

SCHEDULE 1

Regulation 5

Thresholds

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Boundary restructuring project</i>	<i>4 kilometres</i>	<i>2 kilometres</i>
<i>Area restructuring project</i>	<i>100 hectares</i>	<i>50 hectares</i>
<i>Volume restructuring project</i>	<i>10,000 cubic metres</i>	<i>5,000 cubic metres</i>

**Interpretation of this Schedule**

1. In this Schedule—

“area restructuring project” (*“prosiect ailstrwythuro arwynebedd”*) means a restructuring project which involves an area of land;

“boundary restructuring project” (*“prosiect ailstrwythuro terfyn”*) means restructuring project involving the addition or removal of any field boundary (including any wall, fence, bank, ditch or watercourse);

“volume restructuring project” (*“prosiect ailstrwythuro cyfaint”*) means a restructuring project involving the addition, removal or redistribution of a volume of earth or other material in relation to land.

**Commencement Information**

**I1** Sch. 1 para. 1 in force at 16.5.2017, see [reg. 1\(3\)](#)

SCHEDULE 2

Regulation 7

Selection criteria for a screening decision

**Characteristics of projects**

1. The characteristics of projects, having regard in particular to—

- (a) the size and design of the whole project;
- (b) cumulation with other existing and/or approved projects;
- (c) the use of natural resources, in particular land, soil, water and biodiversity;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge; and
- (g) the risks to human health (for example due to water contamination or air pollution).

**Commencement Information**

**I2** Sch. 2 para. 1 in force at 16.5.2017, see [reg. 1\(3\)](#)

## Location of project

2. The environmental sensitivity of geographical areas likely to be affected by projects, having regard in particular to—

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground; and
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
  - (i) wetlands, riparian areas, river mouths;
  - (ii) coastal zones and the marine environment;
  - (iii) mountain and forest areas;
  - (iv) nature reserves and parks;
  - (v) areas classified or protected by legislation (including European sites);
  - (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in [F1retained EU law] and relevant to the project, or in which it is considered that there is such a failure;
  - (vii) densely populated areas; and
  - (viii) landscapes and sites of historical, cultural or archaeological significance.

### Textual Amendments

- F1** Words in [Sch. 2 para. 2\(c\)\(vi\)](#) substituted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), regs. 1(2)(3), **5(10)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### Commencement Information

- I3** [Sch. 2 para. 2](#) in force at 16.5.2017, see [reg. 1\(3\)](#)

## The potential impact

3. The likely significant effects of projects on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 of this Schedule, with regard to the impact of the project on the factors specified in paragraph 4(1) of Schedule 3, taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing and/or approved projects; and
- (h) the possibility of effectively reducing the impact.

**Commencement Information**

**I4** Sch. 2 para. 3 in force at 16.5.2017, see [reg. 1\(3\)](#)

SCHEDULE 3

Regulation 11(2)

Information for inclusion in an environmental statement

1. Description of the project, including in particular—
  - (a) a description of the location of the project;
  - (b) a description of the physical characteristics of the whole project, including where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - (c) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land and biodiversity) used;
  - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.

**Commencement Information**

**I5** Sch. 3 para. 1 in force at 16.5.2017, see [reg. 1\(3\)](#)

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the applicant, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

**Commencement Information**

**I6** Sch. 3 para. 2 in force at 16.5.2017, see [reg. 1\(3\)](#)

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

**Commencement Information**

**I7** Sch. 3 para. 3 in force at 16.5.2017, see [reg. 1\(3\)](#)

- 4.—(1) A description of the factors likely to be significantly affected by the proposed project, covering the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project, including—

**Changes to legislation:** There are currently no known outstanding effects for the The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017. (See end of Document for details)

- (a) population and human health;
- (b) biodiversity with specific attention on species [<sup>F2</sup>protected under EU-derived domestic legislation which transposed] the Habitats Directive and the Birds Directive<sup>F3</sup>, as may be amended from time to time];
- (c) land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air and climate (for example greenhouse gas emissions, impacts relevant to adaptation);
- (d) material assets, including architectural and archaeological aspects and landscape.

[<sup>F4</sup>This description should take into account the environmental protection objectives established at European Union level as they were immediately before IP completion day (including in particular those established under the Habitats Directive and the Birds Directive or at national level.] .

(2) In this paragraph—

“the Birds Directive” (“y Gyfarwydddeb Adar”) means [Directive 2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

#### Textual Amendments

- F2** Words in [Sch. 3 para. 4\(1\)\(b\)](#) substituted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/245), regs. 1(2)(3), [5\(11\)\(a\)\(i\)\(aa\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F3** Words in [Sch. 3 para. 4\(1\)\(b\)](#) inserted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/245), regs. 1(2)(3), [5\(11\)\(a\)\(i\)\(bb\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F4** Words in [Sch. 3 para. 4\(1\)](#) substituted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/245), regs. 1(2)(3), [5\(11\)\(a\)\(ii\)](#) (as amended by S.I. 2020/1324, regs. 1(2), [2\(2\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### Commencement Information

- I8** [Sch. 3 para. 4](#) in force at 16.5.2017, see [reg. 1\(3\)](#)

5. A description of the likely significant effects of the project on the environment resulting from, amongst other things—

- (a) the construction and existence of the project, including where relevant, demolition works;
- (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
- (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

#### Commencement Information

**I9** Sch. 3 para. 5 in force at 16.5.2017, see [reg. 1\(3\)](#)

**6.** A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical difficulties or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

#### Commencement Information

**I10** Sch. 3 para. 6 in force at 16.5.2017, see [reg. 1\(3\)](#)

**7.** A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

#### Commencement Information

**I11** Sch. 3 para. 7 in force at 16.5.2017, see [reg. 1\(3\)](#)

**8.** A description of the expected significant effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to [<sup>F5</sup>retained EU law such as any law which implemented ][Directive 2012/18/EU\(1\)](#) of the European Parliament and of the Council or Council Directive 2009/71/Euratom(2) or relevant assessments carried out pursuant to [<sup>F6</sup>any other] national legislation may be used for this purpose provided that the requirements of [<sup>F7</sup>any law which implemented] the EIA Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

#### Textual Amendments

**F5** Words in [Sch. 3 para. 8](#) substituted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), regs. 1(2)(3), [5\(11\)\(b\)\(i\)](#); 2020 c. 1, Sch. 5 para. 1(1)

**F6** Words in [Sch. 3 para. 8](#) inserted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), regs. 1(2)(3), [5\(11\)\(b\)\(ii\)](#); 2020 c. 1, Sch. 5 para. 1(1)

**F7** Words in [Sch. 3 para. 8](#) inserted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), regs. 1(2)(3), [5\(11\)\(b\)\(iii\)](#); 2020 c. 1, Sch. 5 para. 1(1)

(1) [Directive 2012/18/EU](#) on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EU](#).

(2) Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations.

**Commencement Information**

**I12** Sch. 3 para. 8 in force at 16.5.2017, see [reg. 1\(3\)](#)

9. A non-technical summary of the information provided under paragraphs 1 to 8 of this Schedule.

**Commencement Information**

**I13** Sch. 3 para. 9 in force at 16.5.2017, see [reg. 1\(3\)](#)

10. A reference list detailing the sources used for the descriptions and assessments included in the report.

**Commencement Information**

**I14** Sch. 3 para. 10 in force at 16.5.2017, see [reg. 1\(3\)](#)

SCHEDULE 4

Regulation 20

Review of decisions and consents

1. As soon as is reasonably practicable, the Welsh Ministers must make an appropriate assessment of the implications of the project for the European site in view of the site's conservation objectives, in order to determine whether the project permitted by the decision or consent will adversely affect the integrity of the site.

**Commencement Information**

**I15** Sch. 4 para. 1 in force at 16.5.2017, see [reg. 1\(3\)](#)

2. For the purposes of the assessment, the Welsh Ministers may—
- (a) require any person interested in the relevant land to supply them with such information as they reasonably consider necessary; and
  - (b) consult the public, if they consider it necessary.

**Commencement Information**

**I16** Sch. 4 para. 2 in force at 16.5.2017, see [reg. 1\(3\)](#)

3. Unless, following the assessment, the Welsh Ministers are satisfied that the project permitted by the decision or consent will not adversely affect the integrity of the European site, and regulation 16(4) does not apply, the Welsh Ministers must—
- (a) in the case of a decision, revoke the decision; and
  - (b) in the case of a consent, either—
    - (i) revoke the consent; or
    - (ii) make such modifications to the consent as they consider necessary to ensure that the project will not adversely affect the integrity of the European site,

and the Welsh Ministers must notify all persons who appear to them to have an interest in the relevant land of their decision (their “further decision”).

**Commencement Information**

**I17** Sch. 4 para. 3 in force at 16.5.2017, see [reg. 1\(3\)](#)

4. A further decision does not affect any works that have already been carried out in relation to a decision or consent, subject to paragraph 5.

**Commencement Information**

**I18** Sch. 4 para. 4 in force at 16.5.2017, see [reg. 1\(3\)](#)

5.—(1) If—

- (a) a project which is subject to a further decision has commenced; and
- (b) it appears to the Welsh Ministers to be necessary to safeguard the integrity of the European site,

the Welsh Ministers may by notice require the person responsible for carrying out such works, or any person with an interest in the relevant land, to carry out such works of reinstatement as may be reasonable in the circumstances.

(2) A notice under sub-paragraph (1) must state the period during which the works must be carried out.

(3) A person who carries out such reinstatement works is entitled, on making a claim in accordance with paragraph 8, to recover from the Welsh Ministers compensation in respect of any expenses reasonably incurred in carrying out those works.

**Commencement Information**

**I19** Sch. 4 para. 5 in force at 16.5.2017, see [reg. 1\(3\)](#)

6. Regulation 30 applies to—

- (a) a further decision made under paragraph 3; and
- (b) a notice served under paragraph 5.

**Commencement Information**

**I20** Sch. 4 para. 6 in force at 16.5.2017, see [reg. 1\(3\)](#)

7. If, following a further decision under paragraph 3, a person has incurred expenditure in carrying out work which is rendered abortive by the further decision, or has otherwise sustained loss or damage which is directly attributable to the further decision, that person is entitled to be paid compensation on submitting a claim in accordance with paragraph 8.

**Commencement Information**

**I21** Sch. 4 para. 7 in force at 16.5.2017, see [reg. 1\(3\)](#)

8. A claim for compensation payable under paragraph 5(3) or 7 must be—
- (a) submitted to the Welsh Ministers within 6 weeks of the date of the notification of the further decision; and
  - (b) accompanied by such evidence as the Welsh Ministers may reasonably require.

**Commencement Information**

**I22** Sch. 4 para. 8 in force at 16.5.2017, see [reg. 1\(3\)](#)

9. A dispute as to the amount of compensation payable under paragraphs 5(3) and 7 may be referred to the Lands Tribunal within 6 years of the date of the notification of the further decision in respect of which compensation is payable.

**Commencement Information**

**I23** Sch. 4 para. 9 in force at 16.5.2017, see [reg. 1\(3\)](#)

10. Nothing in this Schedule affects anything done in pursuance of a decision or consent before the date the site became a European site.

**Commencement Information**

**I24** Sch. 4 para. 10 in force at 16.5.2017, see [reg. 1\(3\)](#)

SCHEDULE 5

Regulation 30(6)

Delegation of appellate functions

1. In this Schedule “appointed person” (“*person penodedig*”) means a person appointed under regulation 30(6) and “appointment” (“*penodiad*”) means an appointment under that regulation.

**Commencement Information**

**I25** Sch. 5 para. 1 in force at 16.5.2017, see [reg. 1\(3\)](#)

2. An appointment must be in writing and—
- (a) may relate to any particular appeal or matter specified in the appointment or to appeals or matters of a specified description;
  - (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of any conditions specified in the appointment; and
  - (c) may, by notice given to the appointed person, be revoked at any time by the Welsh Ministers in respect of any appeal or matter which has not been determined by the appointed person before that time.



**Commencement Information**

**I26** Sch. 5 para. 2 in force at 16.5.2017, see [reg. 1\(3\)](#)

3. An appointed person has, in relation to any appeal or matter which an appointment relates, the same powers or duties as the Welsh Ministers have under regulations 30 and 31, as the case may be.

**Commencement Information**

**I27** Sch. 5 para. 3 in force at 16.5.2017, see [reg. 1\(3\)](#)

4. If an appointed person holds an oral hearing or a local inquiry in accordance with this Schedule, the Welsh Ministers may appoint an assessor to sit the appointed person to advise them on any matter arising, notwithstanding that the appointed person is to determine the appeal.

**Commencement Information**

**I28** Sch. 5 para. 4 in force at 16.5.2017, see [reg. 1\(3\)](#)

5. The costs of an oral hearing or local inquiry held under this Schedule must be met by the Welsh Ministers, subject to regulation 31(11).

**Commencement Information**

**I29** Sch. 5 para. 5 in force at 16.5.2017, see [reg. 1\(3\)](#)

6. After the conclusion of an oral hearing or local inquiry, or having considered written representations, the appointed person must, unless he or she has been appointed to determine the appeal, make a report to the Welsh Ministers which must include—

- (a) a conclusion; and
- (b) recommendations, or reasons why no recommendations are made.

**Commencement Information**

**I30** Sch. 5 para. 6 in force at 16.5.2017, see [reg. 1\(3\)](#)

7. If the Welsh Ministers are minded to disagree with the recommendation made in the report because they—

- (a) differ from the person making the report on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by that person; or
- (b) takes into consideration new evidence or a new matter of fact,

they must not come to a decision without first giving every person who appeared at the hearing or local inquiry an opportunity to make representations within a reasonable time specified by them.

**Commencement Information**

**I31** Sch. 5 para. 7 in force at 16.5.2017, see [reg. 1\(3\)](#)

**Changes to legislation:** There are currently no known outstanding effects for the The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017. (See end of Document for details)

**8.—**(1) If the appointment of the appointed person is revoked under paragraph 2(c) in respect of any appeal or matter, the Welsh Ministers must, unless they propose to determine the matter themselves, appoint another person under regulation 30(6) to determine the matter instead.

(2) If a new appointment is made, the consideration of the appeal or matter, or any local inquiry or other hearing in connection with it, must begin afresh.

(3) Nothing in sub-paragraph (2) requires any person to be given an opportunity to make fresh representations or to modify or withdraw any representations already made.

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**Commencement Information**

**I32** Sch. 5 para. 8 in force at 16.5.2017, see [reg. 1\(3\)](#)

**9.—**(1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates is to be treated for all purposes as done or omitted to be done by the Welsh Ministers.

(2) Sub-paragraph (1) does not apply—

- (a) for the purposes of so much of any contract made between the Welsh Ministers and the appointed person as relates to the exercise of the function; or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.

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**Commencement Information**

**I33** Sch. 5 para. 9 in force at 16.5.2017, see [reg. 1\(3\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017.