact

- 3.** The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to—
- (a) the extent of the impact (geographical area and size of the affected population);
  - (b) the transfrontier nature of the impact;
  - (c) the magnitude and complexity of the impact;
  - (d) the probability of the impact;
  - (e) the duration, frequency and reversibility of the impact.

### SCHEDULE 4

Regulation 2(1)

#### Information for inclusion in environmental statements

### PART 1

- 1.** Description of the development, including in particular—
  - (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
  - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
  - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
- 2.** An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
- 3.** A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.

4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from—

- (a) the existence of the development;
- (b) the use of natural resources;
- (c) the emission of pollutants, the creation of nuisances and the elimination of waste,

and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.

5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.

7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant or appellant in compiling the required information.

## PART 2

8. A description of the development comprising information on the site, design and size of the development.

9. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.

10. The data required to identify and assess the main effects which the development is likely to have on the environment.

11. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.

12. A non-technical summary of the information provided under paragraphs 8 to 11 of this Part.

## SCHEDULE 5

Regulation 38(3)

### Local Development Orders

1. In a case to which this Schedule has effect, these Regulations apply, subject to the following modifications.

2. Regulations 3, 5 to 12, 18 and 19 do not apply.

3. In regulation 4—

- (a) paragraph (2)(a) does not apply;
- (b) in paragraph (2)(b), (5) and (10), for “relevant” read “local”;
- (c) read as if paragraph (7)(b) were omitted.

4. Regulation 13 is to be read as if it provided—

“(1) Where a proposed local development order is EIA development, the local planning authority must state its opinion as to the information to be provided in the environmental statement (“a scoping opinion”).

(2) A scoping opinion under paragraph (1) must include—

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (revoked)*. (See end of Document for details)

- (a) a plan sufficient to identify the land;
  - (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
  - (c) such other information or representations as the local planning authority may wish to provide or make.
- (3) An authority must not adopt a scoping opinion until they have consulted the consultees.
- (4) Before adopting a screening opinion the authority must take into account—
- (a) the specific characteristics of the particular development;
  - (b) the specific characteristics of development of the type concerned; and
  - (c) the environmental features likely to be affected by the development.”

**5. Regulation 15 is to be read as if it provided—**

“**15.—**(1) A local planning authority which intends to prepare an environmental statement may enquire of a consultee whether the consultee has any information which the consultee or the local planning authority considers relevant to the preparation of the environmental statement.

(2) If the consultee has such information they must treat the enquiry by the local planning authority as a request for information by the local planning authority under regulation 5(1) of the Environmental Information Regulations 2004 <sup>M10</sup>.”

**Marginal Citations**

**M10** [S.I. 2004/3391](#).

**6. Regulation 16 is to be read as if it provided—**

“**16.—**(1) Where a statement, referred to as an “environmental statement”, has been prepared in relation to EIA development for which a local planning authority proposes to grant planning permission by a local development order, the local planning authority must—

- (a) send a copy of the statement to the consultees and inform them that they may make representations; and
- (b) notify any particular person of whom the authority are aware, who is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent.

(2) The local planning authority must not make the local development order until the expiry of 21 days from the last date on which a copy of the statement was served in accordance with this regulation.”

**7. Regulation 17 is to be read as if—**

- (a) paragraph (1) were omitted;
- (b) paragraph (2) read—

“(2) The local planning authority must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

- (a) the name and address of the local planning authority;

- (b) the address or location and the nature of the development referred to in the proposed local development order;
  - (c) that a copy of the draft local development order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
  - (d) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);
  - (e) an address (whether or not the same as that given under sub-paragraph (d)) in the locality in which the land is situated at which copies of the statement may be obtained;
  - (f) that copies may be obtained there so long as stocks last;
  - (g) if a charge is to be made for a copy, the amount of the charge; and
  - (h) that any person wishing to make representations about the local development order should make them before the date specified in accordance with sub-paragraph (d), to the local planning authority.”;
- (c) paragraph (3) were omitted;
- (d) in paragraph (4), “applicant” read “local planning authority”; and
- (e) paragraphs (6) to (9) were omitted.
- 8.** Regulation 20 is to be read as if it provided—
- “**20.** The local planning authority must ensure that a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for which the authority propose to grant planning permission by a local development order are available at—
- (a) their principal office during normal office hours; and
  - (b) at such other places within their area as they consider appropriate.”
- 9.** Regulation 22 is to be read as if—
- (a) paragraph (1) read—
- “(1) Where an environmental statement has been prepared and the local planning authority is of the opinion that the statement should contain additional information in order to be an environmental statement, the local planning authority must ensure that additional information is provided and such information provided is referred to in these Regulations as “further information” (“*gwybodaeth bellach*”);
- (b) paragraph (3) read—
- “(3) The local planning authority must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—
- (a) the name and address of the local planning authority;
  - (b) the address or location and the nature of the development referred to in the proposed local development order;
  - (c) that further information is available in relation to an environmental statement which has already been provided;
  - (d) that a copy of the further information may be inspected by members of the public at all reasonable hours;

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- (e) an address in the locality in which the land is situated at which the further information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);
  - (f) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the further information may be obtained;
  - (g) that copies may be obtained there so long as stocks last;
  - (h) if a charge is to be made for a copy, the amount of the charge;
  - (i) that any person wishing to make representations about the further information should make them before the date specified in accordance with sub-paragraph (e), to the local planning authority;
  - (j) the address to which representations should be sent.”;
- (c) paragraph (4) read—
- “(4) The local planning authority must send a copy of the further information and any other information to each person to whom, in accordance with the Regulations, the statement to which it relates was sent and to the Welsh Ministers.”;
- (d) paragraphs (5) and (6) were omitted;
- (e) paragraph (7) read—
- “(7) Where information is provided under paragraph (1) the local planning authority must not make the local development order before the expiry of 21 days after the date on which the further information was sent to all persons to whom the statement to which it relates was sent or the expiry of 21 days after the date that notice of it was published in a local newspaper, whichever is the later.”;
- (f) in paragraph (8)—
- (i) instead of “The applicant or appellant” it read “The local planning authority”; and
  - (ii) after “number of copies of the” it read “further information or other”.
- 10.** Regulation 23 is to be read as if paragraphs (1) and (2) read—
- “(1) Where particulars of a draft local development order are placed on Part 3 of the register, the local planning authority must take steps to secure that there is also placed on that Part a copy of any relevant—
- (a) screening opinion;
  - (b) screening direction;
  - (c) scoping opinion;
  - (d) direction under regulation 4(4);
  - (e) the statement referred to as the environmental statement including any further information;
  - (f) statement of reasons accompanying any of the above.
- (2) Where the relevant planning authority adopt a screening opinion or scoping opinion, or receive a copy of a screening direction before a local development order is made, the local planning authority must take steps to secure that a copy of the opinion or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant section of that register) is kept.”
- 11.** Regulation 24 is to be read as if—



- (a) in paragraph (1) for “Where an EIA application is determined by a local planning authority” it read “Where a local planning authority adopt a local development order granting permission for development which constitutes EIA development”; and
  - (b) paragraphs (2) and (3) were omitted.
- 12.** Regulation 53 is to be read as if—
- (a) in paragraph (1) sub-paragraph (a) read—
    - “(a) it comes to the attention of the Welsh Ministers that EIA development proposed to be carried out in Wales for which a local planning authority propose to grant planning permission by a local development order is likely to have significant effects on the environment in another EEA State; or”; and
  - (b) in paragraphs (3) and (6), instead of “application” it read “proposed local development order”.

## SCHEDULE 6

Regulation 39

### Section 97 and 102 Orders under the 1990 Act

- 1.** In this Schedule “initiating body” (“*corff cychwyn*”) means the local planning authority or the Welsh Ministers, where they propose to make the section 97 order or the section 102 order.
- 2.** In a case to which this Schedule has effect, these Regulations apply subject to the following modifications.
- 3.** Regulations 3, 5 to 12 and 19 do not apply.
- 4.** In regulation 4—
  - (a) paragraph (2)(a) does not apply;
  - (b) in paragraph (2)(b), for “relevant” read “local”;
  - (c) in paragraph (7) read as if sub-paragraph (b) were omitted.
- 5.** Regulation 13 is to be read as if it provided—
  - “(1) Where a proposed section 97 order or section 102 order permit or require EIA development, the initiating body must state its opinion as to the information to be provided in the environmental statement, unless the initiating body is a local planning authority and makes a request under regulation 14(1).
  - (2) A scoping opinion or scoping direction under paragraph (1) must include—
    - (a) a plan sufficient to identify the land;
    - (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
    - (c) such other information or representations as the relevant initiating body may wish to provide or make.
  - (3) An initiating body must not adopt a scoping opinion or scoping direction until they have consulted the consultees.
  - (4) Before adopting a scoping opinion or scoping direction the initiating body must take into account—
    - (a) the specific characteristics of the particular development;
    - (b) the specific characteristics of development of the type concerned; and

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(c) the environmental features likely to be affected by the development.

(5) If the Welsh Ministers make a scoping direction of their own volition or at the request of a third party, they must send a copy to the local authority which has initiated the order.”

6. Regulation 14 is to be read as if—

(a) paragraph (1) read

“A local planning authority who intend to prepare an environmental statement may request the Welsh Ministers to make a direction as to the information to be provided in the environmental statement and such a request must include—

(a) copies of the relevant screening opinion and statement of reasons; and

(b) the matters referred to in regulation 13(2).”;

(b) paragraphs (2) and (5) were omitted;

(c) paragraph (6) read “The Welsh Ministers must consult the local planning authority and the consultees before making a scoping direction and must make the direction within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.”; and

(d) the reference in paragraph (7) to “regulation 13(6)” is to “regulation 13(4)”.

7. Regulation 15 is to be read as if it provided—

“15.—(1) An initiating body which intends to prepare an environmental statement may consult with a consultee in order to determine whether the consultee has any information which the consultee or the initiating body considers relevant to the preparation of the environmental statement.

(2) If the consultee has such information, the consultee must treat the consultation by the initiating body as a request for information by the local planning authority under regulation 5(1) of the Environmental Information Regulations 2004 <sup>M11</sup>.”

#### Marginal Citations

M11 [S.I. 2004/3391](#).

8. Regulation 16 is to be read as if it provided—

“16.—(1) Where a statement, referred to as an environmental statement, has been prepared by an initiating body in relation to development which is related to a section 97 order or section 102 order, that body must—

(a) send a copy of the draft section 97 order or draft section 102 order and the statement to the consultees and inform them that they may make representations; and

(b) notify any particular person of whom the body is aware and who is likely to be affected by, or has an interest in, the draft order and unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, of—

(i) an address in the locality where a copy of the draft order and statement may be obtained; and

(ii) the address to which representations may be sent.

(2) The initiating body must not make the order until the expiry of 21 days from the last date on which a copy of the statement was served in accordance with this regulation.

(3) When the local planning authority prepare an environmental statement, they must send to the Welsh Ministers, within 14 days of sending the statement to the consultees, one copy of each of any relevant screening opinion, statement of reasons and draft order.”

**9.** Regulation 17 is to be read as if—

(a) paragraph (1) were omitted;

(b) paragraph (2) read—

“(2) The initiating body must publish in a local newspaper circulating in the locality a notice stating—

- (a) the name and address of the initiating body;
- (b) the address or location and the nature of the development referred to in the proposed section 97 order or section 102 order;
- (c) that a copy of the draft order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
- (d) an address in the locality at which those documents may be inspected, and the latest date on which they will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);
- (e) an address (whether or not the same as that given under sub-paragraph (d)) in the locality at which copies of the statement may be obtained;
- (f) that copies may be obtained there so long as stocks last;
- (g) if a charge is to be made for a copy, the amount of the charge; and
- (h) that any person wishing to make representations about the order should make them before the date specified in accordance with sub-paragraph (d), to the initiating body.”;

(c) paragraph (3) were omitted;

(d) in paragraph (4), “applicant” read “initiating body”; and

(e) paragraphs (6) to (9) were omitted.

**10.** Regulation 18 is to be read as if it provided—

“**18.** Where a local planning authority submits a section 97 order or a section 102 order to the Welsh Ministers for confirmation, the authority must also submit one copy of any environmental statement and any further information.”

**11.** Regulation 20 is to be read as if it provided—

“**20.**—(1) Where the initiating body is the local planning authority, they must ensure that a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to development in relation to which the authority propose to make a section 97 order or section 102 order are available at—

- (a) their principal office during normal office hours; and
- (b) at such other places within their area as they consider appropriate.

(2) Where the initiating body is the Welsh Ministers, they must send to the local planning authority who would be responsible for determining an application for planning permission in respect of the development covered by the proposed section 97 order or section 102 order, a copy of the environmental statement prepared in relation to the proposed order.

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(3) When the local planning authority receive a copy of an environmental statement pursuant to paragraph (2), they must ensure that a reasonable number of copies of the statement are available at—

- (a) their principal office during normal office hours; and
- (b) at such other places within their area as they consider appropriate.”

12. Regulation 22 must be read as if—

(a) paragraph (1) read—

“(1) Where—

- (a) an environmental statement has been prepared; and a section 97 order or section 102 order is submitted to the Welsh Ministers for confirmation; and
- (b) the Welsh Ministers consider that the statement should contain additional information in order to be an environmental statement,

the Welsh Ministers must notify the relevant planning authority; and that authority must ensure that the additional information is provided; and such additional information is referred to in these Regulations as “further information” (“*gwybodaeth bellach*”);

(b) paragraph (3) read—

“(3) The relevant planning authority must publish in a local newspaper circulating in the locality a notice stating—

- (a) the name and address of the relevant planning authority;
- (b) the address or location and the nature of the development referred to in the proposed section 97 order or section 102 order;
- (c) that further information is available in relation to an environmental statement which has already been provided;
- (d) that a copy of the further information may be inspected by members of the public at all reasonable hours;
- (e) an address in the locality at which the further information may be inspected, and the latest date on which it is available for inspection (being a date not less than 21 days later than the date on which the notice is published);
- (f) an address (whether or not the same as that given under sub-paragraph (e)) in the locality at which copies of the further information may be obtained;
- (g) that copies may be obtained there so long as stocks last;
- (h) if a charge is to be made for a copy, the amount of the charge;
- (i) that any person wishing to make representations about the further information should make them to the relevant planning authority before the date specified in accordance with sub-paragraph (e);
- (j) the address to which representations should be sent.”;

(c) paragraph (4) read—

“(4) The local planning authority must send a copy of the further information to each person to whom, in accordance with the Regulations, the statement to which it relates was sent and to the Welsh Ministers.”;

(d) paragraphs (5) and (6) were omitted;

(e) paragraph (7) read—

“(7) Where information is provided under paragraph (1) or any other information is provided the Welsh Ministers must not confirm the section 97 order or section 102 order

before the expiry of 21 days after the date on which the further information was sent to all persons to whom the statement which it relates was sent or the expiry of 21 days after the date that notice of it was published in a local newspaper, whichever is the later.”;

(f) in paragraph (8)—

(i) instead of “The applicant or appellant who provides” it read “The local planning authority providing”; and

(ii) after “number of copies of the” and before “information”, it read “further”.

**13.** Regulation 23 is to be read as if paragraphs (1) and (2) read—

“(1) Each local planning authority must keep a record containing a copy of every section 97 order and section 102 order relating to their area, together with a statement of the reasons for making the order; and the authority must take steps to secure that there is also placed on that record a copy of any relevant—

(a) screening opinion;

(b) screening direction;

(c) scoping opinion;

(d) direction under regulation 4(4);

(e) statement referred to as the environmental statement, including any further information;

(f) statement of reasons accompanying any of the above.

(2) Where the local planning authority adopt a screening opinion or scoping opinion, or receive a copy of a screening direction or scoping direction before a section 97 order or a section 102 order is made, the authority must take steps to secure that a copy of the opinion or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the record is kept.

(3) Copies of the documents referred to in paragraph (2) must remain so available for a period of two years from the date on which they are placed on the record.”

**14.** Regulation 24 is to be read as if it provided—

“**24.**—(1) In this regulation, “decision” (*penderfyniad*) means, in relation to an order which takes effect under section 97(7) of the 1990 Act, the decision to make the order and otherwise, the decision to confirm the section 97 order or the section 102 order.

(2) Where a section 97 order or a section 102 order permitting or requiring EIA development takes effect, the Welsh Ministers must—

(a) notify the local planning authority for the area to which the order relates when the order is made or confirmed; and

(b) other than in relation to section 97 orders which take effect without being confirmed by the Welsh Ministers pursuant to section 99(7) of the 1990 Act, provide the authority with a statement containing the information in paragraph (3)

(c).

(3) Where a section 97 order or a section 102 order permitting or requiring EIA development takes effect, the local planning authority for the area to which the order relates must—

(a) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and

(b) make available for public inspection at the place where the record of section 97 orders and section 102 orders is kept, a statement containing—

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- (i) the content of the decision and any conditions attached to it;
  - (ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public;
  - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development permitted or required by the order; and
  - (iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”
15. Regulation 53 is to be read as if—
- (a) “decision” has the same meaning as in paragraph 14;
  - (b) in paragraph (1) subparagraph (a) read—
    - “(a) it comes to the attention of the Welsh Ministers that EIA development proposed to be carried out in Wales for which an initiating body proposes to require or permit by a section 97 order or a section 102 order is likely to have significant effects on the environment in another EEA State; or”; and
  - (c) in paragraphs (3) and (6), instead of “application” it read “proposed section 97 order or section 102 order”.

## SCHEDULE 7

Regulation 52(2)

### ROMP <sup>M12</sup> Applications

#### Marginal Citations

**M12** For the meaning of “ROMP”  
see regulation 52(1).

#### Modification of provisions on prohibition of granting planning permission or subsequent consent

1. Regulation 3 (prohibition on granting planning permission or subsequent consent without consideration of environmental information) is to be read as if—

- (a) in paragraph (1)(b), “3 (applications for planning permission)” read “11 (other consents)”;
- (b) in paragraph (2), in the case of a ROMP application, “determined in accordance with article 22(3) (time periods for decisions) of the 2012 Order”, read “the date on which a ROMP application has been made which complies with the provisions of paragraphs 2(3) to (5) and 4(1) of Schedule 2 to the 1991 Act, 9(2) of Schedule 13 to the 1995 Act <sup>M13</sup>, or 6(2) of Schedule 14 to the 1995 Act”.

#### Marginal Citations

**M13** Paragraph 9 of Schedule 13 and paragraph 60 of Schedule 14 were amended by [S.I. 2004/3156](#) (W. 273). There is another amendment which is not relevant to this instrument.

### **Modification of provisions on application to local planning authority without an environmental statement**

2. In the case of a ROMP application, regulation 10(4) (application made to a local planning authority without an environmental statement) is to be read as if—

- (a) “21 days” read “6 weeks”; and
- (b) after “the notification”, it read “, or within such other period as may be agreed with the authority in writing”.

### **Disapplication of Regulations and modifications of provisions on application referred to or appealed to the Welsh Ministers without an environmental statement**

3.—(1) In the case of a ROMP application, regulations 10(6) and (8), 11(6) and (7), 12(7), 25 and 57 do not apply.

(2) In the case of a ROMP application, regulation 11(5) (application referred to the Welsh Ministers without an environmental statement) and regulation 12(6) (appeal to the Welsh Ministers without an environmental statement) are to be read as if—

- (a) “21 days” read “6 weeks”; and
- (b) after “the notification” they read “, or within such other period as may be agreed with the Welsh Ministers in writing”.

### **Substitution of references to section 78 of the 1990 Act right of appeal and modification of provisions on appeal to the Welsh Ministers without an environmental statement**

4.—(1) In the case of a ROMP application, in regulations 12(1) and 18(b), for the references to “section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)” read—

“paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)”.

(2) In the case of a ROMP application, read regulation 12(2) (appeal to the Welsh Ministers without an environmental statement) as if “, except by refusing planning permission or subsequent consent,” were omitted.

### **Modification of provisions on preparation, publicity and procedures on submission of environmental statements**

5.—(1) In the case of a ROMP application, in regulations 13(10) and 14(9), for the words “an application for planning permission or a subsequent application for” read “a ROMP application which relates to another planning permission which authorises”.

(2) In the case of a ROMP application, in regulation 16 (procedure where an environmental statement is submitted to a local planning authority) for paragraph (4) read—

“(4) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 12 of and Schedule 3 to the 2012 Order (publicity for applications for planning permission) apply to a ROMP application under paragraph—

- (a) 2(2) of Schedule 2 to the 1991 Act, and
- (b) 6(1) of Schedule 14 to the 1995 Act<sup>M14</sup>,

as they apply to a planning application falling within paragraph (2) of article 12 of the 2012 Order except that for the references in the notice in Schedule 3 to the 2012 Order to “planning permission” there is substituted “determination of the conditions to which a

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planning permission is to be subject” and that the notice must refer to the relevant provisions of the 1991 Act or 1995 Act pursuant to which the application is made.”

(3) In the case of a ROMP application, in regulation 17 (publicity where an environmental statement is submitted after the planning application)—

(a) in paragraph (2)(a) for the words “that an application is being made for planning permission or subsequent consent” read—

“that an application is being made for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 Act or 1995 Act pursuant to which the application is made”;

(b) for paragraph (7) read—

“(7) Where an applicant indicates that is the applicant proposes to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant planning authority, the Welsh Ministers or the inspector, as the case may be, must suspend consideration of the application or appeal until the date specified by the authority or the Welsh Ministers for submission of the environmental statement and compliance with paragraph (6); and must not determine the application or appeal during the period of 21 days beginning with the date of receipt of the statement and the other documents mentioned in paragraph (6).”

(4) In the case of a ROMP application, in regulation 18 (provision of copies of environmental statements and further information for the Welsh Ministers on referral or appeal), in paragraph (a) for “section 77 of the 1990 Act” read “paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act”.

(5) In the case of a ROMP application, in regulation 20 (availability of copies of environmental statements) after “the 2012 Order” read “(as applied by regulation 16(5) or by paragraph 9(5) of Schedule 13 to the 1995 Act),”.

(6) In the case of a ROMP application, in regulation 22 (further information and evidence in respect of environmental statements)—

(a) in paragraph (3)(a) for the words “applicant for planning permission or subsequent consent or the appellant (as the case may be)” read—

“person who has applied for or who has appealed in relation to the determination of the conditions to which the planning permission is to be subject, the relevant provisions of the 1991 Act or 1995 Act pursuant to which the application is made”;

(b) in paragraph (7)(a) after the words “application or appeal” read “until the date they specify for submission of the further information”.

#### **Marginal Citations**

**M14** The provisions of the 2012 Order apply to applications under paragraph 9(1) of Schedule 13 to the 1995 Act by virtue of paragraph 9(5) of that Schedule.

#### **Modification of provisions on application to the High Court and giving of directions**

6.—(1) In the case of a ROMP application, for regulation 55 (application to the High Court) read—



### “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 of the 1990 Act, as applied by paragraph 9(3) of Schedule 2 to the 1991 Act, paragraph 16(4) of Schedule 13 to the 1995 Act or paragraph 9(4) of Schedule 14 to the 1995 Act, to action of the Welsh Ministers not being within the powers of the 1990 Act must be taken to extend to the determination of a ROMP application by the Welsh Ministers in contravention of regulation 3.”

(2) The direction making power in article 18(2) of the 2012 Order applies to ROMP development as it applies to development in respect of which a planning application is made.

### Suspension of minerals development

7.—(1) Where the authority, the Welsh Ministers or an inspector are dealing with a ROMP application or an appeal arising from a ROMP application and notify the applicant or appellant, as the case may be, that—

- (a) the submission of an environmental statement is required under regulation 10(1), 11(2) or 12(4) then such notification must specify the period within which the environmental statement and compliance with regulation 17(6) is required; or
- (b) a statement should contain additional information under regulation 22(1),

then such notification must specify the period within which that information is to be provided.

(2) Subject to paragraph (3), the planning permission to which the ROMP application relates may only authorise any minerals development (unless the Welsh Ministers have made a screening direction to the effect that ROMP development is not EIA development) if the applicant or the appellant has—

- (a) written to the authority or Welsh Ministers within the 6 week or other period agreed pursuant to regulation 10(3) and 10(4), 11(3) and 11(5) or 12(6);
- (b) submitted an environmental statement and complied with regulation 17(6) within the period specified by the authority or the Welsh Ministers in accordance with paragraph (1) or within such extended period as is agreed in writing;
- (c) provided additional information within the period specified by the authority, the Welsh Ministers or an inspector in accordance with paragraph (1) or within such extended period as is agreed in writing; or
- (d) where a notification under regulation 5(4), 6(3), 13(3) or 14(3) has been received, provided the additional information requested within 21 days beginning with the date of the notification, or within such extended period as may be agreed in writing.

(3) Where paragraph (2) applies, the planning permission may not authorise any minerals development from the end of—

- (a) the relevant period specified in or agreed pursuant to regulations 10(3) and 10(4), 11(3) and 11(5) or 12(6); and
- (b) the period specified or agreed in writing as referred to in sub-paragraphs (2)(b), (c), and (d),

until the applicant has complied with all of the provisions referred to in paragraph (2) which are relevant to the application or appeal in question.

(4) Particulars of the suspension of minerals development and the date when that suspension ends must be entered in the appropriate part of the register as soon as reasonably practicable.

(5) Paragraph (2) does not affect any minerals development carried out under the planning permission before the date of suspension of minerals development.

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(6) For the purposes of paragraphs (2) to (5), “minerals development” (“*datblygiad mwynau*”) means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.

### **Determination of conditions and right of appeal on non-determination**

8.—(1) Where it falls to a mineral planning authority to determine a Schedule 1 or a Schedule 2 application, paragraph 2(6)(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act or paragraph 6(8) of Schedule 14 to the 1995 Act does not have effect to treat the authority as having determined the conditions to which any relevant planning permission is to be subject unless either—

- (a) the mineral planning authority has adopted a screening opinion; or
- (b) the Welsh Ministers have made a screening direction to the effect that the ROMP development in question is not EIA development;

(2) Where it falls to a mineral planning authority or the Welsh Ministers to determine a Schedule 1 or a Schedule 2 application—

- (a) section 69 of the 1990 Act (register of applications, etc), and any provisions of the 2012 Order made by virtue of that section, have effect with any necessary amendments as if references to applications for planning permission included ROMP applications under paragraph 9(1) of Schedule 13 to the 1995 Act and paragraph 6(1) of Schedule 14 to the 1995 Act<sup>M15</sup>; and
- (b) where the relevant mineral planning authority is not the authority required to keep the register, the relevant mineral planning authority must provide the authority required to keep it with such information and documents as that authority requires to comply with section 69 of the 1990 Act as applied by sub-paragraph (i), with regulation 23 as applied by regulation 52, and with paragraph 7(4) of this Schedule.

(3) Where it falls to the mineral planning authority or the Welsh Ministers to determine an EIA application made under paragraph 2(2) of Schedule 2 to the 1991 Act, paragraph 4(4) of that Schedule does not apply.

(4) Where it falls to the mineral planning authority to determine an EIA application, the authority must give notice of their determination of the ROMP application within 16 weeks beginning with the date of receipt by the authority of the ROMP application or such extended period as may be agreed in writing between the applicant and the authority.

(5) For the purposes of paragraph (4), a ROMP application is received by the authority when they receive—

- (a) a document referred to by the applicant as an environmental statement for the purposes of these Regulations;
- (b) any documents required to accompany that statement; and
- (c) any additional information which the authority has notified the applicant that the environmental statement should contain.

(6) Where paragraph (1) applies—

- (a) paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act and paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) have effect as if there were also a right of appeal to the Welsh Ministers where the mineral planning authority have not given notice of their determination of the ROMP application in accordance with paragraph (4); and
- (b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) have effect as if

they also provide for notice of appeal to be made within 6 months from the expiry of the 16 week or other period agreed pursuant to paragraph (4).

- (7) In determining for the purposes of—
- (a) paragraphs 2(6)(b) of Schedule 2 to the 1991 Act, 9(9) of Schedule 13 to the 1995 Act and 6(8) of Schedule 14 to the 1995 Act (determination of conditions); or
  - (b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) as applied by paragraph 8(6)(b) of this Schedule,

the time which has elapsed without the mineral planning authority giving the applicant notice of their determination in a case where the authority have notified an applicant in accordance with regulation 10(1) that the submission of an environmental statement is required and the Welsh Ministers have given a screening direction in relation to the ROMP development in question no account may be taken of any period before the issue of the direction.

#### **Marginal Citations**

**M15** These provisions apply to applications under paragraph 2(2) of Schedule 2 to the 1991 Act as they are applied by paragraph 9 of Schedule 2 to the 1991 Act.

#### **ROMP application by a mineral planning authority**

**9.—**(1) Where a mineral planning authority propose to make or makes a ROMP application which is a Schedule 1 or a Schedule 2 application to the Welsh Ministers under regulation 11 (other consents) of the General Regulations<sup>M16</sup>, these Regulations apply to that application or proposed application as they apply to a ROMP application referred to the Welsh Ministers under paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act (reference of applications to the Welsh Ministers) subject to the following modifications—

- (a) subject to paragraph (2), regulations 5 to 10, 12, 13, 14, 16 (except for the purposes of regulations 19(3) and (4)), 18 and 24(1) do not apply;
- (b) in regulation 4 (general provisions relating to screening), paragraphs (4) and (10) do not apply;
- (c) regulation 11(2) (application referred to the Welsh Ministers without an environmental statement), applies as if “and must send a copy of that notification to the relevant planning authority” were omitted;
- (d) in regulation 15 (procedure to facilitate preparation of environmental statements)—
  - (i) in sub-paragraph (3)(b) for the words “10(4)(a), or 11(5) or 12(6)” read “11(5)”;  
(ii) read paragraph (4) as if “the relevant planning authority and” and “authority or” were omitted;
- (e) in regulation 17(2) (publicity where an environmental statement is submitted after the planning application)—
  - (i) in sub-paragraph (a) read as if “and the name and address of the relevant planning authority” were omitted;
  - (ii) read as if sub-paragraph (b) provided—
    - “(b) the date on which the application was made and that it has been made to the Welsh Ministers under regulation 11 of the General Regulations;”;

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**Changes to legislation:** There are currently no known outstanding effects for the *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (revoked)*. (See end of Document for details)

- (f) read regulation 19(2) (procedure where an environmental statement is submitted to the Welsh Ministers), as if “who must send one copy to the relevant planning authority” were omitted;
- (g) in regulation 22(3) (further information and evidence in respect of environmental statements)—
  - (i) read sub-paragraph (a) as if “and the name and address of the relevant planning authority” were omitted;
  - (ii) read sub-paragraph (b) as if it provided—
    - “(b) the date on which the application was made and that it has been made to the Welsh Ministers under regulation 11 of the General Regulations;”;
    - and
  - (h) regulations 23 (availability of opinions, directions etc for inspection) and 24(2) (duties to inform the public and the Welsh Ministers of final decisions) apply as if the references to a “relevant planning authority” were references to a mineral planning authority.
- (2) A mineral planning authority minded to make a ROMP application to the Welsh Ministers under regulation 11 of the General Regulations may request the Welsh Ministers to make a screening direction, and paragraphs (3) to (6) of regulation 6 apply to such a request as they apply to a request made pursuant to regulation 5(7) except as if in paragraph (5) “, and may request the relevant planning authority to provide such information as they can on any of those points” were omitted.
- (3) A request under paragraph (2) must be accompanied by—
  - (a) a plan sufficient to identify the land;
  - (b) a brief description of the nature and purpose of the ROMP development and of its possible effects on the environment; and
  - (c) such other information as the authority may wish to provide or make.
- (4) An authority making a request under paragraph (10) must send to the Welsh Ministers any additional information they may request to enable them to make a direction.

#### Marginal Citations

**M16** Regulation 11 was amended by [S.I. 1999/1810](#) and [S.I. 1999/1892](#).

### **ROMP applications: duty to make a prohibition order after two years suspension of permission**

- 10.**—(1) This regulation applies if, in relation to a minerals development—
- (a) a period of 2 years beginning with the suspension date has expired, and
  - (b) the steps specified in paragraph 7(2) have yet to be taken.
- (2) The “suspension date” is the date on which the suspension of the power to authorise minerals development (within the meaning of paragraph 7(3)) begins.
- (3) Paragraph 3 of Schedule 9 to the 1990 Act (prohibition of resumption of mineral working)<sup>M17</sup> has effect in relation to any part of a site as it has effect in relation to the whole site.
- (4) Sub-paragraph (1) of that paragraph has effect as if from “the mineral planning authority may by order” to the end read—
- “the mineral planning authority—
- (i) must by order prohibit the resumption of the winning and working or the depositing; and

(ii) may in the order impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).”

(5) In sub-paragraphs (2)(a) and (b) of that paragraph, references to winning and working or depositing are to be read as references to winning and working or depositing for which permission is not suspended by virtue of paragraph 7(3).

(6) Paragraph 4(7) of Schedule 9 to the 1990 Act has effect as if “have effect” read “authorise that development”.

#### Marginal Citations

**M17** Paragraph 3 was amended by the 1991 Act, Schedule 1, paragraph 15(6).

## SCHEDULE 8

Regulation 60

### Statutory instruments revoked

<i>Title of instrument</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999	S.I. 1999/293	The whole of the Regulations.
The Town and Country Planning (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2000	S.I. 2000/2867	The whole of the Regulations.
The Hazardous Waste (England and Wales) Regulations 2005	S.I. 2005/894	Paragraphs 24 and 25 of Part 2 of Schedule 11.
The Hazardous Waste (Wales) Regulations 2005	S.I. 2005/1806 (W. 138)	Paragraphs 26 and 27 of Part 2 of Schedule 11.
The Town and Country Planning (Application of Subordinate Legislation to the Crown) Order 2006	S.I. 2006/1282	Article 22.

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (revoked)*. (See end of Document for details)

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2006 S.I. 2006/3099 The whole of the Regulations.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2008 S.I. 2008/2335 The whole of the Regulations.

The Environmental Permitting (England and Wales) Regulations 2010 S.I. 2010/675 Paragraph 13 of Part 2 of Schedule 26.

The Waste (England and Wales) Regulations 2011 S.I. 2011/988 Paragraph 11 in Part 2 of Schedule 4.

The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 S.I. 2011/2043 Paragraph 2 of Part 2 of Schedule 2.

The Natural Resources Body for Wales (Functions) Order 2013 S.I. 2013/755 Paragraph 79 of Schedule 4.

## SCHEDULE 9

Regulation 61

### Consequential amendments

#### **The Town and Country Planning (General Permitted Development) Order 1995**

1.—(1) The Town and Country Planning (General Permitted Development) Order 1995 <sup>M18</sup> is amended as follows.

(2) In article 3(10), for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999”, substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 ”.

(3) In paragraphs (10) and (11) of article 3—

(a) for “regulation 4(7)” substitute “ regulation 4(8) ”;

- (b) for “regulation 6(4)” substitute “ regulation 6(6) ”; and
- (c) after “the Secretary of State has” in each place where those words occur, insert “ , or the Welsh Ministers have, ”.

**Marginal Citations**

**M18** [S.I. 1995/418](#) to which there are amendments not relevant to these Regulations.

**The Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999**

**2.—**(1) The Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 <sup>M19</sup> are amended as follows.

(2) In regulation 2(1), for the definition of “the 1999 EIA Regulations” substitute “ “the 2016 EIA Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016; ”.

(3) In regulation 4(3)—

- (a) for sub-paragraph (b), substitute “ be treated for the purposes of those Regulations as if it were a direction of the Welsh Ministers under regulation 6(6) ”; and
- (b) for “the 1999 EIA Regulations” (at both the other places where those words occur) substitute “ the 2016 EIA Regulations ”.

**Marginal Citations**

**M19** [S.I. 1999/1672](#).

**The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999**

**3.—**(1) The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 <sup>M20</sup> are amended as follows.

(2) In regulation 3(1)(c)(ii), for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999;” substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 ”.

**Marginal Citations**

**M20** [S.I. 1999/2228](#).

**The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006**

**4.—**(1) The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006 <sup>M21</sup> are amended as follows.

(2) In the definition of “EIA application” in regulation 6(8), for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999”, substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 ”.

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016* (revoked). (See end of Document for details)

**Marginal Citations**

**M21** [S.I. 2006/1387](#) (W. 137).

**The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007**

5.—(1) The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007<sup>M22</sup> are amended as follows.

(2) In regulation 3(2)(b), for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 apply”, substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 apply ”.

**Marginal Citations**

**M22** [S.I. 2007/2933](#) (W. 253).

**The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) 2009**

6.—(1) The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) 2009<sup>M23</sup> are amended as follows.

(2) In regulation 2(1), for “the 1999 Regulations” (“*Rheoliadau 1999*”) means the **Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999** (S.I. 1999/293);”, substitute “ “the 2016 Regulations” (“*Rheoliadau 2016*”) means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016;”.

(3) For regulation 52, including its heading, substitute—

**“Regulations 53 and 54 of the 2016 Regulations**

**52.** Regulations 53 (development in Wales likely to have significant effects in another EEA State) and 54 (projects in another EEA State likely to have significant transboundary effects) of the 2016 Regulations apply for the purposes of these Regulations as they apply for the purposes of the 2016 Regulations.”

(4) For “the 1999 Regulations”, wherever it occurs, substitute “ the 2016 Regulations ”.

**Marginal Citations**

**M23** [S.I. 2009/3342](#) (W. 293).

**The Town and Country Planning (Environmental Impact Assessment) Regulations 2011**

7.—(1) The Town and Country Planning (Environmental Impact Assessment) Regulations 2011<sup>M24</sup> are amended as follows.

(2) In regulation 56, for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999;” substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016; ”



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**Marginal Citations**

**M24** [S.I. 2011/1824](#).

**The Town and Country Planning (Development Management Procedure) (Wales) Order 2012**

8.—(1) The 2012 Order <sup>M25</sup> is amended as follows.

(2) In article 2(1), in the definition of “EIA application”, “EIA development”, “environmental information” and “environmental statement”, for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999”, substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 ”.

(3) In article 18(2), for “the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999”, substitute “ the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 ”.

(4) In article 27—

- (a) in paragraph (6)(a), for “and statement of reasons” substitute “ , statement of reasons and any environmental statement ”;
- (b) in paragraph (6)(b)(i) and (c)(i), for “and the statement of reasons” substitute “ , statement of reasons and any environmental statement ”.]

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**Marginal Citations**

**M25** [S.I. 2012/801](#) (W. 110).

**Status:**

Point in time view as at 16/05/2017.

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (revoked).