

## SCHEDULE 1 **E+W**

Regulation 2(1)

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

### Interpretation **E+W**

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 **E+W**

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.

(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;

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

- (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 [F1Annex I to Directive 2008/98/EC of the European Parliament and of the Council, as last amended by [F2Directive (EU) 2018/851],] under heading D9), or landfill of hazardous waste as defined in regulation 6 of the Hazardous Waste (Wales) Regulations 2005 M3.

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#### Textual Amendments

- F1** Words in Sch. 1 para. 9 substituted (17.12.2018) by [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **20(2)**
- F2** Words in Sch. 1 para. 9 substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **6(2)(a)**

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#### Marginal Citations

- M3** [S.I. 2005/1806](#) (W. 138).

**10.** Waste disposal installations for the incineration or chemical treatment (as defined in [<sup>F3</sup>Annex I to [Directive 2008/98/EC](#) of the European Parliament and of the Council, as last amended by [<sup>F4</sup>Directive (EU) 2018/851],] under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

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#### Textual Amendments

- F3** Words in Sch. 1 para. 10 substituted (17.12.2018) by [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **20(2)**
- F4** Words in Sch. 1 para. 10 substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **6(2)(b)**

**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.

**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>M4</sup>.

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#### Marginal Citations

- M4** [O.J. No. L 135, 30.5.1991](#), p. 40.

**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:

- for the transport of gas, oil, chemicals, or

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

— for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.

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 [<sup>F5</sup>Chapter 3 of Part 1 of the Energy Act 2008 and any law which implemented] Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide <sup>M5</sup>.

#### Textual Amendments

**F5** Words in Sch. 1 para. 21 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), 6(13); 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

**M5** O. J. No L 140, 5.6.2009, p. 114.

22. Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to [<sup>F6</sup>Chapter 3 of Part 1 of the Energy Act 2008 and any law which implemented] 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.

#### Textual Amendments

**F6** Words in Sch. 1 para. 22 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), 6(13); 2020 c. 1, Sch. 5 para. 1(1)

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.

SCHEDULE 2 **E+W**

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>M6</sup>;

[<sup>F7</sup>“electric line” (“*llinell drydan*”) has the meaning given in section 64(1) of the Electricity Act 1989;]

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

**Textual Amendments**

**F7** Words in Sch. 2 para. 1 inserted (1.4.2019) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) \(Amendment\) Regulations 2019 \(S.I. 2019/299\)](#), regs. 1(2), **2(3)**

**Marginal Citations**

**M6** 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.

<i>Column 1</i>	<i>Description of Column 2</i>	<i>Applicable thresholds and criteria development</i>
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The carrying out of development to provide any of the following—

**1** *Agriculture and aquaculture*

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|--|--|
| (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 |
| (b) Underground mining;   |  |

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- the new floorspace does not exceed 1,000 square metres.
- (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;  
 (d) Underground storage of combustible gases;  
 (e) Surface storage of fossil fuels;  
 (i) The area of any new building, deposit or structure exceeds 500 square metres; or  
 (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled waters.
- (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 [<sup>F8</sup>the 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 [<sup>F9</sup>Chapter 3 of Part 1 of the Energy

Act 2008 and any law which implemented] Directive 2009/31/EC from installations not included in Schedule 1.

[<sup>F10</sup>(k) Transmission of electrical energy by overhead cables. Development to provide an electric line installed above ground with a nominal voltage of 132 kilovolts.]

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#### **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.

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#### **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.

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<b>6 Chemical industry (unless included in Schedule 1)</b>	
(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.

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<b>7 Food industry</b>	
(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;	
(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.	

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<b>8 Textile, leather, wood and paper industries</b>	
(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.	

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<b>9. Rubber industry</b>	
Manufacture and treatment of elastomer-based products.	The area of new floorspace exceeds 1,000 square metres.

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<b>10. Infrastructure projects</b>	
(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.
- (c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1); The area of the development exceeds 0.5 hectare.
- (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 (unless included in Schedule 1); The area of the works exceeds 1 hectare.
- (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.

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## ***11 Other projects***

- (a) Permanent racing and test tracks for motorised vehicles; The area of the development exceeds 1 hectare.
- (b) Installations for the disposal of waste (unless included in Schedule 1); (i) The disposal is by incineration; or  
(ii) the area of the development exceeds 0.5 hectare; or

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

	(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.	

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### ***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 (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.

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### ***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 paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed.	(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 (b) in such a case the development as changed or extended may have significant adverse effects on the environment.
(c) Development of a description mentioned in Schedule 1 undertaken exclusively or mainly for the	All development.

development and testing of new methods or products and not used for more than two years.

#### Textual Amendments

- F8** Words in Sch. 2 para. 2 table substituted (17.12.2018) by [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **20(3)**
- F9** Words in Sch. 2 para. 22 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), **6(14)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Sch. 2 para. 2 table inserted (1.4.2019) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) \(Amendment\) Regulations 2019 \(S.I. 2019/299\)](#), regs. 1(2), **2(4)**

SCHEDULE 3 **E+W** Regulations 5(8), (9), (13), 6(4), and 31(3)

Selection criteria for screening Schedule 2 development

#### Characteristics of development **E+W**

1. The characteristics of development must be considered having regard, in particular, to—
  - (a) the size and design of the development;
  - (b) the cumulation with other existing development and/or approved development;
  - (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 relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge;
  - (g) the risks to human health (for example due to water contamination or air pollution).

#### Location of development **E+W**

2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, 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;
  - (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) European sites and other areas classified or protected under national legislation;

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- (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in [F11[F12assimilated] law] and relevant to the project, or in which it is considered there is such a failure;
- (vii) densely populated areas;
- (viii) landscapes and sites of historical, cultural or archaeological significance.

#### Textual Amendments

- F11** Words in Sch. 3 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), **6(15)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Word in Sch. 3 para. 2(c)(vi) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Wales) Regulations 2023 (S.I. 2023/1332), regs. 1(2), **19(7)**

#### Types and characteristics of the potential impact **E+W**

3. The likely significant effects of the development on the environment must be considered in relation to criteria set out under paragraphs 1 and 2, with regard to the impact of the development on the factors specified in regulation 4(2), 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 development;
- (h) the possibility of effectively reducing the impact.

#### SCHEDULE 4 **E+W**

Regulation 17(3)

##### Information for inclusion in environmental statements

1. Description of the development, including in particular—
  - (a) a description of the location of the development;
  - (b) a description of the physical characteristics of the whole development, 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 development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;

- (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, oil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operational phases.

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

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development 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.

4. A description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

<sup>F13</sup>5. A description of the likely significant effects of the development on the environment resulting from, inter alia—

- (a) the construction and existence of the development, 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.

The description of the likely significant effects on the factors specified in regulation 4(2) should cover 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 development. This description should take into account the environmental protection objectives established [<sup>F14</sup>at European Union level as they were immediately before IP completion day (including in particular those established under Council Directive 92/43/EEC<sup>M7</sup> and Directive 2009/147/EC<sup>M8</sup>) or at national level].

#### Textual Amendments

**F13** Words in Sch. 4 para. 5 substituted in earlier amending provision S.I. 2019/245, reg. 6(16)(a)

**F14** Words in Sch. 4 para. 5 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), **6(16)(a)** (as amended (31.12.2020) by [The](#)

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

Environmental Assessments and Town and Country Planning (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1324), regs. 1(2), **2(3)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M7** Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora O.J. L 206, 22/07/1992 pp. 7–50.
- M8** Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds O.J. L 20, 26/1/2010, pp. 7–25.

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

**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.

**8.** A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development 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>F15</sup>[<sup>F16</sup>assimilated] law such as any law which implemented] Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of [<sup>F17</sup>any law which implemented] the 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

- F15** Words in Sch. 4 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), **6(16)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Word in Sch. 4 para. 8 substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Wales) Regulations 2023 (S.I. 2023/1332), regs. 1(2), **19(8)**
- F17** Words in Sch. 4 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), **6(16)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

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

**10.** A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.

SCHEDULE 5 **E+W**

Regulation 39(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, 9, 10, 12, 13, 20 and 21 do not apply.
3. In regulation 5—
  - (a) paragraph (2)(a) does not apply;
  - (b) in paragraph (2)(b) and (5), for “relevant” read “local”;
  - (c) read as if paragraphs (10) and (16) were omitted.
4. Regulation 11 applies as if references to—
  - (a) an application, or an application for planning permission, are to a proposal for a local development order;
  - (b) a relevant planning authority, are to the local planning authority to whom it would fall to make the local development order;
  - (c) the applicant, are to the local planning authority proposing the order; and
  - (d) the EIA application, are to a proposal for a local development order for EIA development.
5. Regulation 14 is to be read as if it provided—

**“Scoping opinions**

14.—(1) Where a proposed local development order is EIA development, the local planning authority may state its opinion as to the scope and level of detail of the information to be provided in the environmental statement (“a scoping opinion”).

(2) Before issuing a scoping opinion under paragraph (1) the local planning authority must prepare—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development including its location and technical capacity;
- (c) its likely significant effects on the environment; and
- (d) such other information or representations as the local planning authority may wish to provide or make.

(3) A local planning authority must not adopt a scoping opinion until they have consulted the consultees.

(4) Before adopting a scoping opinion the local planning authority must take into account—

- (a) the information prepared by the authority about the proposed development in accordance with paragraph (2);
- (b) the specific characteristics of the particular development;
- (c) the specific characteristics of development of the type concerned; and
- (d) the environmental features likely to be affected by the development.

(5) A local planning authority may ask the Welsh Ministers under regulation 15(1) to make a direction as to the information to be provided in the environmental statement (“scoping direction”).”

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

**“Scoping directions**

15.—(1) A request made under this paragraph pursuant to regulation 14 must include—

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

- (a) the information referred to in regulation 14(2)(a)(i) to (iii); and
- (b) any representations that the local planning authority wish to make.

(2) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the local planning authority.

(3) The notice must set out any points on which additional information is required.

(4) The Welsh Ministers must—

- (a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and
- (b) make a direction and send a copy to the local planning authority, within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(5) Before making a scoping direction the Welsh Ministers must take into account the matters specified in regulation 14(4).”

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

**“Procedure to facilitate preparation of environmental statements**

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

(2) If the consultee has such information it must treat the enquiry by the authority as a request for information by the local planning authority under regulation 5(1) of the Environmental Information Regulations 2004 <sup>M9</sup>.”

**Marginal Citations**  
**M9** [S.I. 2004/3391](#).

8. Regulation 17 is to be read as if—

- (a) paragraphs (1) and (2) were omitted;
- (b) in paragraph (3)(d), for “applicant or appellant” it read “local planning authority”;
- (c) in paragraph (4)—
  - (i) in sub-paragraph (a), “or the Welsh Ministers, as appropriate,” were omitted; and
  - (ii) in sub-paragraph (b), for “applicant” it read “local planning authority”.

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

**“Procedure where an environmental statement is prepared in relation to a local development order**

**18.**—(1) Where a statement, referred to as an “environmental statement”, has been prepared in relation to EIA development for which a local planning authority propose 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 and 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 30 days from the last date on which a copy of the statement was served in accordance with this regulation.”

**10.** Regulation 19 is to be read as if—

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

“(2) The local planning authority must publish by local advertisement 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 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 are available for inspection (being a date not less than 30 days from the date on which the notice is published);
- (e) details of a website maintained by or on behalf of the relevant planning authority on which the environmental statement and other documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days from the date on which the notice is published);
- (f) 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;
- (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; and
- (i) that any person wishing to make representations about the order should make them before the latest date in accordance with sub-paragraph (d) or (e), to the local planning authority.”;

- (c) paragraph (3) were omitted;
- (d) in paragraph (4), “applicant” read “local planning authority”; and
- (e) paragraphs (6) to (8) were omitted.

**11.** Regulation 22 is to be read as if it provided—

**“Availability of copies of environmental statements**

**22.** 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; and the environmental statement can be accessed at the website referred to in the notice required under regulation 19(2)(e).”

**12.** Regulation 24 is to be read as if—

- (a) paragraph (1) read—

“(1) Where an environmental statement has been prepared and the local planning authority are of the opinion that, in order to satisfy the requirements of regulation 17(3) it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the proposed development in order to be an environmental statement, the authority must ensure that additional information is provided, and such information is referred to in these Regulations as “further information” (“*gwybodaeth bellach*”).”;

- (b) paragraph (3) read—

“(3) The local planning authority must publish by local advertisement a notice stating—

- (a) the name and address of the 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;
- (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 is available for inspection (being a date not less than 30 days from the date on which the notice is published);
- (f) details of a website maintained by or on behalf of the authority on which the environmental statement and other documents may be inspected, and the latest date on which they are available for access (being a date not less than 30 days from the date on which the notice is published);
- (g) 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;
- (h) that copies may be obtained there so long as stocks last;
- (i) if a charge is to be made for a copy, the amount of the charge;
- (j) that any person wishing to make representations about the further information should make them before the latest date specified in accordance with sub-paragraphs (e) and (f), to the authority; and
- (k) 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 these 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 30 days after the latest of—

- (a) the date on which the further information was sent to all persons to whom the statement to which it relates was sent;
  - (b) the date that notice of it was published in a local newspaper; or
  - (c) the date that notice of it was published on a website.”;
- (f) in paragraph (8)—
- (i) instead of “The applicant or appellant who provides” it read “The local planning authority providing”; and
  - (ii) in sub-paragraph (a), after “number of copies of the” it read “further information or other”.

**13.** Regulation 25 is to be read as if in paragraph (1) “an application or appeal” read “whether to make a local development order”.

**14.** Regulation 27 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 5(4) or (5);
- (e) 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.”

**15.** Regulation 28 is to be read as if paragraph (1) read—

“(1) Where a local planning authority make a local development order granting permission for EIA development, they must prepare a statement setting out the information specified in paragraph (2).”

**16.** Regulation 29 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”;
- (b) paragraph (2) was omitted; and
- (c) in paragraph (3) the reference to “relevant planning authority” read “local planning authority”.

**17.** Regulation 56 is to be read as if—

- (a) paragraph (1)(a) read—

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

- “(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 [F18an] EEA State; or”; and
- (b) in paragraphs (3) and (6), instead of “application” it read “proposed local development order”.

### Textual Amendments

**F18** Word in Sch. 5 para. 17(a) 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), **6(17)**; 2020 c. 1, Sch. 5 para. 1(1)

## SCHEDULE 6 E+W

Regulation 40

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

1. In a case to which this Schedule has effect, these Regulations apply subject to the following modifications.
2. Regulations 3, 7(2), 9, 10, 12(1), (2) and (8), 13 and 21 do not apply.
3. In this Schedule and in the application of these Regulations by this Schedule, references to the “relevant planning authority” are to the local planning authority to whom it would fall to make the section 97 order or the section 102 order, whether or not they are the initiating body.
4. Regulation 5 is to be read as if—
  - (a) paragraph (2)(a) does not apply;
  - (b) in paragraph (2)(b), for “relevant” read “local”;
  - (c) paragraph (10) is omitted.
5. Regulations 8, 11 and 12(3) to (8) apply as if references to—
  - (a) an application or an application for planning permission, are to a proposal for a section 97 order or a section 102 order;
  - (b) the applicant are to the initiating body; and
  - (c) an EIA application, are to a proposal for a section 97 order or a section 102 order granting or modifying planning permission for EIA development.
6. Regulation 12(8) is to be read as if “by refusing planning permission or subsequent consent” read “by refusing to make or confirm the section 97 or section 102 order”.
7. Regulation 14 and its heading are to be read as if they provided—

#### “Scoping opinions and scoping directions

14.—(1) Where a proposed section 97 order or section 102 order permit or require EIA development, the initiating body may state its opinion as to the scope and level of detail of the information to be provided in the environmental statement.

(2) Before issuing a scoping opinion or scoping direction under paragraph (1) the initiating body must include—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development including its location and technical capacity;
- (c) its likely significant effects on the environment; and
- (d) such other information or representations as the 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 information prepared by the initiating body about the proposed development in accordance with paragraph (2);
- (b) the specific characteristics of the particular development;
- (c) the specific characteristics of development of the type concerned; and
- (d) the environmental features likely to be affected by the development.

(5) A local planning authority may ask the Welsh Ministers under regulation 15(1) to make a direction as to the information to be provided in the environmental statement.

(6) 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 planning authority which initiated the order.”

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

**“Scoping directions**

**15.—**(1) A request made under this paragraph pursuant to regulation 14 must include—

- (a) the information referred to in regulation 14(2); and
- (b) any representations that the local planning authority wishes to make.

(2) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the local planning authority.

(3) The notice must set out any points on which additional information is required.

(4) The Welsh Ministers must—

- (a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and
- (b) make a direction and send a copy to the local planning authority, within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(5) Before making a scoping direction the Welsh Ministers must take into account the matters specified in regulation 14(4).”

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

**“16.—**(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>M10</sup>.”

#### Marginal Citations

**M10** S.I. 2004/3391.

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

- (a) Paragraph (1) is omitted;
- (b) in paragraph (3)(d), for “applicant or appellant” it read “initiating body”;
- (c) in paragraph (4)(b), for “applicant or appellant” it read “initiating body”.

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

“**18.**—(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) the address of the office of the initiating body 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 after the expiry of 30 days from the last date on which a copy of the statement was publicised in accordance with this regulation or regulation 19.

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

**12.** Regulation 19 is to be read as if—

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

“(2) The initiating body must publish by local advertisement 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) the address of the office of the initiating body 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 30 days from the date on which the notice is published);
- (e) details of a website maintained by or on behalf of the relevant planning authority on which further information or any other information may be inspected and the latest date on which they are available for access (being a date not less than 30 days from the date on which the notice is published);
  - (f) an address (whether or not the same as that given under sub-paragraph (d)) of the office of the initiating body at which copies of the statement 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; and
  - (i) 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 (8) were omitted.
- 13.** Regulation 20 is to be read as if it provided—
- “**20.** 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.”
- 14.** Regulation 22 is to be read as if it provided—
- “**22.**—(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.
- (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.”

**15.** Regulation 24 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 it is necessary for the statement to contain additional information directly relevant to reaching a reasoned conclusion on the likely significant effects of the development in order to be an environmental

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

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 initiating body must publish by local advertisement 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) the address of the office of the initiating body 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 30 days from the date on which the notice is published);
- (f) details of a website maintained by or on behalf of the authority on which the other information may be inspected and the latest date on which it is available for access (being a date not less than 30 days from the date on which the notice is published);
- (g) the address (whether or not the same as that given under sub-paragraph (e)) of the office of the initiating body at which copies of the further information may be obtained;
- (h) that copies may be obtained there so long as stocks last;
- (i) if a charge is to be made for a copy, the amount of the charge;
- (j) that any person wishing to make representations about the further information should make them to the authority before the latest date specified in accordance with sub-paragraphs (e) and (f);
- (k) 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 these 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 30 days after the latest of—

- (a) the date on which the further information was sent to all persons to whom the statement to which it relates was sent;
- (b) the date that notice of it was published in a local newspaper; or
- (c) the date that notice of it was published on a website.”;

(f) in paragraph (8)—

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



(ii) in sub-paragraph (a), after “number of copies of the” and before “information”, it read “further”.

16. Regulation 25(1) is to be read as if—

- (a) “an application or appeal” read “whether to make or confirm a section 97 or section 102 order”; and
- (b) “submitted” read “prepared”.

17. Regulation 27 is to be read as if it read—

“27.—(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 5(4) or (5);
- (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.”

18. Regulation 28 is to be read as if paragraph (1) read—

“(1) Where an initiating body makes a section 97 or section 102 order granting permission for EIA development, they must prepare a statement setting out the information specified in paragraph (2).”

19. Regulation 29 is to be read as if it provided—

“29.—(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 relevant planning authority 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<sup>M11</sup>, 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 relevant planning authority must—

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

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

- (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—
- (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.”

#### Marginal Citations

**M11** See section 99(7) of the 1990 Act in relation to orders confirmed by the Welsh Ministers.

**20.** Regulation 56 is to be read as if—

- (a) “decision” has the same meaning as in regulation 29 as modified by paragraph 19;
- (b) in paragraph (1)(a) read—
  - “(a) it comes to the attention of the Welsh Ministers that EIA development proposed to be carried out in Wales, 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 [F19an] EEA State; or”; and
- (c) in paragraphs (3) and (6), instead of “application” it read “proposed section 97 order or section 102 order”.

#### Textual Amendments

**F19** Word in Sch. 6 para. 20(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), **6(18)**; 2020 c. 1, Sch. 5 para. 1(1)

## SCHEDULE 7 E+W

Regulation 41

### Functions under Section 141 of the 1990 Act

- 1.** In a case to which this Schedule has effect, these Regulations apply subject to the following modifications.
- 2.** Regulations 3, 7(2), 8 to 13, 18 and 21 do not apply.
- 3.** In this Schedule and in the application of other regulations by this Schedule, references to—
  - (a) the “applicant” (“*y ceisydd*”) are to—
    - (i) the applicant for planning permission which has previously been determined;
    - (ii) the mineral planning authority in the case of an order under paragraph 1 of Schedule 9 to the 1990 Act;
    - (iii) the initiating body in respect of a section 97 or 102 order; or

- (iv) a person who may apply for planning permission if the Welsh Ministers exercised their functions under section 141(3) of the 1990 Act;
  - (b) the “application” (“*y cais*”) are to—
    - (i) the proposal to grant or modify planning permission;
    - (ii) the proposal for a section 97 or section 102 order;
    - (iii) the application for planning permission which would be required for the development in question following any direction under section 141(3) of the 1990 Act.
- 4.—**(1) Where, on consideration of a purchase notice it appears to the Welsh Ministers that—
- (a) the relevant application is, or would be, a Schedule 1 application or a Schedule 2 application; and
  - (b) the development in question—
    - (i) has not been the subject of a screening opinion or screening direction; or
    - (ii) has been the subject of a screening opinion or direction before planning permission was granted or modified to the effect that it is not EIA development; and
  - (c) the relevant application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations paragraphs (3) and (4) of regulation 7 apply as if the request for confirmation of the purchase notice were a request made by the applicant pursuant to regulation 6(8).
- (2) Where regulation 7(3) applies by virtue of paragraph (1), the Welsh Ministers must, where and insofar as necessary to ensure that the applicant has provided, in the case of—
- (a) applications where no screening opinion or direction has been made, the information referred to in regulation 6(2); and
  - (b) other applications, the information referred to in regulation 6(3),
- make a request for additional information before issuing a screening direction.
- 5.** Where it appears to the Welsh Ministers that the relevant application is an EIA application and is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, they must—
- (a) notify the applicant that the submission of an environmental statement is required; and
  - (b) send a copy of that notification to the relevant planning authority (if they are not the applicant).
- 6.—**(1) Where the applicant proposes to submit an environmental statement, these Regulations apply to the applicant and relevant application—
- (a) as they apply to appellants and appeals, in the cases of proposed actions under section 141 of the 1990 Act—
    - (i) to grant planning permission;
    - (ii) to revoke or amend the conditions attached to a planning permission;
    - (iii) to direct that, if an application for planning permission were made, it must be granted; and
  - (b) as they apply to the initiating body and a proposed section 97 order or a proposed section 102 order, in the cases of proposed actions under section 141 of the 1990 Act—
    - (i) to revoke or amend conditions attaching to such an order;
    - (ii) to amend such an order.

(2) Where the applicant proposes to submit an environmental statement the applicant must comply with the provisions of article 12(7A)<sup>M12</sup> of the 2012 Order (publicity for applications for planning permission) as if the environmental statement had been submitted in relation to a planning application falling within article 12(2) of the 2012 Order and as if, in article 12(7A) to the 2012 Order the references to an application for planning permission were to a proposal to act under section 141(2) or (3) of the 1990 Act.

(3) Where the Welsh Ministers are aware that any particular person is or 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, they must notify the applicant of any such person.

(4) An applicant who receives a notification under paragraph 5 of this Schedule, may within 21 days beginning with the date of the notification, confirm to the Welsh Ministers in writing that an environmental statement will be provided.

(5) If the applicant does not write in accordance with paragraph (4), at the end of the 21 days the Welsh Ministers must not take action under section 141(2) or (3) of the 1990 Act.

#### Marginal Citations

**M12** Article 12(7A) is inserted in the 2012 Order by paragraph 1(3)(h) of Schedule 9 to these Regulations.

7. Where—

- (a) a notification has been given under paragraph 6(3), and
- (b) the applicant does not submit an environmental statement and comply with regulation 19(6),

the Welsh Ministers must determine the matter only by confirming or refusing to confirm the purchase notice.

8. Where it appears to the Welsh Ministers that the environmental information already before them—

- (a) is adequate to assess the environmental effects of the development which is the subject of the proposed action under section 141(2) or (3) of the 1990 Act, they must take that information into consideration in their decision;
- (b) is not adequate to assess the environmental effects of the development, they must serve a notice seeking further information in accordance with regulation 24(1); and

regulations 14 to 17 and 19 to 28 of these Regulations apply to the applicant and application—

- (i) as they apply to appellants and appeals in the case of—
  - (aa) a proposal to grant planning permission;
  - (bb) a proposal to revoke or amend the conditions attached to a planning permission; or
  - (cc) a proposal to direct that, if an application for planning permission were made, it must be granted; and
- (ii) as they apply to the initiating body and a proposed section 97 order or a proposed section 102 order in the case of—
  - (aa) a proposal to revoke or amend conditions attaching to such an order; or
  - (bb) a proposal to amend such an order; and
- (iii) as if references to the “relevant planning authority” were to the local planning authority who would determine any application for planning permission for the development in question were such an application to be submitted.

SCHEDULE 8 **E+W**

Regulation 55(2)

ROMP Applications

**Modification of provisions on prohibition of granting planning permission or subsequent consent** **E+W**

1. Regulation 3 (prohibition on granting planning permission or subsequent consent without consideration of environmental information) is to be read as if, after “for EIA development” it read “pursuant to a ROMP application”<sup>M13</sup>.

**Marginal Citations**

**M13** For the meaning of “ROMP” and “ROMP application”  
*see* regulation 55(1).

**Modification of provisions on application to local planning authority without an environmental statement** **E+W**

2. In the case of a ROMP application, regulation 11(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** **E+W**

3.—(1) In the case of a ROMP application, regulations 11(6) and (8), 12(7) and (8), 13(8) and (9) and 61 do not apply.

(2) In the case of a ROMP application, regulation 12(6) (application referred to the Welsh Ministers without an environmental statement) and regulation 13(7) (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** **E+W**

4.—(1) In the case of a ROMP application, in regulations 13(1) and 20(1)(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 13(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** **E+W**

5.—(1) In the case of a ROMP application, in regulations 14(10) and 15(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 18 (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 (3A) <sup>M15</sup> 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 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 19 (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 the applicant proposes to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant mineral 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 30 days beginning with the last date on which the statement and the other documents mentioned in paragraph (6) are published in accordance with this regulation.”

(4) In the case of a ROMP application, in regulation 20(1) (provision of copies of environmental statements and further information for the Welsh Ministers on referral or appeal)—

(a) in sub-paragraph (a) for “section 77 of the 1990 Act (reference of applications to Secretary of State)” 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”; and

(b) in sub-paragraph (b), for “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 1992 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)”.

(5) In the case of a ROMP application, in regulation 22 (availability of copies of environmental statements) after “the 2012 Order” read “(as applied by regulation 18(5) or by paragraph 9(5) of Schedule 13 to the 1995 Act),”.

(6) In the case of a ROMP application, in regulation 24 (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”.

(7) In regulation 25 (consideration of whether planning permission should be granted), in paragraph (1)(d) read as if “if planning permission or subsequent consent is to be granted” were omitted.

#### 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.

**M15** Paragraph (3A) is inserted in the 2012 Order by paragraph 1(3)(c) of Schedule 9 to these Regulations.

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

6.—(1) In the case of a ROMP application, for regulation 59 (application to the High Court) read—

##### “Application to the High Court

**59.** 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 **E+W**

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 11(1), 12(3) or 13(5), then such notification must specify the period within which the environmental statement and compliance with regulation 19(6) are required; or

(b) a statement should contain additional information under regulation 24(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—

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

- (a) written to the relevant mineral planning authority or Welsh Ministers within the 6 week or other period agreed pursuant to regulations 11(3) and 11(4), 12(4) and 12(6) or 13(7);
  - (b) submitted an environmental statement and complied with regulation 19(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 6(5), 7(3), 14(3) or 15(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 11(3) and 11(4), 12(4) and 12(6) or 13(7); and
  - (b) the period specified or agreed in writing as referred to in paragraph (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 <sup>M16</sup> 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.
- (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.

#### Marginal Citations

**M16** See [paragraph 8\(2\)](#) of this Schedule.

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

**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 do not have effect so as to treat the authority as having determined the conditions to which any relevant planning permission is to be subject unless either—

- (a) the 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>M17</sup>; and



- (b) where the authority is not the authority required to keep the register, the 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 paragraph (a), with regulation 27 as applied by regulation 55, 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 mineral planning 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 11(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**

**M17** 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** **E+W**

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>M18</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 6 to 11, 13, 14, 15, 18 (except for the purposes of regulations 21(3) and (4)), 20 and 29(1) do not apply;
- (b) in regulation 5 (general provisions relating to screening), paragraphs (4) and (5) do not apply;
- (c) regulation 12(3) (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 16 (procedure to facilitate preparation of environmental statements)—
  - (i) in paragraph (3)(b) “11(4)(a), 12(6) or 13(7)” read “12(6)”;
  - (ii) read paragraph (4) as if “the relevant planning authority and” and “authority or” in both places where it occurs were omitted;
- (e) in regulation 19(2) (publicity where an environmental statement is submitted after the planning application)—
  - (i) 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;”;
- (f) read regulation 21(2) (procedure where an environmental statement is submitted to the Welsh Ministers), as if “and to the relevant planning authority” were omitted;
- (g) in regulation 24(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 25 (consideration of whether planning permission should be granted), 27 (availability of opinions, directions etc. for inspection), 28(1) (information to accompany decisions) and 29(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 7 apply to such a request as they apply to a request made pursuant to regulation 6(8) 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 description of the nature and purpose of the ROMP development, including in particular—
    - (i) a description of the physical characteristics of the whole development and, where relevant, of demolition works;
    - (ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;
  - (c) a description of the aspects of the environment likely to be significantly affected by the development;
  - (d) a description of any likely significant effects, to the extent of the information available on those effects, of the proposed development on the environment resulting from—
    - (i) the expected residues and emissions and the production of waste, where relevant; and
    - (ii) the use of natural resources, in particular soil, land, water and biodiversity; and
  - (e) such other information as the authority may wish to provide including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.
- (4) An authority making a request under paragraph (2) must send to the Welsh Ministers any additional information they may request to enable them to make a direction.

**Marginal Citations**

M18 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** **E+W**

- 10.**—(1) This paragraph 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(6)) begins.
- (3) Paragraph 3 of Schedule 9 to the 1990 Act (prohibition of resumption of mineral working)<sup>M19</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-paragraph (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

**M19** Paragraph 3 was amended by the 1991 Act, Schedule 1, paragraph 15(6).

## SCHEDULE 9 **E+W**

Regulation 64

### Amendments to other instruments

#### The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 **E+W**

- 1.—(1) The 2012 Order is amended in accordance with this paragraph.
- (2) In article 2(1)—
  - (a) omit the definitions of “EIA application” (“*cais AEA*”), “EIA development” (“*datblygiad AEA*”), “environmental information” (“*gwybodaeth amgylcheddol*”) and “environmental statement” (“*datganiad amgylcheddol*”);
  - (b) in the relevant places, insert—
    - (i) “any other information” (“ *unrhyw wybodaeth arall*”) has the meaning in the EIA Regulations;
    - (ii) “EIA application” (“*cais AEA*”) has the meaning in the EIA Regulations;
    - (iii) “EIA development” (“*datblygiad AEA*”) has the meaning in the EIA Regulations;
    - (iv) “EIA Regulations” (“*Rheoliadau AEA*”) means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017;
    - (v) “environmental information” (“*gwybodaeth amgylcheddol*”) has the meaning in the EIA Regulations;
    - (vi) “environmental statement” (“*datganiad amgylcheddol*”) has the meaning in the EIA Regulations;
    - (vii) “further information” (“*gwybodaeth bellach*”) has the meaning in the EIA Regulations;
    - (viii) “Schedule 1 development” (“*datblygiad Atodlen 1*”) and “Schedule 2 development” (“*datblygiad Atodlen 2*”) have the meanings in the EIA Regulations;
    - (ix) “scoping opinion” (“*barn gwmpasu*”) has the meaning in the EIA Regulations; and
    - (x) “scoping direction” (“*cyfarwyddyd cwmpasu*”) has the meaning in the EIA Regulations.
- (3) In article 10(4), after “planning permission”, insert “ other than EIA applications ”.
- (4) In article 12 <sup>M20</sup>—
  - (a) in paragraph (2), for “In” substitute “ Subject to paragraph (3A), in ”;
  - (b) omit paragraph (2)(a);
  - (c) after paragraph (3), insert—
 

“(3A) In the case of an EIA application, the local planning authority must publicise the application in accordance with the requirements of paragraph (7A) and, where the environmental statement is submitted with the application, by giving requisite notice—

- (a) by site display in at least one place on or near the land to which the application relates for not less than 30 days; and
- (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.”;
- (d) in paragraph (4), for “paragraph (4A)” substitute “ paragraph (3A) or (4A) ”;
- (e) in paragraph (4A), for “(2)(a) or (c)”, substitute “ (2)(c) or (3A) ”;
- (f) in paragraph (5), after “paragraph (2),”, insert “ paragraph (3A), ”;
- (g) in paragraph (6), after “or (5)(a)”, insert “ , or before the period of 30 days referred to in paragraph (3A)(a), ”;
- (h) in paragraph (7), after “planning permission”, insert “ other than EIA applications ”; and
- (i) after paragraph (7) insert—

“(7A) The local planning authority must ensure it maintains a website for the purpose of publicising EIA applications and the following information must be published on the website—

- (a) the address or location of the proposed development;
- (b) a description of the proposed development;
- (c) the fact that the development is subject to an environmental impact assessment procedure;
- (d) the environmental statement, any relevant scoping opinion or scoping direction and any further information or any other information;
- (e) in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998, the main reports and advice issued to the authority at the time the information is published (if any);
- (f) in accordance with the Environmental Information Regulations 2004 <sup>M21</sup>, information other than that required under any other sub-paragraph which is relevant to the decision and which only becomes available after the time the information required by this paragraph was first published;
- (g) where, when and the means by which the application and the environmental statement may be inspected;
- (h) how copies of the environmental statement may be obtained and the cost of such copies;
- (i) the date by which any representations about the application must be made, which must not be before the last day of the period of 30 days beginning with the last date on which the environmental statement is published either on the website, in accordance with paragraph (3A) or in accordance with regulation 19 of the EIA Regulations;
- (j) other details of the arrangements for public participation in the decision-making procedure including a description of the procedure for the publication of any additional information subsequently submitted by the applicant;
- (k) how representations may be made about the application;
- (l) details of the person or body responsible for taking the decision;
- (m) that, in the case of a householder application or a minor commercial application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Welsh Ministers and there will be no opportunity to make further representations.”

(5) In article 14(4)(b), for “21 days” in both places it occurs, substitute “ 30 days in the case of an EIA application or 21 days in any other case ”.

(6) In article 15A(2)<sup>M22</sup>, after “21 days” insert “ , or 30 days in the case of an EIA application, in either case ”.

(7) In article 15C after “21 days” insert “ , or 30 days in the case of an EIA application, in either case ”.

(8) In article 16 after “14 days” in both places where it occurs, insert “ , (or 30 days in the case of an EIA application), ”.

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

(10) In article 21—

(a) in paragraph (1)(a), after “21 days”, insert “ , or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case ”; and

(b) in paragraph (1)(c), after “14 days”, insert “ , or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case ”.

(11) In article 22—

(a) in paragraph (6)(a), after “21 days” insert “ or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case ”; and

(b) in paragraph (6)(c), after “14 days” insert “ or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case ”.

(12) Omit article 24(2).

(13) In article 27—

(a) in paragraph (5)(b), for “28 days”, insert “ 30 days ”;

(b) in paragraph (6)(b)(iii) for “28 days” insert “ 30 days ”;

(c) in paragraph (6)(c)(iii), for “28 days” insert “30 days”;

(d) in paragraph (7)(a) and (c) for “28 days” substitute “30 days; and

(e) in paragraph (13)(b), for “the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016”, substitute “ the EIA Regulations ”.

(14) In Schedule 3, in the notice under article 12(3) of application for planning permission—

(a) after “ARTICLE 12(3)” insert “ OR 12(3A) ”;

(b) after “until all reasonable hours until (f)...” insert “ (fa) ” and at the end of the notice after note (f) insert as note (fa)—

“(fa) details of the website on which the environmental statement and any other documents may be inspected”;

(c) after “at a charge of (h)\*...” insert “ (ha) ” and at the end of the notice after note (h) insert as note (ha)—

“(ha) the website where any other information received from the applicant in respect of the proposed development is published”; and

(d) in note (f) for “date”, substitute— “date:

“(i) in the case of an EIA application, giving a period of 30 days beginning with the later of the date on which the notice is first displayed on or near the site, the date the notice is first published in a newspaper or the date the information required to be published on the website of the local planning authority pursuant to article 12(7) is so published; or

(ii) in any other case.”.

#### Marginal Citations

- M20** Article 12 has been amended by articles 2 and 5(a) of S.I. 2015/1330 (W. 123) and by articles 2 and 10(2) of S.I. 2016/59 (W. 29).
- M21** S.I. 2004/3391.
- M22** Article 15A(2) was inserted by articles 2 and 7 of S.I. 2015/1330 (W. 123). It was further amended by articles 2 and 10(5)(b) of S.I. 2016/59 (W. 29).

### Developments of National Significance (Procedure) (Wales) Order 2016 **E+W**

2.—(1) The 2016 Order is amended in accordance with this paragraph.

(2) In article 2—

- (a) in the definition of “the EIA Regulations” (“*y Rheoliadau AEA*”), for “2016”, substitute “2017”; and
- (b) in the relevant places, insert—
- (i) ““EIA development” (“*datblygiad AEA*”) has the meaning in the EIA Regulations;”;
  - (ii) “ “Schedule 1 development” (“*datblygiad Atodlen 1*”) and “Schedule 2 development” (“*datblygiad Atodlen 2*”) have the meanings in the EIA Regulations;”;
  - (iii) “ “scoping direction” (“*cyfarwyddyd cwmpasu*”) has the meaning in the EIA Regulations;”;
  - (iv) “ “scoping opinion” (“*barn gwmpasu*”) has the meaning in the EIA Regulations;”.

(3) In article 18—

(a) after paragraph (3)(b), insert—

“(ba) in the case of an application accompanied by an environmental statement—

- (i) the fact that the development is subject to an environmental impact assessment procedure;
  - (ii) the environmental statement, any relevant scoping direction, and any further information or any other information;
  - (iii) in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998, the main reports and advice issued to the Welsh Ministers at the time the information is published (if any);
  - (iv) in accordance with the Environmental Information Regulations 2004 <sup>M23</sup>, information other than that required under any other sub-paragraph which is relevant to the decision and which only becomes available after the time the information required by this paragraph was first published;
  - (v) how copies of the environmental statement may be obtained and the cost of such copies;
  - (vi) other details of the arrangements for public participation in the decision-making procedure including a description of the procedure for the publication of any additional information subsequently submitted by the applicant;
  - (vii) details of the authority responsible for taking the decision;”;
- (b) in paragraph (3)(c), after “received”, insert “ which, in the case of an application accompanied by an environmental statement, must not be before the last day of the period

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

of 30 days beginning on the latest date on which the application has been publicised in accordance with article 18(2), (3) or 19(2) ”;

(c) in paragraph (4), in the appropriate place, insert—

““further information” (“*gwybodaeth bellach*”) and “any other information” (“*unrhyw wybodaeth arall*”) have the same meanings as the EIA Regulations;”.

(4) In article 19—

(a) in paragraph (2), for “21 days” substitute “ 30 days, in the case of an application accompanied by an environmental statement, and 21 days in any other case ”;

(b) in paragraph (5), for “21 days” substitute “ 21 or 30 days, as appropriate, ”.

(5) In article 22(4)(b), after “21 days” insert “ , or in the case of an application accompanied by an environmental statement 30 days, ”.

(6) In article 23(2)(a), for “21 days”, substitute “ 30 days, in the case of an application accompanied by an environmental statement and 21 days in any other case, in either case ”.

(7) In article 29, omit paragraphs (4) and (5).

(8) In the form in Schedule 4—

(a) after “+The application is accompanied by an Environmental Statement”, insert “ +The proposed development is likely to have significant effects in another EEA State ”;

(b) in note j)—

(i) for “21” substitute “ 30 ”; and

(ii) after “publication”, insert “ , or in the case of an application which is not required to be accompanied by an environmental statement in accordance with the EIA Regulations, that period must be 21 days ”.

#### Marginal Citations

M23 S.I. 2004/3391.

## SCHEDULE 10 E+W

Regulation 66

### Consequential amendments

#### The Town and Country Planning (General Permitted Development) Order 1995 E+W

1.—(1) The Town and Country Planning (General Permitted Development) Order 1995<sup>M24</sup> is amended as follows.

(2) In article 3—

(a) in paragraph (10), for “2016”, substitute “ 2017 ”; and

(b) in paragraphs (10) and (11)—

(i) for “regulation 4(8)” substitute “ regulation 5(11) ”;

(ii) for “regulation 6(6)” substitute “ regulation 7(6) ”; and

(iii) for “regulation 4(4)” substitute “ regulation 5(4) ”.



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

**Marginal Citations**

**M24** [S.I. 1995/418](#) to which there are amendments not relevant to these Regulations.

**The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999** **E+W**

**2.**—(1) The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 <sup>M25</sup> are amended as follows.

(2) In regulation 2(1), for the definition of “the 2016 EIA Regulations” substitute—  
““the 2017 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017;”.

(3) In regulation 4(3)—

- (a) in sub-paragraph (b), for “regulation 6(6)” substitute “ regulation 7(6) ”; and
- (b) for “2016” (in both places where it occurs) substitute “ 2017 ”.

**Marginal Citations**

**M25** [S.I. 1999/1672](#).

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

**3.**—(1) The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006 <sup>M26</sup> are amended as follows.

(2) In the definition of “EIA application” (“*cais Aseiad o'r Effaith Amgylcheddol*”) in regulation 6(8), for “2016”, substitute “ 2017 ”.

**Marginal Citations**

**M26** [S.I. 2006/1387](#) (W. 137).

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.