

Draft Order laid before the National Assembly for Wales under section 203(9) of the Planning Act 2008, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2012 No. (W.)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Planning Permission
(Withdrawal of Development Order
or Local Development Order)
(Compensation) (Wales) Order
2012**

EXPLANATORY NOTE

(This note is not part of the Order)

Section 107 of the Town and Country Planning Act 1990 (“the Act”) provides for compensation to be payable where planning permission granted by a local planning authority is subsequently revoked or modified. Section 108 of the Act extends this entitlement to compensation to circumstances where planning permission granted by a development order or a local development order is withdrawn.

This Order amends section 108 as it applies to Wales.

An amendment to subsection (2A) of section 108 provides for the situation where planning permission of a prescribed description granted by a development order or local development order is withdrawn by the issue of directions under powers conferred by that order. The result of the amendment is that compensation is payable only if an application for planning permission for development formerly permitted by that order is made within 12 months of the directions taking effect.

Amendments to subsections (3B) and (3C) provide that where planning permission granted by a development order is withdrawn, there will be no entitlement to compensation where:

- (i) permission was granted for development of a prescribed description;
- (ii) the permission is withdrawn in the prescribed manner; and
- (iii) notice of the withdrawal is published not less than 12 months, and not more than the prescribed period, before the withdrawal takes effect.

The prescribed period is 24 months (see below).

If development is started before the notice is published, compensation will be available unless the order in question contains provision permitting the completion of development after permission is withdrawn.

Similarly, where planning permission granted by a local development order is withdrawn, amendments to subsections (3B) and (3D) provide that there will be no entitlement to compensation where notice of the withdrawal is published not less than 12 months, and not more than the prescribed period, before the withdrawal takes effect. If development is started before the notice is published, compensation will again be available unless the order in question contains provision permitting the completion of development after permission is withdrawn.

This Order also amends section 108(6) so as to confer power on the Welsh Ministers to prescribe by regulations in relation to Wales:

- (i) types of development to which section 108 applies;
- (ii) the manner in which planning permission is to be withdrawn;
- (iii) the manner in which notice of withdrawal is to be published; and
- (iv) the manner and maximum period in which notice of withdrawal, revocation, amendment or direction are to be given after permission is withdrawn.

The Welsh Ministers have exercised these powers and have prescribed all of the above matters in the Town and Country Planning (Compensation) (Wales) Regulations 2012 (S.I. 2012/***(W.***)). The prescribed period for subsections (3C) and (3D), referred to above, is 24 months.

Section 189 of the Planning Act 2008 amended section 108 in relation to England. This Order makes provision in relation to Wales which corresponds to section 189. The effect of this Order, therefore, is that entitlement to compensation where development orders or local development orders are withdrawn will be the same in Wales as it already is in England. This change is effected by omitting the specific provisions that related

to England from section 108 so that the section applies in the same way to both England and Wales.

The Regulatory Impact Assessment applicable to this Order is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government's web site at www.wales.org.uk.

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Made

Coming into force

31 January 2012

The Welsh Ministers, in exercise of the powers conferred by section 203(1) and (6) of the Planning Act 2008(1), make the following Order.

In accordance with section 203(9) of that Act a draft of this Order was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and interpretation

1.—(1) The title of this Order is the Planning Permission (Withdrawal of Development Order or Local Development Order) (Compensation) (Wales) Order 2012.

(2) It comes into force on 31 January 2012.

(3) In this Order “the Act” (“*y Ddeddf*”) means the Town and Country Planning Act 1990(2).

(1) 2008 c. 29.
(2) 1990 c. 8.

Provisions in relation to Wales

2. In section 108(1) of the Act (compensation for refusal or conditional grant of planning permission formerly granted by development order or local development order)—

- (a) in subsection (2A)(a) omit “in England”;
- (b) in subsection (2A)(b) omit “in England”;
- (c) in subsection (3C)(a) omit “in England”;
- (d) in subsection (3D) omit paragraph (a);
- (e) in subsection (6) after “Secretary of State” insert “in relation to England and the Welsh Ministers in relation to Wales,”.

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

Date

(1) Section 108 was amended by section 40 of the Planning and Compulsory Purchase Act 2004 (c. 5) and by section 189 of the Planning Act 2008 (c. 29). There are other amendments not relevant to this Order.