

Planning (Wales) Bill

[DRAFT]

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Planning (Wales) Bill

[DRAFT]

An Act of the National Assembly for Wales to make provision about national, strategic and local development planning in Wales; to make provision for certain applications for planning permission and certain other connected applications to be made to the Welsh Ministers; to make other provision about development management and applications for planning permission; and
5 for connected purposes.

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

PART 1

INTRODUCTION

10 1 Overview of this Act

- (1) This Part provides an overview of this Act.
- (2) Part 2 of this Act is about development planning in Wales. It makes provision—
 - (a) for the preparation and revision of a National Development Framework for Wales;
 - (b) for the designation of strategic planning areas, the establishment of strategic
15 planning panels and the preparation of strategic development plans;
 - (c) about the status of the National Development Framework for Wales and strategic development plans;
 - (d) about local development plans (including provision about the duration of plans, withdrawal of plans and directions to prepare joint plans);
 - (e) for joint planning boards to exercise development planning functions.
- (3) Part 3 of this Act makes provision about—
 - (a) consultation to be carried out by a prospective applicant for planning permission;
 - (b) pre-application services that are to be provided by a local planning authority or
20 the Welsh Ministers.
- (4) Part 4 of this Act is about the making of certain applications to the Welsh Ministers. It makes provision—
 - (a) for applications for planning permission for development of national significance
25 in Wales to be made to the Welsh Ministers instead of a local planning authority;
 - (b) for certain other applications to be made to either the Welsh Ministers or a local
30 planning authority.
- (5) Part 4 also makes provision—

- (a) for certain functions of the Welsh Ministers, in respect of applications made to them, to be exercised by an appointed person;
 - (b) for further amendments to existing legislation in connection with the making of applications to the Welsh Ministers.
- 5 (6) Part 5 of this Act is about development management. It makes provision about—
- (a) notices of decisions to grant planning permission;
 - (b) notification of beginning development for which permission has been granted;
 - (c) consultation in respect of applications for approval of reserved matters and certain other applications;
- 10 (d) planning appeals, including the payment and award of costs.
- (7) Part 5 also—
- (a) applies to Wales existing statutory provision about circumstances in which a local planning authority may decline to determine a retrospective application,
 - (b) makes provision about the stopping up of public paths, and
- 15 (c) makes provision about the making of development orders by the Welsh Ministers.
- (8) Part 6 contains provisions that apply generally for the purposes of this Act (about interpretation and commencement of the Act and its short title).

PART 2

DEVELOPMENT PLANNING

20 *National Development Framework for Wales*

2 **National Development Framework for Wales: preparation and revision**

In PCPA 2004, for section 60 (and the cross-heading before it) substitute—

“National Development Framework

60 **National Development Framework for Wales**

- 25 (1) The Welsh Ministers must prepare and publish a plan to be known as the National Development Framework for Wales.
- (2) The Framework must set out such of the policies of the Welsh Ministers in relation to the development and use of land in Wales as the Welsh Ministers consider appropriate.
- 30 (3) The Framework may specify that development of a particular description, in a particular area or location, is to constitute development of national significance for the purposes of section 62D of the principal Act (development of national significance: applications to be made to Welsh Ministers).
- 35 (4) The Framework must give reasons for—

- (a) the policies that it sets out, and
- (b) any provision that it makes as mentioned in subsection (3).

60A Preparation and publication of Framework

- 5 (1) Before publishing the National Development Framework for Wales, the Welsh Ministers must –
- (a) prepare a draft of the Framework,
 - (b) carry out an appraisal of the sustainability of the policies set out in the draft, and
 - 10 (c) consult such persons as they consider appropriate about the draft.
- (2) If, after complying with subsection (1), the Welsh Ministers wish to proceed with the draft Framework (with or without changes), they must lay before the National Assembly for Wales –
- (a) the draft, and
 - 15 (b) a report which –
 - (i) summarises the representations they received during the consultation carried out under subsection (1)(c), and
 - (ii) explains how they have taken the representations into account.
- 20 (3) The Welsh Ministers must have regard to –
- (a) any resolution passed by the National Assembly for Wales with regard to the draft Framework during the Assembly consideration period, and
 - 25 (b) any recommendation made by a committee of the Assembly with regard to the draft during that period.
- (4) After the expiry of the Assembly consideration period, the Welsh Ministers –
- (a) may publish the National Development Framework for Wales in the terms of the draft laid under subsection (2), or
 - 30 (b) if they propose to make changes to that draft, may –
 - (i) lay before the National Assembly for Wales an amended draft of the Framework, and
 - (ii) publish the National Development Framework for Wales in the terms of the amended draft.
- 35 (5) In this section, “the Assembly consideration period” means the period of 60 days beginning with the day on which a draft of the Framework is laid before the National Assembly for Wales under subsection (2), disregarding any time when the Assembly is dissolved or is in recess for more than four days.

60B Review and revision of Framework

- (1) The Welsh Ministers must keep the National Development Framework for Wales under review.
- (2) The Welsh Ministers may revise the Framework at any time, and must publish the Framework as revised.
- (3) Sections 60 and 60A apply for the purposes of the revision of the Framework, as if references to the Framework (or a draft of the Framework) were references to the Framework as revised (or a draft of the Framework as revised).
- (4) Subsection (5) applies if –
- (a) a review period ends, and
 - (b) the Welsh Ministers have not, within that period –
 - (i) published a revised Framework, or
 - (ii) laid a draft revised Framework before the National Assembly for Wales under section 60A(2).
- (5) As soon as reasonably practicable after the end of the review period, the Welsh Ministers must publish and lay before the National Assembly for Wales a statement –
- (a) setting out their assessment of whether the Framework should be revised and giving reasons for that assessment, and
 - (b) if they consider that the Framework should be revised, setting out a timetable for its revision.
- (6) For the purposes of subsections (4) and (5) –
- (a) the first review period –
 - (i) begins with the day on which the Framework is first published, and
 - (ii) ends with the fifth anniversary of the day on which the Framework is first published or, if earlier, with the day on which a revised Framework is published;
 - (b) each subsequent review period –
 - (i) begins with the day after the last day of the preceding review period, and
 - (ii) ends with the fifth anniversary of the last day of the preceding review period or, if earlier, with the day on which a revised Framework is published.”

*Strategic planning***3 Strategic planning areas and strategic planning panels**

In PCPA 2004, after section 60B (as inserted by section 2) insert –

*“Strategic planning***60C Power to designate strategic planning area and establish strategic planning panel**

- 5 (1) The Welsh Ministers may by order –
- (a) designate an area in Wales as a strategic planning area for the purposes of this Part, and
 - (b) establish a strategic planning panel for that area.
- 10 (2) A strategic planning area must comprise –
- (a) all of the area of one local planning authority, and
 - (b) all or part of the area of at least one other local planning authority.
- 15 (3) The Welsh Ministers must not make an order under this section unless –
- (a) they have given a direction under section 60D(1) to a local planning authority all or part of whose area is included in the strategic planning area to be designated by the order,
 - (b) either –
 - 20 (i) a proposal for an area to be designated has been submitted in accordance with section 60D(6), or
 - (ii) the period for complying with section 60D(6) has ended without a proposal being submitted, and
 - (c) they have carried out any consultation required by section 60E(1).
- 25 (4) Paragraphs (a) and (b) of subsection (3) do not apply in relation to an order that revokes or amends a previous order under this section.

60D Preparation and submission of proposal for strategic planning area

- 30 (1) The Welsh Ministers may direct one or more local planning authorities to submit a proposal for an area to be designated as a strategic planning area under section 60C.
- (2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.
- (3) In this section, the “lead authority” means –
- (a) where a direction under subsection (1) is given to a single local planning authority, that authority;
 - (b) where a direction under subsection (1) is given to two or more local planning authorities, those authorities acting jointly.
- 35 (4) The lead authority must prepare a proposal for an area to be designated as a strategic planning area.

- (5) Before submitting the proposal to the Welsh Ministers, the lead authority must consult –
- (a) any other local planning authority for an area which, or any part of which, is included in the proposed strategic planning area, and
 - (b) any other persons or descriptions of persons specified in the direction.
- (6) The lead authority must submit to the Welsh Ministers –
- (a) the proposal, and
 - (b) a report about the consultation carried out under subsection (5).
- (7) A proposal submitted under subsection (6)(a) must include –
- (a) a map showing the boundaries of the area which the lead authority propose should be designated as a strategic planning area,
 - (b) a statement of the reasons for proposing that area, and
 - (c) any other information specified by the Welsh Ministers in the direction given under subsection (1).
- (8) The lead authority must comply with subsection (6) –
- (a) before the end of any period specified in the direction;
 - (b) if no period is specified in the direction, before the end of three months beginning with the day on which the direction is given.
- (9) The Welsh Ministers may agree to extend the period for complying with subsection (6) in a particular case.
- (10) The lead authority must comply with any requirements set out in the direction as to –
- (a) how the consultation required by subsection (5) must be carried out;
 - (b) the form and content of the report about the consultation;
 - (c) how the proposal and the report must be submitted under subsection (6).

60E Determination of strategic planning area by Welsh Ministers: consultation and information

- (1) Before making an order under section 60C to which this subsection applies, the Welsh Ministers must consult –
- (a) each relevant local planning authority, and
 - (b) any other persons they consider appropriate.
- (2) Subsection (1) applies to an order under section 60C if –

(a) the boundaries of the strategic planning area to be designated by the order are different from the boundaries of the area proposed under section 60D(6), or

(b) the period for complying with section 60D(6) has ended without a proposal being submitted.

(3) Subsection (1) also applies to an order under section 60C revoking or amending a previous order under that section.

(4) A local planning authority must provide the Welsh Ministers with any information that the Welsh Ministers request for the purpose of exercising their functions under section 60C, 60D or this section.

(5) A local planning authority is a relevant local planning authority in relation to an order to which subsection (1) applies if all or any part of the authority's area is included in—

(a) the strategic planning area that would be designated by the order;

(b) a strategic planning area designated by a previous order under section 60C that would be revoked or amended by the order. "

4 Strategic planning areas: survey

In PCPA 2004, after section 60E (as inserted by section 3) insert—

"60F Strategic planning area: survey

(1) A strategic planning panel must keep under review the matters which may be expected to affect the development of its strategic planning area or the planning of the development of that area.

(2) Subsections (2) to (5) of section 61 apply in relation to a strategic planning panel as they apply in relation to a local planning authority.

(3) In subsections (2) to (5) of section 61 as they apply by virtue of subsection (2)—

(a) references to a local planning authority are to be construed as references to a strategic planning panel;

(b) references to a neighbouring area are to be construed as references to a neighbouring strategic planning area."

5 Strategic development plans: preparation and revision

In PCPA 2004, after section 60F (as inserted by section 4) insert—

"60G Strategic development plan

(1) A strategic planning panel must prepare a plan for its strategic planning area, to be known as a strategic development plan.

(2) The plan must set out—

- (a) the panel's objectives in relation to the development and use of land in its area;
- (b) the panel's policies for the implementation of those objectives.
- (3) A strategic development plan must be in general conformity with the National Development Framework for Wales.
- (4) The plan must specify the period for which it is to have effect.
- (5) The Welsh Ministers may by regulations make provision about—
 - (a) the period that may be specified under subsection (4);
 - (b) the form and content of the plan.
- (6) In preparing a strategic development plan, the strategic planning panel must have regard to—
 - (a) current national policies;
 - (b) the National Development Framework for Wales;
 - (c) the strategic development plan for any strategic planning area that adjoins the panel's area;
 - (d) the local development plan for each area which is, or any part of which is, included in the panel's area;
 - (e) the resources likely to be available for implementing the strategic development plan;
 - (f) any other matters prescribed by the Welsh Ministers in regulations.
- (7) The panel must also—
 - (a) carry out an appraisal of the sustainability of the plan;
 - (b) prepare a report of the findings of the appraisal.
- (8) A plan is a strategic development plan only in so far as it is—
 - (a) adopted by resolution of the strategic planning panel as a strategic development plan, or
 - (b) approved by the Welsh Ministers under section 65 or 71 (as they apply by virtue of section 60H).
- (9) The plan ceases to be a strategic development plan on the expiry of the period specified under subsection (4).

60H Strategic development plan: application of provisions of this Part

- (1) The provisions specified in subsection (3) apply in relation to a strategic development plan as they apply in relation to a local development plan.
- (2) Accordingly, where a provision specified in subsection (3) confers power for the Welsh Ministers to make provision by regulations in respect of a local development plan, that power is also exercisable so as to make provision in respect of a strategic development plan.

- (3) The provisions are sections 63 to 68, 68A(1), 69 to 71, 73 and 75 to 77.
- (4) In those provisions as they apply by virtue of subsection (1) –
 - (a) references to a local planning authority are to be construed as references to a strategic planning panel;
 - (b) references to a local development plan are to be construed as references to a strategic development plan.
- (5) In section 64(5)(a) as it applies by virtue of this section, the reference to section 62 is to be construed as a reference to section 60G.
- (6) In section 77(2)(a) as it applies by virtue of this section, the reference to section 62(6) is to be construed as a reference to section 60G(7)."

Status of National Development Framework and strategic development plans

6 Local development plans and simplified planning zone schemes: conformity with National Development Framework and strategic development plan

- (1) In section 62 of PCPA 2004 (local development plan), after subsection (3) insert –
 - “(3A) The plan must be in general conformity with –
 - (a) the National Development Framework for Wales, and
 - (b) the strategic development plan for any strategic planning area that includes all or any part of the area of the authority.”
- (2) In section 83 of TCPA 1990 (making of simplified planning zone schemes), after subsection (3) insert –
 - “(3A) A simplified planning zone scheme for an area in Wales must be in general conformity with –
 - (a) the National Development Framework for Wales, and
 - (b) the strategic development plan for any strategic planning area that includes all or any part of the simplified planning zone.”

7 Duty to consider whether to review local development plan

- (1) In PCPA 2004, after section 68 insert –
 - “68A Duty to consider whether to review local development plan**
 - (1) Following the publication of the National Development Framework for Wales or a revised Framework, a local planning authority must consider whether to carry out a review of their local development plan.
 - (2) Following the publication of a strategic development plan or revised strategic development plan for a strategic planning area, a local planning authority for an area which, or any part of which, is included in the strategic planning area must consider whether to carry out a review of their local development plan.”

(2) In section 69 of PCPA 2004 (review of local development plan), in subsection (1), for “at such times as the Assembly prescribes” substitute “ –

(a) if, after consideration under section 68A, they think that the plan should be reviewed, and

(b) at such other times as the Welsh Ministers prescribe”.

8 National Development Framework and strategic development plan to form part of development plan

In section 38 of PCPA 2004 (development plan), in subsection (4) (areas in Wales), for “the local development plan approved or adopted in relation to that area” substitute “ –

(a) the National Development Framework for Wales,

(b) the strategic development plan for any strategic planning area that includes all or any part of that area, and

(c) the local development plan for that area”.

Local development plans

9 Period for which local development plan has effect

(1) Section 62 of PCPA 2004 (local development plan) is amended as follows.

(2) Before subsection (4) insert –

“(3B) The plan must specify the period for which it is to have effect.”

(3) In subsection (4), after “may” insert “ –

(a) make provision about the period that may be specified under subsection (3B);

(b) ”.

(4) After subsection (8) insert –

“(9) A plan ceases to be a local development plan on the expiry of the period specified under subsection (3B).”

10 Withdrawal of local development plan

For section 66 of PCPA 2004 (withdrawal of local development plan) substitute –

“66 Withdrawal of local development plan in accordance with direction

(1) The Welsh Ministers may, at any time before a local development plan is adopted under section 67, direct the local planning authority to withdraw the plan.

(2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.

(3) The authority must withdraw the plan in accordance with the direction.

66A Withdrawal of local development plan in absence of direction

- 5
- (1) This section applies where a local planning authority are not required to withdraw their local development plan under section 66.
- (2) Subject to the provisions of this section, the authority may withdraw the plan at any time before adopting it under section 67.
- (3) A local planning authority may not withdraw their local development plan at any time when the Welsh Ministers have –
- 10
- (a) directed the authority to submit the plan for approval under section 65(4), or
- (b) taken any step under section 71 in connection with the plan.
- (4) A local planning authority may withdraw a local development plan that has been submitted for independent examination under section 64 only if –
- 15
- (a) the person carrying out the independent examination recommends that the plan is withdrawn, and
- (b) the recommendation is not overruled by a direction given by the Welsh Ministers.
- (5) A local planning authority may withdraw a local development plan to which subsection (6) applies only if –
- 20
- (a) the authority have given notice to the Welsh Ministers of their intention to withdraw the plan, and
- (b) the notice period has expired.
- (6) This subsection applies to a local development plan if the local planning authority –
- 25
- (a) have not yet submitted the plan for independent examination under section 64, but
- (b) have taken steps in connection with the preparation of the plan that are specified in regulations made by the Welsh Ministers.
- (7) Where a local planning authority have given notice under subsection (5)(a), the Welsh Ministers may, by direction to the authority, do either or both of the following –
- 30
- (a) require the authority to provide further information;
- (b) extend the notice period.
- (8) The Welsh Ministers may by regulations make provision about the giving of notices and directions under this section (including provision about their form and content and how they are to be given).
- 35
- (9) Subject to any direction given under subsection (7)(b) in a particular case, the “notice period” means whatever period, beginning with the giving of notice under subsection (5)(a), is specified in regulations made by the Welsh Ministers.”
- 40

11 Welsh Ministers' power to direct preparation of joint local development plan

(1) Section 72 of PCPA 2004 (joint local development plans) is amended as follows.

(2) Before subsection (1) insert –

“(A1) The Welsh Ministers may direct two or more local planning authorities to prepare a joint local development plan.”

(3) In subsection (1), after “may” insert “, in the absence of a direction to any of them under subsection (A1),”.

(4) After subsection (1) insert –

“(1A) If the Welsh Ministers give a direction under subsection (A1), they must state their reasons for doing so.

(1B) The authorities to whom a direction is given must, subject to any withdrawal or variation of the direction, act jointly in exercising their functions under this Part relating to local development plans.”

(5) In subsection (3), after “mentioned in subsection” insert “(A1) or”.

(6) In subsection (4), after “if” insert “ –

(a) the Welsh Ministers withdraw a direction under subsection (A1) or vary such a direction so that it ceases to apply to a local planning authority, or

(b) ”.

(7) In subsection (5) –

(a) in paragraph (a), after “authority” insert “to which the direction was given or”;

(b) in paragraph (b), for “who” substitute “to which the direction was given or which”.

(8) In subsection (6), after “to which the” insert “direction or”.

(9) In subsection (7), after “authority” insert “to which the direction was given or”.

(10) After subsection (7) insert –

“(7A) The Welsh Ministers may by regulations –

(a) specify circumstances in which subsections (5) and (7) are not to apply in relation to an authority;

(b) make provision as to what is a corresponding plan or corresponding joint local development plan.”

12 Joint planning boards: functions relating to surveys and local development plans

(1) PCPA 2004 is amended as follows.

(2) In section 78 (interpretation of Part 6), for subsection (3) substitute –

“(3) But –

- (a) a National Park authority is the local planning authority for the whole of its area;
- (b) a joint planning board is the local planning authority for the whole of its united district (and references to the area of a local planning authority are, in relation to such a board, to be construed as references to its united district)."

(3) In section 62 (local development plan) –

(a) in subsection (7), after paragraph (b) insert –

“(c) in the case of an authority which is a joint planning board, it has been published by a relevant council under section 39 of that Measure or, if the strategy for a relevant council’s area has been amended, is the strategy most recently published under section 41 of that Measure.”;

(b) at the end insert –

“(10) For the purposes of subsection (7)(c), a relevant council is a county council or county borough council for an area which, or any part of which, is included in the united district of the joint planning board.”

General

13 Development planning: further amendments

Schedule 1 (development planning: further amendments) has effect.

PART 3

PRE-APPLICATION PROCEDURE

14 Requirement to carry out pre-application consultation

(1) TCPA 1990 is amended as follows.

(2) After section 61Y insert –

“Wales: pre-application procedure

61Z Wales: requirement to carry out pre-application consultation

(1) This section applies where –

- (a) a person (the “applicant”) proposes to make an application for planning permission for the development of land within the area of a local planning authority in Wales, and
- (b) the proposed development is development of a description specified in a development order.

(2) The applicant must carry out consultation in respect of the proposed development in accordance with subsections (3) and (4).

- 5
- (3) The applicant must publicise the proposed application in such manner as the applicant reasonably considers likely to bring the proposed application to the attention of a majority of the persons who own or occupy premises in the vicinity of the land.
- (4) The applicant must consult each specified person about the proposed application.
- (5) Publicity under subsection (3) must—
- 10
- (a) set out how the applicant may be contacted by persons wishing to comment on the proposed development,
- (b) give such information about the proposed timetable for the consultation as is sufficient to ensure that persons wishing to comment on the proposed development may do so in good time.
- 15
- (6) For the purposes of subsection (4), a specified person is a person specified in, or of a description specified in, a development order.
- (7) Subsection (2) does not apply—
- (a) if the proposed application is an application under section 293A, or
- (b) in cases specified in a development order.
- 20
- (8) A development order may make provision about, or in connection with, consultation required to be carried out under this section (including by way of publicising an application under subsection (3)).
- (9) That provision may include (among other things)—
- 25
- (a) provision about how the consultation is to be carried out (including about the form and content of documents, and information and other materials that are to be provided to a person for the purposes of, or in connection with, the consultation);
- 30
- (b) provision about responding to the consultation (including provision requiring a person consulted to respond to the consultation, or to respond to the consultation in a particular way, or to respond within a particular time);
- (c) provision about the timetable (including deadlines) for consultation;
- 35
- (d) provision for a person consulted by virtue of subsection (4) to make a report to the Welsh Ministers about the person's compliance with any requirement imposed by virtue of paragraph (b) or (c) (including provision as to the form and content of the report and the time at which it is to be made).
- 40
- (10) References in this section to a development order are to a development order made by the Welsh Ministers."

(3) In section 62 (applications for planning permission), after subsection (6) insert—

“(6A) In subsection (6B), a “relevant Welsh application” means the application for planning permission in a case where a person –

- (a) has been required by section 61Z to carry out consultation in respect of a proposed development, and
- (b) is going ahead with making an application for planning permission for the development.

(6B) A development order made by the Welsh Ministers must require a relevant Welsh application to be accompanied by a report (the “pre-application consultation report”) that gives particulars of –

- (a) consultation carried out under section 61Z by the person making the application (the “applicant”) in respect of the development to which the application relates;
- (b) any responses received by the applicant from persons consulted under section 61Z(3) or (4);
- (c) the account taken of those responses.

(6C) A development order made by the Welsh Ministers may make provision –

- (a) about the form and content of the pre-application consultation report;
- (b) about circumstances in which consultation carried out by the applicant under section 61Z is to be treated for the purposes of subsection (6B) as consultation in respect of the development to which the application relates.”

(4) In the title of section 61W, for “Requirement” substitute “England: requirement”.

(5) In the cross-heading before that section, for “Consultation” substitute “England: consultation”.

15 Requirement to provide pre-application services

In TCPA 1990, after section 61Z (as inserted by section 14(2)) insert –

“61ZA Wales: pre-application services

- (1) The Welsh Ministers may by regulations make provision for and in connection with the provision of pre-application services to a person, by a local planning authority in Wales or the Welsh Ministers, in respect of a qualifying application that the person proposes to make.
- (2) For this purpose, a qualifying application is an application, of a description specified in regulations made by the Welsh Ministers, that is made under or by virtue of this Part in connection with the development of land in Wales.
- (3) Regulations under this section may (among other things) make provision –

- 5
- (a) about circumstances in which pre-application services are required to be provided in respect of a proposed qualifying application (including provision about the form and content of requests for pre-application services, and information that is to accompany a request);
- (b) about the nature of the services required to be provided, and when and how they are to be provided;
- 10 (c) for information and documents relating to services provided under the regulations, or relating to requests for such services, to be published or otherwise made available to the public, or to persons specified in the regulations, by a local planning authority or the Welsh Ministers;
- 15 (d) about other steps required to be taken by any person in connection with, or for the purposes of, the provision of services under the regulations.

- 20 (4) References in this section and section 61ZB to pre-application services are to services provided to a person, in respect of an application proposed to be made by the person under or by virtue of this Part in respect of the development of land in Wales, for the purpose of assisting the person in making the application.

61ZB Pre-application services: records and statement of services

- 25 (1) The Welsh Ministers may by regulations make provision requiring a pre-application service provider –
- (a) to keep records of pre-application services that have been provided by the provider, and of requests made to the provider for pre-application services;
- (b) to prepare and publish, or otherwise make available, a statement giving information about the range of pre-application services the provider provides (a “statement of services”).
- 30 (2) The regulations may (among other things) make provision about any of the following matters –
- (a) the form and content of the records required to be kept;
- (b) the form and content of the statement of services;
- 35 (c) the way in which records are to be kept;
- (d) the publication of the statement of services and the persons to whom, and circumstances in which, it is to be made available.
- (3) For the purposes of this section each of the following is a pre-application service provider –
- 40 (a) a local planning authority in Wales;
- (b) the Welsh Ministers.

61ZC Regulations under sections 61ZA and 61ZB: supplementary

- (1) Regulations under section 61ZA or 61ZB may contain incidental, supplementary and consequential provision.
- (2) A statutory instrument containing regulations under section 61ZA or 61ZB is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Section 333(3) does not apply in relation to regulations under section 61ZA or 61ZB."

PART 4

APPLICATIONS TO WELSH MINISTERS

Developments of national significance

16 Developments of national significance: applications for planning permission

In TCPA 1990, after section 62C insert –

“Wales: applications in respect of development of national significance

62D Development of national significance: applications to be made to Welsh Ministers

- (1) A nationally significant development application is to be made to the Welsh Ministers instead of to the local planning authority.
- (2) A nationally significant development application is an application for planning permission for the development of land in Wales, where the development to which the application relates is of national significance.
- (3) For this purpose, development is of national significance if –
 - (a) it is development that meets criteria specified in regulations made by the Welsh Ministers for the purposes of this section, or
 - (b) it is development that the National Development Framework for Wales specifies, under section 60(3) of the Planning and Compulsory Purchase Act 2004, is to constitute development of national significance for the purposes of this section.
- (4) The decision of the Welsh Ministers on any application made to them under this section is final.
- (5) No regulations are to be made under this section unless a draft of the instrument containing the regulations has been laid before and approved by resolution of the National Assembly for Wales.
- (6) Section 333(3) does not apply in relation to regulations under this section.

- (7) The planning permission that may be granted on an application under this section does not include outline planning permission (and for this purpose “outline planning permission” has the meaning given in section 92).

62E Notification of proposed application under section 62D

- (1) A person who proposes to make an application to the Welsh Ministers under section 62D must notify the Welsh Ministers of the proposed application.
- (2) The notification must comply with any requirements specified in a development order (which may include requirements relating to the form and content of a notification, information that is to accompany it, and the way in which and time by which it is to be given).
- (3) On receiving notification of an application from a person in accordance with this section, the Welsh Ministers must give notice to the person that the notification has been accepted.
- (4) Any step taken in respect of an application that is proposed to be made under section 62D, if taken before the date on which notice is given under subsection (3) in respect of the application, is not to be treated for the purposes of this Act as constituting consultation with any person about the application.
- (5) A development order may make provision about the giving of notice by the Welsh Ministers under subsection (3).
- (6) That provision may include (among other things) provision –
- (a) about the form and content of the notice to be given under subsection (3);
 - (b) about the way in which it is to be given;
 - (c) about the period within which it is to be given (including provision about circumstances in which the Welsh Ministers may extend that period in a particular case).
- (7) References in this section to a development order are to a development order made by the Welsh Ministers.”

17 Developments of national significance: local impact reports

In TCPA 1990, after section 62E (as inserted by section 16) insert –

“62F Requirement to submit local impact report

- (1) This section applies where –
- (a) an application has been made to the Welsh Ministers under section 62D, and
 - (b) in respect of the application, the Welsh Ministers have taken steps specified in a development order for the purposes of this section.

- 5
- (2) The Welsh Ministers must give notice in writing to each relevant local planning authority, requiring the authority to submit a local impact report in respect of the application to the Welsh Ministers.
- (3) The notice must specify the deadline for receipt of the report by the Welsh Ministers.
- (4) An authority to which notice is given under this section must comply with it.
- 10 (6) A local planning authority is a relevant local planning authority for the purposes of subsection (2) if the land to which the application relates, or any part of that land, is in the authority's area.

62G Duty to have regard to local impact report

- 15 (1) In dealing with an application made to them under section 62D, the Welsh Ministers must have regard to—
- (a) any local impact report submitted to them by a local planning authority, in respect of the application, pursuant to a notice under section 62F;
- (b) any local impact report submitted to them, in respect of the application, by a local planning authority in Wales that has not been required to submit a report under section 62F in respect of the application (a "voluntary local impact report").
- 20 (2) A development order may make provision about the submission of voluntary local impact reports to the Welsh Ministers (including provision about the manner in which a voluntary local impact report is to be submitted, and the time at which it may be submitted).
- 25 (3) The duty imposed by subsection (1) does not apply in respect of a voluntary local impact report submitted otherwise than in accordance with any provision made as described in subsection (2).

62H Local impact report: supplementary

- 30 (1) For the purposes of sections 62F and 62G, a local impact report, in respect of an application, is a report in writing that—
- (a) gives details of the likely impact of the proposed development on the area (or any part of the area) of the authority submitting the report, and
- (b) complies with any requirements specified in a development order as to the form and content of local impact reports.
- 35 (2) For this purpose the "proposed development" is the development in respect of which the application in question is made.
- (3) References in this section and sections 62F and 62G to a development order are to a development order made by the Welsh Ministers."

*Option to make application to Welsh Ministers***18 Option to make application to Welsh Ministers**

In TCPA 1990, after section 62H (as inserted by section 17) insert –

“Wales: option to make application to Welsh Ministers

5 62I Option to make application directly to Welsh Ministers

- 10 (1) If the following conditions are met, a qualifying application that would otherwise have to be made to the local planning authority may (if the applicant so chooses) instead be made to the Welsh Ministers.
- 15 (2) The first condition is that the local planning authority is designated by the Welsh Ministers for the purposes of this section.
- (3) The second condition is that –
- (a) the development to which the application relates, in the case of a qualifying application within subsection (4)(a), or
 - (b) the development for which the outline planning permission has been granted, in the case of a qualifying application within subsection (4)(b),
- is development of a description prescribed by regulations made by the Welsh Ministers.
- 20 (4) A qualifying application, for the purposes of this section, is –
- (a) an application for planning permission for the development of land in Wales, provided that the development to which it relates is not development of national significance for the purposes of section 62D;
 - (b) an application for approval of a matter that, for the purposes of section 92, is a reserved matter in the case of an outline planning permission for the development of land in Wales.
- 25 (5) But an application of the kind described in section 73(1) that would otherwise be a qualifying application for the purposes of this section is not to be treated as such unless it is an application of a description specified in regulations made by the Welsh Ministers.
- 30 (6) The power to make a designation for the purposes of this section, or to revoke a designation, is exercisable by notice in writing to the authority concerned.
- (7) The Welsh Ministers must publish (in whatever way they think fit) –
- (a) the criteria to be applied in deciding whether to designate an authority for the purposes of this section;
 - (b) the criteria to be applied in deciding whether to revoke a designation;
 - (c) a copy of any notice given to an authority under subsection (6).
- 35

- (8) An urban development corporation is not to be designated for the purposes of this section.

62J Option to make application to Welsh Ministers: connected applications

- 5 (1) This section applies where an application (the “principal application”) is made to the Welsh Ministers under section 62I.
- 10 (2) A connected application that would otherwise have to be made to the local planning authority or hazardous substances authority may (if the applicant so chooses) instead be made to the Welsh Ministers, provided that it is made on the same day as the principal application.
- 15 (3) A connected application, for this purpose, is an application under the Planning Acts that –
 - (a) relates to land in Wales, and
 - (b) is an application of a description prescribed by regulations made by the Welsh Ministers,
 and which is considered by the person making it to be connected to the principal application.
- 20 (4) Subsection (5) applies if –
 - (a) an application is made to the Welsh Ministers under this section instead of to the local planning authority or hazardous substances authority, but
 - (b) the Welsh Ministers consider that the application is not connected to the principal application.
- 25 (5) The Welsh Ministers must refer the application made to them under this section to the local planning authority or hazardous substances authority.
- 30 (6) An application referred to an authority under subsection (5) –
 - (a) is to be treated as from the date of its referral as being an application made to the authority concerned (instead of an application made to the Welsh Ministers), and
 - (b) is to be determined by the authority accordingly.
- 35 (7) A development order made by the Welsh Ministers may make provision about the referral of applications under subsection (5) (including provision about what constitutes the referral of an application for the purposes of subsection (6)).

62K Applications under sections 62I and 62J: supplementary

- (1) A decision of the Welsh Ministers on an application made to them under section 62I or 62J is final.

- (2) The Welsh Ministers may give directions requiring a local planning authority or hazardous substances authority to do things in relation to an application made to the Welsh Ministers under section 62I or 62J that would otherwise have been made to the authority.
- 5 (3) Directions given under subsection (2) –
- (a) may relate to a particular application, or a description of application, or to applications generally;
- (b) may be given to a particular authority, or to authorities generally.
- 10 (4) The power to give directions under this section includes power to vary or revoke the directions.
- (5) A statutory instrument containing regulations made under sections 62I or 62J is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- 15 (6) Section 333(3) does not apply in relation to regulations under section 62I or 62J.”

General

19 Notifying community councils of application made to Welsh Ministers

In TCPA 1990, after section 62K (as inserted by section 18) insert –

“Applications made to Welsh Ministers: general

62L Notifying community councils of applications made to Welsh Ministers

- (1) This section applies if –
- 25 (a) an application is made to the Welsh Ministers under section 62D, 62I or 62J, and
- (b) a community council (the “relevant community council”) would be entitled under paragraph 2 of Schedule 1A to be notified of the application.
- (2) The Welsh Ministers (instead of the local planning authority) must
- 30 notify the relevant community council of –
- (a) the application, and
- (b) any alteration to the application accepted by the Welsh Ministers.
- (3) Sub-paragraphs (4) and (5) of paragraph 2 of Schedule 1A apply for
- 35 the purposes of the Welsh Ministers’ duty under subsection (2) as they apply for the purposes of the duties of a local planning authority under paragraph 2(1) of that Schedule.

- (4) The relevant local planning authority must comply with any request made by the Welsh Ministers for the purposes of this section to supply information to them about requests received by the authority under paragraph 2(1) of Schedule 1A.
- 5 (5) The relevant local planning authority, for this purpose, is –
- (a) in the case of an application under section 62D or section 62I, the local planning authority to which (but for the section in question) the application would have been made;
- 10 (b) in the case of an application under section 62J which (but for that section) would have been made to a local planning authority, that authority.”

20 Procedure for considering application made to Welsh Ministers

In TCPA 1990, after section 62L (as inserted by section 19) insert –

“62M Application made to Welsh Ministers: determination of procedure

- 15 (1) This section applies where an application has been made to the Welsh Ministers under section 62D, 62I or 62J.
- (2) The Welsh Ministers must make a determination as to the procedure by which the application is to be considered.
- 20 (3) The determination must be made before the end of a period prescribed in regulations made by the Welsh Ministers.
- (4) It must provide for the application to be considered in such of the following ways appears to the Welsh Ministers to be appropriate –
- (a) at a local inquiry;
- (b) at a hearing;
- 25 (c) on the basis of representations in writing.
- (5) The determination may be varied by a subsequent determination under this section at any time before the Welsh Ministers’ decision on the application is made.
- 30 (6) The Welsh Ministers must notify the following persons of a determination made under this section in respect of an application –
- (a) the applicant;
- (b) the local planning authority to which, but for section 62D, 62I or 62J (as applicable) the application would have been made;
- 35 (c) any representative persons the Welsh Ministers consider appropriate.
- (7) “Representative persons” are qualifying persons appearing to the Welsh Ministers to be representative of any persons, other than the applicant and the local planning authority referred to in subsection (6) (b), who appear to the Welsh Ministers to have an interest in the development to which the application relates.
- 40

- (8) Qualifying persons for this purpose are persons, or persons of a description, specified in regulations made by the Welsh Ministers.
- (9) The Welsh Ministers must publish the criteria that are to be applied in making a determination under this section.

62N Application made to Welsh Ministers: rules as to procedure

- (1) The Welsh Ministers may make rules regulating the procedure to be followed in connection with—
 - (a) a local inquiry or other hearing held on an application under section 62D, 62I or 62J;
 - (b) proceedings on an application under section 62D, 62I or 62J that is to be considered on the basis of representations in writing.
- (2) The rules may make provision—
 - (a) about the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or the making of representations in writing;
 - (b) about the conduct of proceedings.
- (3) The power to make rules under this section is exercisable by statutory instrument; and a statutory instrument containing rules under this section is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Rules made under this section may make different provision for different purposes.”

21 Power to make provision by development order in respect of applications to Welsh Ministers

In TCPA 1990, after section 62N (as inserted by section 20) insert—

“62O Applications to Welsh Ministers: power to make provision by development order

- (1) A development order made by the Welsh Ministers may make provision about the way in which an application for planning permission made to the Welsh Ministers under section 62D, 62I or 62J is to be dealt with by the Welsh Ministers.
- (2) That provision may (among other things) include provision about—
 - (a) consultation to be carried out by the Welsh Ministers before planning permission for a development is granted or refused;
 - (b) the variation of an application.”

22 Exercise of functions by appointed person where application made to Welsh Ministers

- (1) In TCPA 1990, after section 62O (as inserted by section 21) insert—

“62P Applications to Welsh Ministers: exercise of functions by appointed person

Schedule 4D (applications to Welsh Ministers: exercise of functions by appointed person) has effect.”

- 5 (2) Schedule 2 (applications to Welsh Ministers: exercise of functions by appointed person) has effect.

23 Applications to Welsh Ministers: further amendments

Schedule 3 (applications to Welsh Ministers: further amendments) has effect.

PART 5

10 **DEVELOPMENT MANAGEMENT**

Retrospective applications

24 Power to decline to determine retrospective application

In section 70C of TCPA 1990 (power to decline to determine retrospective application), in subsection (1), omit “in England”.

15 *Decision notices and notification of development*

25 Decision notices

In TCPA 1990, after section 71 insert—

“71ZA Decision notices: Wales

- 20 (1) A development order made by the Welsh Ministers may include provision as to—
- (a) the form of decision notices,
 - (b) the manner in which decision notices are to be given, and
 - (c) the particulars to be contained in decision notices.
- 25 (2) A decision notice must specify any plans or other documents in accordance with which the development to which it relates is to be carried out.
- 30 (3) A planning permission granted in respect of a development in Wales is deemed to be granted subject to the condition that the development must be carried out in accordance with any plans or other documents specified in the decision notice relating to it.
- (4) Subsection (5) applies where, after planning permission is granted in respect of a development in Wales—
- (a) a local planning authority or the Welsh Ministers give any consent, agreement or approval required by any condition or
- 35 limitation subject to which the planning permission was granted, or

(b) such a condition or limitation is imposed, removed or altered.

- (5) The local planning authority or the Welsh Ministers must give a revised version of the notice of the decision to grant planning permission to such persons as may be specified by a development order made by the Welsh Ministers.
- (6) The revised version of the notice must contain such details relating to the giving of the consent, agreement or approval, or to the imposition, removal or alteration of the limitation or condition, as may be specified by a development order made by the Welsh Ministers.
- (7) In this section “decision notice” means a notice of a decision to grant planning permission in respect of a development in Wales.”

26 Notification of development

In TCPA 1990, after section 71ZA (as inserted by section 25) insert—

“71ZB Notification of initiation of development and display of notice: Wales

- (1) Before beginning any development to which a relevant planning permission relates, a person must give to the local planning authority notice—
- (a) stating the date on which the development is to begin;
 - (b) giving details of the planning permission and of such other matters as may be specified by a development order made by the Welsh Ministers.
- (2) A person carrying out development to which a relevant planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a copy of any notice of a decision to grant it.
- (3) A notice under subsection (1) must be in the form specified by a development order made by the Welsh Ministers; and a copy of a notice to grant planning permission displayed under subsection (2) must be in a form specified by, and must be displayed in accordance with, such a development order.
- (4) A notice of a decision to grant a relevant planning permission must set out the duties imposed by subsections (1) to (3).
- (5) A relevant planning permission is deemed to be granted subject to the condition that the duties imposed by subsections (1) to (3) must be complied with.
- (6) For the purposes of this section a “relevant” planning permission is a planning permission of a description specified by a development order made by the Welsh Ministers.
- (7) This section applies only in relation to Wales.”

*Consultation etc in respect of application for approval***27 Application for approval: consultation etc**

In TCPA 1990, after section 100 insert –

“Consultation etc in respect of application for approval: Wales”

5 “100A Wales: consultation etc in respect of application for approval

- (1) A development order made by the Welsh Ministers may provide that a local planning authority in Wales to which an application for approval is made are not to determine the application before the end of a period specified in the order.
- 10 (2) If a local planning authority in Wales to which an application for approval is made consult a statutory consultee about the application, the consultee must give a substantive response.
- (3) That response must be given before the end of a period specified in a development order made by the Welsh Ministers, unless the consultee and the authority agree otherwise in writing; in which case the substantive response must be given before the end of whatever period is specified in the agreement.
- 15 (4) A development order made by the Welsh Ministers may make provision –
- (a) about information that is to be provided by a local planning authority to a statutory consultee for the purposes of, or in connection with, consultation about an application for approval;
- (b) about the requirements of a substantive response;
- 25 (c) about the regard that is to be had by an authority, in determining an application for approval, to a response to consultation given by a statutory consultee;
- (d) requiring a statutory consultee consulted about an application for approval to give a report to the Welsh Ministers about the consultee’s compliance with subsections (2) and (3) (including provision as to the form and content of the report, and the time at which it is to be made).
- 30 (5) For the purposes of this section an “application for approval” is –
- (a) an application for approval of reserved matters (within the meaning of section 92);
- 35 (b) an application for consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted.
- (6) References in this section to a statutory consultee, in relation to an application for approval, are to –
- 40

- (a) a person consulted by virtue of section 61Z(4) in connection with the making of the original application;
 - (b) a person whose representations were required by virtue of section 71 (or would have been so required, had any representations been made by the person) to be taken into account in determining the original application.
- (7) The original application, in relation to an application for approval, is the application for the planning permission in accordance with which the application for approval is made."

Stopping up or diversion of public paths

28 Stopping up or diversion of public paths where application for planning permission made

- (1) TCPA 1990 is amended as follows.
- (2) In section 257 (footpaths, bridleways and restricted byways affected by other development: orders by other authorities), in subsection (1A), omit "in England".
- (3) In section 259 (confirmation of orders) –
 - (a) in each of subsections (1), (1A) and (2), for "Secretary of State" substitute "appropriate national authority";
 - (b) after subsection (4) insert –
 - "(5) The appropriate national authority, for the purposes of this section, is –
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers."

Appeals etc

29 No variation of application after service of notice of appeal

- (1) In section 78 of TCPA 1990 (right to appeal against planning decisions or failure to take such decisions), after subsection (4B) insert –
 - "(4BA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied."
- (2) In section 195 of TCPA 1990 (appeals against refusal or failure to give decision on application for certificate of lawfulness), after subsection (1D) insert –
 - "(1DA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied."
- (3) In section 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (right to appeal against listed buildings decisions or failure to take such decisions), after subsection (4) insert –
 - "(4A) Once notice of an appeal under section 20 to the Welsh Ministers has been served, the application to which it relates may not be varied."

- (4) In section 21 of the Planning (Hazardous Substances) Act 1990 (appeals against decisions or failure to take decisions relating to hazardous substances), after subsection (3D) insert –

“(3E) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied.”

30 No new matters to be raised on appeal

In section 323 of TCPA 1990 (procedure on certain appeals and applications), after subsection (4) insert –

“(5) Regulations made by the Welsh Ministers may provide that in prescribed circumstances a matter may not be raised in proceedings on an appeal under this Act to the Welsh Ministers unless it has been previously raised before a prescribed time or it is shown that it could not have been raised before that time.

(6) A statutory instrument containing regulations made under subsection (5) is subject to annulment in pursuance of a resolution of the National Assembly for Wales and section 333(3) does not apply in relation to regulations made under that subsection.”

31 Costs on appeals and references

- (1) In TCPA 1990, after section 322B insert –

“322C Costs: Wales

(1) This section applies in relation to any appeal or reference under this Act to the Welsh Ministers (whether it is considered at an inquiry or hearing or on the basis of written representations and whether or not it involves a person appointed by the Welsh Ministers).

(2) The costs incurred by the Welsh Ministers in relation to the appeal or reference (or so much of them as the Welsh Ministers or the appointed person may direct) are to be paid by such local planning authority or party to the appeal or reference as the Welsh Ministers or the appointed person may direct.

(3) The costs to which subsection (2) applies includes costs in respect of an inquiry or hearing that does not in the event take place.

(4) The Welsh Ministers or the appointed person may make orders as to the costs of the appellant or applicant or any other party to the appeal or reference and as to the person or persons by whom the costs are to be paid.”

- (2) Schedule 4 (appeal costs: further amendments) has effect.

Development orders

32 Development orders made by the Welsh Ministers

- (1) Section 333 of TCPA 1990 (regulations and orders) is amended as follows.

(2) After subsection (2A) insert –

“(2B) A development order made by the Welsh Ministers may make different provision for different purposes (including different provision for different areas and for different classes or descriptions of development).”

(3) In subsection (5), in paragraph (b) –

(a) after “a development order” insert “made by the Secretary of State”;

(b) after “an order” insert “made by the Secretary of State”;

(c) omit “(unless it is made by the National Assembly for Wales)”.

(4) After subsection (5A) insert –

“(5B) A statutory instrument containing a development order made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(5) In subsection (6) –

(a) after “subsection (5)” insert “or (5B)”;

(b) after “each House of Parliament” insert “(in the case of an order made by the Secretary of State) or the National Assembly for Wales (in the case of an order made by the Welsh Ministers)”.

(6) In section 78 of TCPA 1990, omit subsections (4C) and (4D).

(7) In section 195 of TCPA 1990, omit subsections (1E) and (1F).

PART 6

GENERAL PROVISIONS

33 Interpretation

In this Act –

“PCPA 2004” means the Planning and Compulsory Purchase Act 2004;

“TCPA 1990” means the Town and Country Planning Act 1990.

34 Commencement

(1) Part 1 and this Part come into force on the day on which this Act receives Royal Assent.

(2) The remaining provisions of this Act come into force on such day as the Welsh Ministers appoint by order.

(3) The power to make an order under subsection (2) –

(a) is exercisable by statutory instrument;

(b) includes power –

(i) to appoint different days for different purposes, and

- (ii) to make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

35 Short title

The short title of this Act is the Planning (Wales) Act 2014.

SCHEDULE 1
(introduced by section 13)

DEVELOPMENT PLANNING: FURTHER AMENDMENTS

PART 1

5 NATIONAL DEVELOPMENT FRAMEWORK AND STRATEGIC DEVELOPMENT PLANS: MINOR AND
CONSEQUENTIAL AMENDMENTS

Planning and Compulsory Purchase Act 2004

1 PCPA 2004 is amended as follows.

2 In section 19 (preparation of English local development documents), in subsection (2)(e),
10 for “Wales Spatial Plan” substitute “National Development Framework for Wales,”.

3 In section 39 (sustainable development), in subsection (1)(c), for “Wales Spatial Plan”
substitute “National Development Framework for Wales, a strategic development plan”.

4 In section 62 (local development plan), in subsection (5) (matters to which local planning
authority must have regard in preparing plan), for paragraph (b) substitute –

- 15 “(b) the National Development Framework for Wales;
(ba) the strategic development plan for any strategic planning area
that –
(i) includes all or any part of the area of the authority, or
(ii) adjoins that area;”.

20 5 In section 74 (urban development corporations), for “section 60” substitute “sections 60 to
60B”.

6 (1) Section 113 (validity of strategies, plans and documents) is amended as follows.

(2) In subsection (1) –

(a) for paragraph (b) substitute –

- 25 “(b) the National Development Framework for Wales;
(ba) a strategic development plan;”;

(b) in paragraph (e), after “(b),” insert “(ba),”.

(3) In subsection (9), for paragraph (b) substitute –

30 “(b) sections 60 to 60B above in the case of the National
Development Framework for Wales or a revised Framework;

(ba) in the case of a strategic development plan or any revision of
it –

- (i) section 60G above, and
35 (ii) sections 63 to 68, 68A(1), 69 to 71 and 73 to 78 above, as
they apply in relation to strategic development plans
(see section 60H);”.

(4) In subsection (11), for paragraph (b) substitute –

“(b) for the purposes of the National Development Framework for Wales (or a revised Framework), the date when it is published by the Welsh Ministers;

(ba) for the purposes of a strategic development plan (or a revision of it), the date when it is adopted by the strategic planning panel or approved by the Welsh Ministers (as the case may be);”.

Government of Wales Act 2006

In Schedule 10 to the Government of Wales Act 2006 (minor and consequential amendments), omit paragraph 66 and the cross-heading before it.

Marine and Coastal Access Act 2009

(1) Schedule 6 to the Marine and Coastal Access Act 2009 (marine plans: preparation and adoption) is amended as follows.

(2) In paragraph 3 –

(a) in sub-paragraph (2), in the words after paragraph (b), for “relevant Planning Act plan” substitute “development plan”;

(b) omit sub-paragraphs (4) and (5);

(c) in sub-paragraph (6), omit the definition of “the Wales Spatial Plan”.

(3) In paragraph 9(2)(b), for “Planning Act plans” substitute “development plans”.

PART 2

REGULATIONS AND ORDERS

(1) Section 122 of PCPA 2004 (regulations and orders) is amended as follows.

(2) In subsection (1)(b), for “National Assembly for Wales” substitute “Welsh Ministers”.

(3) In subsection (5)(g), for “National Assembly for Wales” substitute “Welsh Ministers”.

(4) After subsection (6) insert –

“(6A) Subsection (6) does not apply in relation to a statutory instrument containing subordinate legislation made by the Welsh Ministers.

(6B) The Welsh Ministers must not make a statutory instrument containing subordinate legislation which includes provision amending or repealing an enactment contained in primary legislation unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.

(6C) A statutory instrument containing subordinate legislation made by the Welsh Ministers to which subsection (6B) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(5) After subsection (10) insert –

“(11) In subsection (6B), “primary legislation” means –

(a) an Act of Parliament;

(b) an Act or Measure of the National Assembly for Wales.”

10 In Schedule 11 to the Government of Wales Act 2006 (transitional provisions), in
5 paragraph 35(4), in Table 2, omit the entries relating to PCPA 2004.

SCHEDULE 2
(introduced by section 22(2))

APPLICATIONS TO WELSH MINISTERS: EXERCISE OF FUNCTIONS BY APPOINTED PERSON

5 1 In TCPA 1990, after Schedule 4C insert –

“SCHEDULE 4D

APPLICATIONS TO WELSH MINISTERS: EXERCISE OF FUNCTIONS BY APPOINTED PERSON

Applications in respect of development of national significance: exercise of functions

- 10 1 (1) Unless a direction otherwise is given under paragraph 9, a specified function, so far as exercisable in respect of –
- (a) an application made under section 62D, or
 - (b) an application that a person proposes to make under section 62D,
- 15 is to be exercised by a person appointed for the purpose by the Welsh Ministers under this paragraph.
- (2) A “specified function”, for the purposes of sub-paragraph (1), is a function exercisable by the Welsh Ministers under or by virtue of this Act, that has been prescribed in regulations made for the purposes of
- 20 this paragraph by the Welsh Ministers.
- (3) Paragraph 14 makes provision about regulations under this paragraph.

Applications under section 62I or 62J: exercise of functions

- 25 2 Unless a direction otherwise is given under paragraph 9 –
- (a) an application made under section 62I or 62J is to be determined by a person appointed for the purpose by the Welsh Ministers under this paragraph;
 - (b) functions exercisable by the Welsh Ministers, by virtue of section 61ZA, in respect of an application that a person proposes to make under section 62I or 62J, are to be exercised
- 30 by a person appointed for the purpose by the Welsh Ministers under this paragraph.

Revocation of appointments

- 35 3 Where a person has been appointed under paragraph 1 or 2 in respect of an application, the Welsh Ministers may at any time –
- (a) revoke the appointment, and

- (b) appoint another person, in respect of the application, under paragraph 1 or 2 (as the case may be).

Exercise of functions by appointed person

- 4 (1) This paragraph applies for the purposes of paragraphs 5 to 13.
- 5 (2) References to an appointed person are to a person appointed to exercise functions under paragraph 1 or 2.
- 10 (3) References to a relevant application are to an application, or a proposed application, in respect of which functions are exercisable by a person other than the Welsh Ministers by virtue of the person's appointment under paragraph 1 or 2.
- 5 A person appointed under paragraph 2 to determine an application has, so far as the context permits, the same powers and duties that the Welsh Ministers have by virtue of section 75A.
- 15 6 (1) This paragraph applies where any enactment (other than this Schedule) –
- (a) refers (or is to be read as referring) to the Welsh Ministers in a context relating to or capable of relating to an application under section 62I or section 62J, or
- 20 (b) refers (or is to be read as referring) to anything (other than the making of an application) done or authorised or required to be done by, to or before the Welsh Ministers in connection with any such application.
- 25 (2) So far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by a person appointed under paragraph 2, as if the reference to the Welsh Ministers were or included a reference to an appointed person.

Determination of application by appointed person

- 7 Where a relevant application is determined by an appointed person –
- 30 (a) that person's decision is to be treated as being the decision of the Welsh Ministers, and
- (b) except as provided by Part 12, the validity of the decision is not to be questioned in any proceedings whatsoever.
- 8 (1) It is not a ground of application to the High Court under section 288 that a relevant application ought to have been determined by the Welsh Ministers instead of an appointed person, unless the applicant challenges the person's power to determine the application before the person's decision on the application is given.
- 35 (2) But in the case of an application under section 62D, the restriction imposed by sub-paragraph (1) applies only if the function of determining the application is a function specified in regulations under paragraph 1.
- 40

Power of Welsh Ministers to exercise functions in place of appointed person

- 9 The Welsh Ministers may direct that functions specified in the
direction are to be exercised, in respect of a relevant application, by
them instead of by a person appointed under paragraph 1 or
5 paragraph 2.
- 10 A copy of a direction given under paragraph 9 in respect of a relevant
application is to be served on—
- 10 (a) the person (if any) appointed, in respect of the application,
under paragraph 1 or 2;
 - (b) the applicant;
 - (c) in the case of an application under section 62I or 62J, the local
planning authority or hazardous substances authority
concerned.
- 11 (1) Sub-paragraph (2) applies where, in consequence of a direction under
15 paragraph 9, an application is to be determined by the Welsh
Ministers instead of a person appointed under paragraph 1 or 2.
- (2) In determining the application, the Welsh Ministers may take into
account any report made to them by any person previously appointed
under paragraph 1 or 2 in respect of the application.
- 20 12 Subject to that, for the purpose of the exercise of functions by the
Welsh Ministers in respect of an application in consequence of a
direction under paragraph 9, the provisions of the planning Acts that
are relevant to the application apply to it as if no appointment under
paragraph 1 or 2 had ever been made.
- 25 13 (1) The Welsh Ministers may by a further direction revoke a direction
under paragraph 9 at any time before the determination of the
application concerned.
- (2) On giving a direction under this paragraph in respect of an
30 application, the Welsh Ministers must serve a copy of the direction
on—
- (a) the person, if any, previously appointed under paragraph 1 or
2 in respect of the application;
 - (b) the applicant;
 - (c) in the case of an application under section 62I or 62J, the local
35 planning authority or hazardous substances authority
concerned.
- (3) Where a direction is given under this paragraph in relation to an
40 application—
- (a) the Welsh Ministers must appoint a person (the “new
appointee”) under paragraph 1 or 2, as the case may be, in
respect of the application;

- (b) anything done by or on behalf of the Welsh Ministers in connection with the application that might have been done by a person appointed under paragraph 1 or 2 in respect of the application is, unless the new appointee directs otherwise, to be treated as having been done by that person, and
- (c) subject to that, this Schedule applies to the application as if no direction under paragraph 9 had been given in relation to the application.

General

- 14 (1) Regulations under paragraph 1 may contain incidental or consequential provision.
- (2) A statutory instrument containing regulations made under paragraph 1 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Section 333(3) does not apply in relation to regulations under paragraph 1."

In section 59 of PCPA 2004 (correction of errors: supplementary), in subsection (2), after "Secretary of State" insert "or the Welsh Ministers, or a person appointed under Schedule 4D to the principal Act to determine an application instead of the Welsh Ministers".

SCHEDULE 3
(introduced by section 23)

APPLICATIONS TO WELSH MINISTERS: FURTHER AMENDMENTS

- 1 TCPA 1990 is amended as follows.
- 5 2 In section 58 (granting of planning permission: general), in subsection (1)(b) –
- (a) after “by the Secretary of State” insert “or the Welsh Ministers”;
- (b) after “to the Secretary of State” insert “or the Welsh Ministers”.
- 3 In section 59 (development orders: general), in subsection (2)(b) –
- (a) after “by the Secretary of State” insert “or the Welsh Ministers”;
- 10 (b) after “to the Secretary of State” insert “or the Welsh Ministers”.
- 4 Before section 62A insert –
- “England: option to make application directly to Secretary of State”.*
- 5 In section 70 (determination of applications), in subsection (1)(a), after “subject to” insert “section 62D(7) and”.
- 15 6 In section 70A (power to decline to determine application), as it applies in relation to Wales, in subsection (1)(a), for “Secretary of State has refused a similar application referred to him under section 77 or has” substitute “Welsh Ministers have refused a similar application made to them under section 62D, 62I or 62J, or referred to them under section 77, or have”.
- 20 7 After section 75 insert –
- “Applications made to the Welsh Ministers: applicable provisions*

75A Provisions applying for purpose of applications made to the Welsh Ministers

- (1) A development order may –
- 25 (a) provide for the provisions specified in subsection (2) to apply, with or without modifications, to an application for planning permission made to the Welsh Ministers under section 62D or 62I;
- 30 (b) provide for section 100A to apply, with or without modifications, to an application for approval (within the meaning of that section) made to the Welsh Ministers.
- (2) The provisions are sections 62(3) and (4), 65(5), 70, 70A, 70C, 72(1) and (5), 73, 73A and 327A.
- 35 (3) Any requirements imposed by a development order by virtue of the provisions specified in subsection (4) may be applied by a development order, with or without modifications, to an application for planning permission made to the Welsh Ministers under section 62D or 62I.

(4) The provisions are sections 62, 65, 71 and 74, and paragraph 2(6) of Schedule 1A.

(5) A development order may apply to an application made to the Welsh Ministers under section 62J, with or without modifications, any enactment that relates to applications of that kind when made to the relevant authority.

(6) For the purposes of subsection (5), the relevant authority, in relation to an application made under section 62J, is the authority to which, but for section 62J, the application would have been made.

(7) References in this section to a development order are to a development order made by the Welsh Ministers."

In section 87 (exclusion of certain land or descriptions of development from simplified planning zone scheme), after subsection (4) insert –

"(5) A simplified planning zone scheme for an area in Wales does not have effect to grant planning permission for the development of land in Wales, where the development is of national significance for the purposes of section 62D."

In section 88 (planning permission for development in enterprise zones), after subsection (10) insert –

"(11) An enterprise zone scheme for an area in Wales does not have effect to grant planning permission for the development of land in Wales, where the development is of national significance for the purposes of section 62D."

In section 92 (outline planning permission), in subsection (1), after "authority" insert ", the Welsh Ministers".

In section 93 (provisions supplementary to sections 91 and 92), in subsection (1)(a), after "authority" insert ", the Welsh Ministers".

In section 253 (procedure in anticipation of planning permission), in subsection (2), after paragraph (a) insert –

"(aa) that application has been made to the Welsh Ministers under section 62D, 62I or 62J; or".

In section 257 (footpaths etc affected by other development: orders by other authorities), in subsection (4) –

(a) in paragraph (a), after "Secretary of State" insert "or by the Welsh Ministers";

(b) in paragraph (c), after "62A" insert "or to the Welsh Ministers under section 62D, 62I or 62J".

(1) Section 284 (actions which may be questioned in legal proceedings only so far as provided by Part 12) is amended as follows.

(2) In subsection (1)(f), after "Secretary of State" insert "or the Welsh Ministers".

(3) In subsection (3) –

(a) in the opening words, after “action on the part of the Secretary of State” insert “or the Welsh Ministers”;

(b) in paragraph (a), for “him” substitute “the Secretary of State or the Welsh Ministers”;

5 (c) after paragraph (a) insert—

“(aa) any decision on an application made to the Welsh Ministers under section 62D;

(ab) any decision on an application made to the Welsh Ministers under section 62I or section 62J (not including a decision to refer an application under section 62J(5));”;

10

(d) in paragraph (h), after “Secretary of State” insert “or the Welsh Ministers”.

(4) In subsection (4), after “Secretary of State” insert “or the Welsh Ministers”.

15 (1) Section 288 (proceedings for questioning the validity of other orders, etc) is amended as follows.

15

(2) In subsection (1)(b), after “Secretary of State” insert “or the Welsh Ministers”.

(3) In subsection (2), after “Secretary of State” insert “or the Welsh Ministers”.

(4) In subsection (4), after “Secretary of State” insert “or the Welsh Ministers”.

(5) In subsection (10)—

20

(a) in paragraph (a), for “has modified” substitute “or the Welsh Ministers have modified”;

(b) in paragraph (b)—

(i) after “Secretary of State” insert “or the Welsh Ministers”;

(ii) for “him” substitute “the Secretary of State or the Welsh Ministers”.

16 After section 303 insert—

25

“303ZZA Provision for payment of fees etc to Welsh Ministers

(1) The Welsh Ministers may by regulations make provision for the payment of a charge or fee to the Welsh Ministers in respect of—

30

(a) the performance by the Welsh Ministers of any function they have in respect of an application made to them under section 62D (developments of national significance), section 62I (option to make application directly to Welsh Ministers) or section 62J (connected applications);

(b) anything done by the Welsh Ministers which is calculated to facilitate, or is conducive or incidental to, the performance of any such function.

35

(2) In respect of the payment of any such fee or charge, the regulations may make any provision that may be made by regulations under section 303 in respect of the payment of any charge or fee to a local planning authority in Wales.

(3) No regulations are to be made under this section unless a draft of the instrument containing the regulations has been laid before and approved by resolution of the National Assembly for Wales.

(4) Section 333(3) does not apply in relation to regulations under this section."

5

17 In section 324 (rights of entry), in subsection (1), after paragraph (b) insert –

“(ba) any application made to the Welsh Ministers under section 62J that is not an application within paragraph (b);”.

SCHEDULE 4
(introduced by section 31(2))

APPEAL COSTS: FURTHER AMENDMENTS

Town and Country Planning Act 1990

- 5 1 TCPA 1990 is amended as follows.
- 2 In section 175 (appeals: supplementary provisions), in subsection (7), after “any proceedings” insert “in England”.
- 3 In section 196 (further provisions as to references and appeals to the Secretary of State), in subsection (8), after “any proceedings” insert “in England”.
- 10 4 In section 208 (appeals against section 207 notices), in subsection (11), after “any proceedings” insert “in England”.
- 5 (1) Section 320 (local inquiries) is amended as follows.
- (2) In subsection (1) –
- (a) after “Secretary of State” insert “or the Welsh Ministers”;
- 15 (b) after “his” insert “or their”.
- (3) In subsection (2), for “held by virtue of this section” substitute “caused to be held under this section by the Secretary of State; and subsections (2) and (3) of that section apply to an inquiry caused to be held under this section by the Welsh Ministers”.
- (4) In subsection (3), for “held in England” substitute “caused to be held by the Secretary of State”.
- 20 6 In section 322 (orders as to costs of parties where no local inquiry held), in subsection (2), after “proceedings” insert “in England”.
- 7 In section 322A (orders as to costs: supplementary) in subsection (1)(a), after “proceedings” insert “in England”.
- 25 8 In Schedule 6 (determination of certain appeals by person appointed by Secretary of State), in paragraph 6 –
- (a) in sub-paragraph (4), after “paragraph” insert “in England”;
- (b) after sub-paragraph (4) insert –
- 30 “(4A) Subsections (2) and (3) of that section apply to an inquiry held under this paragraph in Wales.”;
- (c) in sub-paragraph (5), after “proceedings” insert “in England”.
- 9 In Schedule 8, in paragraph 5(4), after “sub-paragraph (1)” insert “in England, and subsections (2) and (3) of that section shall apply in relation to an inquiry held under that sub-paragraph in Wales,”.

35 *Planning (Listed Buildings and Conservation Areas) Act 1990*

- 10 The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.

- 11 In section 41 (determination of appeals under section 39), in subsection (8), after “any proceedings” insert “in England”.
- 12 In section 89 (application of certain general provisions of principal Act), in subsection (1), after the entry relating to section 322A, insert –
- 5 “section 322C (costs: Wales),”.
- 13 In Schedule 3 (determination of certain appeals by person appointed by Secretary of State), in paragraph 6 –
- (a) in sub-paragraph (4), after “paragraph” insert “in England”;
- (b) after sub-paragraph (4) insert –
- 10 “(4A) Subsections (2) and (3) of that section apply to an inquiry held under this paragraph in Wales.”;
- (c) in sub-paragraph (5), for “such inquiry” substitute “inquiry held by virtue of this paragraph”;
- (d) in sub-paragraph (8), after “proceedings” insert “in England”.
- 15 *Planning (Hazardous Substances) Act 1990*
- 14 The Planning (Hazardous Substances) Act 1990 is amended as follows.
- 15 In section 25 (hazardous substances contravention notices: supplementary provisions) , in subsection (5), after “any proceedings” insert “in England”.
- 16 In section 37 (application of certain general provisions of principal Act), in subsection (2),
- 20 after the entry relating to section 322A, insert –
- “section 322C (costs: Wales),”.
- 17 In the Schedule (determination of appeals by person appointed by Secretary of State), in paragraph 6 –
- (a) in sub-paragraph (4), after “paragraph” insert “in England”;
- 25 (b) after sub-paragraph (4) insert –
- “(4A) Subsections (2) and (3) of that section apply to an inquiry held under this paragraph in Wales.”;
- (c) in sub-paragraph (5), for “such inquiry” substitute “inquiry held by virtue of this paragraph”;
- 30 (d) in sub-paragraph (8), after “proceedings” insert “in England”.