

2016 No. 56 (W. 26)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Developments of National
Significance (Wales) Regulations
2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations deal with various matters in relation to development which is of national significance to Wales⁽¹⁾.

These Regulations:

- make provision under sections 61Z1 and 61Z2 of the Town and Country Planning Act 1990 (“the 1990 Act”) for the provision of services by local planning authorities and the Welsh Ministers before an application for planning permission is made for development of national significance (Part 2);
- prescribe functions relating to such applications and secondary consents⁽²⁾ which are to be carried out by an appointed person on behalf of the Welsh Ministers (Part 3);
- make provision for the procedure to be followed in the examination of such applications (Parts 4 to 10);
- make provision for the manner in which secondary consents or applications for secondary consents are dealt with by the Welsh Ministers (Part 11);
- modify applicable enactments in relation to secondary consents (Part 11 and Schedules 2 to 10); and
- prescribe the applications made under section 73 of the 1990 Act (determination of

(1) For “development of national significance” see section 62D(3) and (4) of the 1990 Act. Section 62D was inserted by section 19 of the Planning (Wales) Act 2015 (anaw 4).

(2) For “secondary consents”, see section 62H of the 1990 Act, inserted by section 20 of the Planning (Wales) Act 2015.

applications to develop land without compliance with conditions previously attached) which are to be treated as nationally significant development applications (Part 12).

An impact assessment has been prepared in relation to these Regulations. Copies are available from the Planning Division of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government's web site at www.wales.gov.uk.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2016 No. 56 (W. 26)

**TOWN AND COUNTRY
PLANNING, WALES**

The Developments of National
Significance (Wales) Regulations
2016

Made 27 January 2016

*Laid before the National Assembly
for Wales* 1 February 2016

Coming into force 1 March 2016

CONTENTS

PART 1

Preliminary

1. Title, commencement and application
2. Interpretation
3. Electronic communications
4. Allowing further time

PART 2

Pre-Application

5. Qualifying applications
6. Request for pre-application services
7. Duty to provide pre-application services: local planning authorities
8. Duty to provide pre-application services: Welsh Ministers
9. Monitoring and statement of services

PART 3

Appointment and specified functions

10. Appointment
11. Specified functions

PART 4

Determination of procedure

12. Prescribed period
13. Determination of procedure

PART 5

Information and site visits

14. Representations to be taken into account
15. Further information
16. Site inspections

PART 6

Written representations

17. Application of Part 6
18. Report
19. Proceeding to a decision

PART 7

Hearings

20. Application of Part 7
21. Date and place of hearing
22. Public notice of hearing
23. Appointment of an assessor
24. Participation in a hearing
25. Absence, adjournment, etc.
26. Procedure at hearing
27. Hearing inappropriate
28. Procedure and report after a hearing
29. Determination

PART 8

Inquiries

30. Application of Part 8
31. Pre-inquiry meetings
32. Date and place of inquiry
33. Procedure at inquiry
34. Inquiry inappropriate
35. Determination

36. Notice of decision

PART 9
Quashed decisions

37. Procedure following quashing of a decision

PART 10
National security directions

38. Modifications where national security direction given
39. The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006

PART 11
Secondary consents

40. Application of this Part
41. Application of and modification of primary legislation
42. Control of works affecting scheduled monuments
43. Placing rails, beams etc. over highways
44. Listed building consent
45. Control of demolition in a conservation areas
46. Hazardous substances consent
47. Planning permission
48. Highways affected by development
49. Deregistration and exchange of common land
50. Works on common land

PART 12

51. Applications treated as nationally significant development applications

SCHEDULE 1 — Modifications where national security direction given

SCHEDULE 2 — Control of works affecting scheduled monuments

SCHEDULE 3 — Placing rails, beams etc. over highways:
Modifications to primary legislation

SCHEDULE 4 — Listed building consent

- PART 1 — Modifications to primary legislation
- PART 2 — Modifications to secondary legislation
- SCHEDULE 5 — Demolition in conservation areas
 - PART 1 — Modifications to primary legislation
 - PART 2 — Modifications to secondary legislation
- SCHEDULE 6 — Hazardous substances consent
 - PART 1 — Modifications to primary legislation
 - PART 2 — Modifications to secondary legislation
- SCHEDULE 7 — Planning permission
 - PART 1 — Modifications to primary legislation
 - PART 2 — Modifications to secondary legislation
- SCHEDULE 8 — Highways affected by development:
 - Modifications to secondary legislation
- SCHEDULE 9 — Deregistration and exchange of common land:
 - Modifications to secondary legislation
- SCHEDULE 10 — Restricted works on common land:
 - Modifications to secondary legislation

The Welsh Ministers, in exercise of the powers: conferred on the Secretary of State by section 60 of, and Schedule 1 to, the Ancient Monuments and Archaeological Areas Act 1979⁽¹⁾ and sections 321B and 333 of the Town and Country Planning Act 1990⁽²⁾ and now exercisable by them⁽³⁾; conferred on them by sections 61Z1, 61Z2⁽⁴⁾, 62G⁽⁵⁾, 319B⁽⁶⁾ and

-
- (1) 1979 c. 46. There are amendments to Schedule 1 not relevant to these Regulations.
 - (2) 1990 c. 8. Section 321B was inserted by section 81 of the Planning and Compulsory Purchase Act 2004 (c. 5). Section 333 was amended by section 55 of, and paragraph 6 of Schedule 7 to, the Planning (Wales) Act 2015 (anaw 4).
 - (3) The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), see the appropriate entries in Schedule 1. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
 - (4) Sections 61Z1 and 61Z2 were inserted by section 18 of the Planning (Wales) Act 2015.
 - (5) Section 62G was inserted by section 20 of that Act.

323A(1) of, and paragraph 1(2) of Schedule 4D to that Act(2) and by section 57 of the Planning (Wales) Act 2015(3); and conferred on the National Assembly for Wales as the appropriate national authority by sections 17, 24, 40 and 59(1) of the Commons Act 2006(4), and now exercisable by them(5), make the following Regulations:

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of these Regulations is the Developments of National Significance (Wales) Regulations 2016.

(2) These Regulations come into force on 1 March 2016.

(3) These Regulations apply where an application is made or proposed to be made to the Welsh Ministers under section 62D of the 1990 Act (Developments of national significance: applications to be made to the Welsh Ministers)(6).

Interpretation

2. In these Regulations—

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990;

“the 2016 Order” (“*Gorchymyn 2016*”) means the Developments of National Significance (Procedure) (Wales) Order 2016(7);

“appointed person” (“*person penodedig*”) means the person appointed in accordance with regulation 10.(1) to exercise the functions specified in regulation 11;

“assessor” (“*asesydd*”) means a person appointed to sit with an appointed person at a hearing or

-
- (6) Section 319B was inserted by the Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773 (W. 280)) and amended by section 27 of, and paragraph 20 of Schedule 4 to, the Planning (Wales) Act 2015.
- (1) Section 323A was inserted by section 50 of that Act.
- (2) Schedule 4D was inserted by section 26 of, and paragraph 1 of Schedule 3 to, that Act.
- (3) 2015 anaw 4.
- (4) 2006 c. 26. “Appropriate national authority” is defined in section 61(1) of that Act.
- (5) The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (6) Section 62D was inserted by section 19 of the Planning (Wales) Act 2015.
- (7) S.I. 2016/ 55 (W. 25).

inquiry or re-opened hearing or inquiry to assist the appointed person;

“document” (“*dogfen*”) includes a photograph, map or plan;

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(1);

“local planning authority” (“*awdurdod cynllunio lleol*”) means the local planning authority to which but for section 62D of the 1990 Act an application for planning permission would have been made;

“notice of acceptance” (“*hysbysiad derbyn*”) means notice under article 6 of the 2016 Order that the application is accepted;

“representation” (“*sylw*”) includes evidence, explanation, information and comments;

“representation period” (“*cyfnod sylwadau*”) means the period provided for in article 4 of the 2016 Order(2);

“working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday in Wales; and

“written representations” (“*sylwadau ysgrifenedig*”) includes supporting documents.

Electronic communications

3.—(1) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

- (a) the expression “address” (“*cyfeiriad*”) includes any number or address used for the purposes of such communications;
- (b) references to notices, representations or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(2) Paragraphs (3) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any statement, notice or other document to any other person (“the recipient”).

(3) The requirement is taken to be fulfilled where the notice or other document transmitted by means of the electronic communication is—

(1) 2000 c. 7. Section 15(1) was amended by section 406(1) of and paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(2) Article 4 provides that the representation period is five weeks but the Welsh Ministers may by direction extend this in any particular case.

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(4) In paragraph (3), “legible in all material respects” (“*darllenadwy ym mhob modd perthnasol*”) means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(5) Where the electronic communication is received by the recipient outside the recipient's business hours, it will be taken to have been received on the next working day.

(6) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (3), and “written” (“*ysgrifenedig*”) and cognate expressions are to be construed accordingly.

(7) A requirement in these Regulations to send more than one copy of a statement or other document is complied with by sending one copy only of the statement or other document in question in electronic form.

Allowing further time

4. The Welsh Ministers may in any particular case give directions which extend the time limits prescribed by these Regulations.

PART 2

Pre-Application

Qualifying applications

5.—(1) The following are qualifying applications for the purposes of section 61Z1(4) of the 1990 Act (Wales: pre-application services)—

- (a) an application for planning permission for the development of land in Wales where the development to which the application relates is of national significance⁽¹⁾; and
- (b) an application or requirement for a secondary consent⁽²⁾ in respect of which the applicant

(1) Development is of national significance if it meets the criteria specified in the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (S.I. 2016/53 (W. 23)).

(2) For the definition of “secondary consent” see section 62H of the 1990 Act, inserted by section 20 of the Planning (Wales) Act 2015. Secondary consents are prescribed for the purposes of section 62H by the Developments of National

considers a decision should be made by the Welsh Ministers.

(2) In this Part “applicant” (“*ceisydd*”) means the person proposing to make a qualifying application.

Request for pre-application services

6.—(1) Any request for pre-application services in respect of a qualifying application must—

- (a) be made in writing to the local planning authority or to the Welsh Ministers, on a form published by the Welsh Ministers (or a form substantially to the like effect);
- (b) include the particulars specified or referred to in the form published by the Welsh Ministers; and
- (c) be accompanied by—
 - (i) any plans or drawings specified or referred to in the form published by the Welsh Ministers; and
 - (ii) any fixed fee payable for pre-application services⁽¹⁾.

(2) Any plans or drawings required to be provided by virtue of paragraph (1)(c)(i) must be drawn to an identified scale and, in the case of plans, must show the direction of north.

(3) In this Part a “valid request for pre-application services” (“*deisyfiad dilys am wasanaethau cyn-ymgeisio*”) means a request for pre-application services in respect of a qualifying application which complies with the requirements of this regulation.

(4) When the local planning authority or the Welsh Ministers receive a valid request for pre-application services, the authority or the Welsh Ministers must, as soon as is reasonably practicable, send the applicant an acknowledgement of the request stating the date by which pre-application services must be provided under regulation 7.(3) or, as the case may be, regulation 8.(3).

Duty to provide pre-application services: local planning authorities

7.—(1) Where a local planning authority receive a valid request for pre-application services, the authority must provide the pre-application services specified in paragraph (2) within the period specified or referred to in paragraph (3).

Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016.

(1) For fixed and variable fees payable in respect of pre-application services, see the Developments of National Significance (Fees) (Wales) Regulations 2016 (S.I.2016/57) (W. 275).

(2) The pre-application services specified in this paragraph are the provision to the applicant of information in relation to the following—

- (a) the planning history of the land on which the proposed development is to be carried out, so far as relevant to the proposed application;
- (b) the provisions of the development plan, so far as material to the proposed application;
- (c) any supplementary planning guidance, so far as material to the proposed application;
- (d) any other considerations which are or could be material in the opinion of the authority;
- (e) whether planning obligations (within the meaning of section 106 of the 1990 Act (planning obligations)(1)) are likely to be required and, if so, an indication of the likely scope of such planning obligations, including an indication of any sum which may be required to be paid to the authority; and
- (f) any relevant local community groups known to the authority which could be consulted by the applicant as part of pre-application consultation.

(3) The period specified in this paragraph is—

- (a) 28 days beginning with the day on which a valid request for pre-application services is received, or such other period as may be agreed in writing between the applicant and the authority; or
- (b) where the fee required in respect of a request for pre-application services has been paid by a cheque which is subsequently dishonoured, the period specified in sub-paragraph (a) calculated disregarding the period between the date when the authority sent the applicant written notice of the dishonouring of the cheque and the date when the authority are satisfied they have received the full amount of the fee.

(4) Any information given to the applicant must be given in writing.

Duty to provide pre-application services: Welsh Ministers

8.—(1) Where the Welsh Ministers receive a valid request for pre-application services, the Welsh Ministers must provide such of the pre-application services specified in paragraph (2) as are requested by

(1) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991 (c. 31) and amended by section 174(2) of the Planning Act 2008 (c. 29) and section 7 of, and paragraph 3 of Schedule 2 to, the Growth and Infrastructure Act 2013 (c. 27).

the applicant within the time period specified in paragraph (3).

(2) The pre-application services specified in this paragraph are—

- (a) information and assistance in relation to any of the following—
 - (i) the form and content of the application;
 - (ii) the form and content of any technical reports which may be required;
 - (iii) the procedures for making and progressing an application; and
- (b) such other information or assistance as requested by the applicant which the Welsh Ministers are able to provide and consider would assist the applicant in making and progressing an application; and
- (c) an initial assessment of the proposed application.

(3) The period specified in this paragraph is 28 days beginning with the day on which a valid request for pre-application services is received or such longer period as the Welsh Ministers may determine.

(4) Any information given to the applicant must be given or confirmed in writing.

Monitoring and statement of services

9.—(1) Local planning authorities and the Welsh Ministers must maintain a record of—

- (a) each valid request for pre-application services received by them; and
- (b) pre-application services provided in respect of qualifying applications.

(2) The records referred to in paragraph (1) must identify the land to which the qualifying application relates.

(3) Each local planning authority and the Welsh Ministers must publish on their respective websites—

- (a) a statement which gives particulars of the pre-application services provided by them in respect of qualifying applications;
- (b) in the case of a local planning authority—
 - (i) the form referred to in regulation 6.(1)(a); and
 - (ii) details of fees payable in respect of requests for pre-application services; and
- (c) in the case of the Welsh Ministers, details of how the fee for pre-application services is to be calculated.

PART 3

Appointment and specified functions

Appointment

10.—(1) Before the end of the representation period the Welsh Ministers must appoint a person to exercise the functions prescribed in regulation 11.

(2) Subject to paragraph (3), the Welsh Ministers must notify the name of the appointed person to the applicant and the local planning authority.

(3) Where the Welsh Ministers appoint another person instead of the person previously appointed—

- (a) the name of the other person must be notified to the applicant and the local planning authority;
- (b) or, if it is not practicable to do so before any hearing or inquiry is held, the appointed person holding the hearing or inquiry must, at its commencement, announce their name and the fact of their appointment.

Specified functions

11. The following functions are prescribed for the purposes of paragraph 1 of Schedule 4D to the 1990 Act—

- (a) functions under the 2016 Order, except those under—
 - (i) article 28; and
 - (ii) article 29;
- (b) functions under the Developments of National Significance (Fees) (Wales) Regulations 2016⁽¹⁾, except those under regulation 12 of those Regulations;
- (c) giving notice that notification of an application has been accepted under section 62E(4) of the 1990 Act⁽²⁾;
- (d) giving notice requiring a local impact report under section 62I(1)(b) and (2) of the 1990 Act⁽³⁾;
- (e) giving notice suspending the determination period or terminating, reducing or extending a period of suspension under section 62L(5) of the 1990 Act⁽⁴⁾;
- (f) notifying community councils under section 62Q(2) of the 1990 Act⁽⁵⁾;

(1) S.I. 2016/ 57 (W. 27).

(2) Section 62E was inserted by section 19 of the Planning (Wales) Act 2015.

(3) Section 62I was inserted by section 21 of that Act.

(4) Section 62L was inserted by section 22 of that Act.

(5) Section 62Q was inserted by section 24 of that Act.

- (g) determining as to the procedure by which proceedings are to be considered in accordance with section 319B(1) of the 1990 Act;
- (h) notifying the applicant of the determination of procedure under section 319B(5) and (5A)(1) of the 1990 Act;
- (i) holding an inquiry under section 320 of the 1990 Act;
- (j) functions under these regulations—
 - (i) regulation 4 (allowing further time);
 - (ii) regulation 6.(1) (receiving requests for pre-application services);
 - (iii) regulation 8.(1) (pre-application services: Welsh Ministers);
 - (iv) regulation 9.(1) (monitoring and statement of services);
 - (v) regulation 10.(2) (notifying the name of the appointed person);
 - (vi) regulation 13.(1) (determination of procedure);
 - (vii) regulation 14.(1) (representations to be taken into account);
 - (viii) regulation 15.(1) (further information);
 - (ix) regulation 16.(1) (site inspections);
 - (x) regulation 21.(1) (date and place of hearing);
 - (xi) regulation 22.(1) (public notice of hearing);
 - (xii) regulation 23 (appointment of an assessor);
 - (xiii) regulation 24.(1) (participation in a hearing);
 - (xiv) regulation 25.(1) (absence, adjournment etc.);
 - (xv) regulation 27 (hearing inappropriate);
 - (xvi) regulation 32.(1) (date and place of inquiry);
 - (xvii) regulation 34 (inquiry inappropriate);
 - (xviii) regulation 37.(1) (procedure following quashing of a decision).

(1) Section 319B(5A) was inserted by paragraph 20 of Schedule 4 to that Act.

PART 4

Determination of procedure

Prescribed period

12. For the purposes of section 319B(3) of the 1990 Act the prescribed period in relation to an application is ten working days beginning at the end of the representation period⁽¹⁾.

Determination of procedure

13.—(1) The Welsh Ministers must in making their determination in accordance with section 319B of the 1990 Act, identify which, if any, matters are to be considered at a hearing or an inquiry.

(2) Notice under section 319B(5) must—

- (a) identify the matters if any to be determined at a hearing or an inquiry;
- (b) identify matters on which the Welsh Ministers require further representations;
- (c) state whether such further representations are to be given in writing or at a hearing or an inquiry; and
- (d) where the Welsh Ministers have determined that a hearing or an inquiry is to be held, identify those invited to take part; or
- (e) contain a statement that the Welsh Ministers intend to determine the application on the basis of written representations.

(3) The provisions of regulation 15.(1) apply if any further representations are requested by the Welsh Ministers.

PART 5

Information and site visits

Representations to be taken into account

14.—(1) The Welsh Ministers may disregard any representation made after the expiry of the representation period other than as requested in accordance with regulation 15.(1).

(2) The representations referred to in this regulation are representations prescribed in article 28 of the 2016 Order for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70).

(1) Section 319B(3) requires the Welsh Ministers to make a determination as to the relevant procedure before the end of the prescribed period. “Prescribed” means prescribed in regulations, see section 336(1) of the 1990 Act.

Further information

15.—(1) The Welsh Ministers may request further representations from—

- (a) the applicant;
- (b) the local planning authority; and
- (c) any interested person⁽¹⁾ who made representations in relation to the application during the representation period.

(2) In particular, the Welsh Ministers may in writing request—

- (a) from the person making any representation, a specified number of additional copies of that representation;
- (b) responses to questions posed by the Welsh Ministers about the matters contained in any representation.

(3) Each representation on any particular matter submitted following a request must not exceed 3,000 words and must be submitted—

- (a) in the manner specified by the Welsh Ministers;
- (b) no later than four weeks from the date of the request under paragraph (1).

(4) The Welsh Ministers may disregard any representation which—

- (a) is received out of time or in a manner other than that specified;
- (b) exceeds 3,000 words;
- (c) they regard as vexatious or frivolous; or
- (d) relates to the merits of policy set out in a development plan or any relevant policy statement made or published by the Welsh Ministers.

(5) In the event that a written representation exceeds 3,000 words, the Welsh Ministers may return the representation to the person submitting it with a request that the representation is resubmitted such that it does not exceed 3,000 words and within such time as the Welsh Ministers may state when returning the representation.

(6) The Welsh Ministers may in their discretion increase the number of words in paragraph (3) in any particular case and accordingly references to a maximum number of words are to such increased number.

(7) The Welsh Ministers must make all written representations, and written responses to questions

(1) “Interested person” is defined in section 319B(8A) of the 1990 Act. Subsection (8A) was inserted by section 27 of, and paragraph 20(4) of Schedule 4 to, the Planning (Wales) Act 2015.

received by them available in such manner as the Welsh Ministers think appropriate as soon as practicable.

Site inspections

16.—(1) The Welsh Ministers may inspect the land to which the application relates.

(2) Where the Welsh Ministers intend to make an inspection under paragraph (1), they may notify the applicant and any other person as to the date and time of the inspection.

(3) The Welsh Ministers are not required to defer an inspection where any person (including the applicant) is not present at the time appointed.

PART 6

Written representations

Application of Part 6

17.—(1) This Part applies where—

- (a) notice of acceptance has been given; and
- (b) the Welsh Ministers have determined that the application is to be considered on the basis of written representations only.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part of the application is to be considered on the basis of a hearing or an inquiry; and
- (b) they subsequently vary that determination such that the application or parts of the application is or are to be considered on the basis of written representations,

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the application.

Report

18.—(1) The appointed person must make a report in writing to the Welsh Ministers which must include the appointed person's conclusions and recommendations (or reasons for not making any recommendations).

(2) Paragraph (3) applies if the Welsh Ministers are minded to disagree with a recommendation in the appointed person's report because they—

- (a) differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person, or

- (b) have taken into consideration any new evidence or new matter of fact (not being a matter of policy).

(3) The Welsh Ministers must not come to a decision which is at variance with the appointed person's recommendation without first—

- (a) notifying the applicant, the local planning authority and those persons who submitted written representations of their disagreement and the reasons for their disagreement; and
- (b) affording them an opportunity of making written representations to the Welsh Ministers.

(4) Those making written representations must ensure that such representations are received by the Welsh Ministers within such time as the Welsh Ministers state in notification under paragraph (3).

(5) The Welsh Ministers may cause a hearing or inquiry to be held if they have taken into consideration any new evidence or new matter of fact, not being a matter of policy.

(6) Where a hearing or inquiry is to be held the Welsh Ministers must send to the applicant, the local planning authority and persons submitting written representations a written statement of the matters with respect to which further representations are invited for the purposes of the Welsh Ministers' further consideration of the application.

(7) Regulation 15.(2) to (6) apply to any evidence or representation in writing submitted to the Welsh Ministers in accordance with paragraph (4) of this regulation.

Proceeding to a decision

19.—(1) The Welsh Ministers may proceed to determine an application—

- (a) if no written representations have been made within the relevant time limits, after giving the applicant and the local planning authority written notice of their intention to do so;
- (b) if further representations have been requested, after any period allowed for the provision of further representations has expired.

(2) In this regulation, "relevant time limits" (*"terfynau amser perthnasol"*) means the time limits prescribed by regulations 15.(1) and 18.(1) or by any direction given under regulation 4.

PART 7

Hearings

Application of Part 7

20.—(1) This Part applies where—

- (a) notice of acceptance has been given; and
- (b) the Welsh Ministers determine that the application or any matter is to be considered in whole or in part by way of a hearing.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part the application is to be considered on the basis of written representations or inquiry;
- (b) they subsequently vary that determination such that the application or parts of the application is or are to be considered on the basis of a hearing; and
- (c) the Welsh Ministers have caused a hearing to be held pursuant to regulation 18.(5),

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the application.

Date and place of hearing

21.—(1) The Welsh Ministers must fix the date for the hearing.

(2) Subject to paragraph (3), the date for the hearing must be—

- (a) no later than ten weeks after the end of the representation period; and
- (b) at least one week after the end of the period allowed for further representations requested in accordance with regulation 15.(1).

(3) Where the Welsh Ministers consider it impracticable for the hearing to be held on a date fixed in accordance with paragraph (2), the date for the hearing must be the earliest date which the Welsh Ministers consider is practicable.

(4) The place at which a hearing is to be held must be determined by the Welsh Ministers.

(5) Where the Welsh Ministers are satisfied, having regard to the nature of the application, that it is reasonable to do so, the Welsh Ministers may direct that different parts of a hearing are held at different locations.

(6) Unless the Welsh Ministers agree a shorter period of notice with the applicant and the local planning authority, the Welsh Ministers must give at

least four weeks' written notice of the date, time and place fixed by them for the holding of the hearing to the applicant, the local planning authority and any person invited to take part in the hearing.

(7) The Welsh Ministers may vary the date fixed for the hearing, whether or not the date as varied is within the period of ten weeks mentioned in paragraph (2)(a); and paragraph (6) applies to a variation of a date as it applies to the date originally fixed.

(8) The Welsh Ministers may vary the time or place for the holding of a hearing and must give such notice of any variation as appears to them to be reasonable.

Public notice of hearing

22.—(1) Unless the Welsh Ministers otherwise direct, the local planning authority must no later than four weeks before the date fixed for the hearing—

- (a) post and maintain a notice of the hearing in the form provided by the Welsh Ministers in a conspicuous place, or (in the case of an application for permission for land-based linear works more than five kilometres in length) at intervals of not more than five kilometres, on, or as close as is reasonably practicable to, the land to which the application relates;
- (b) post and maintain the notice of the hearing in one or more places where public notices are usually posted in the area to which the proposals contained in the application relate.

(2) The Welsh Ministers must publish a notice of the hearing by local advertisement in the area in which the proposals contained in the application are to have effect, such notice to be published no later than four weeks before the date fixed for the hearing.

(3) In this regulation “by local advertisement” (“*drwy hysbysebu yn lleol*”) means—

- (a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated; and
- (b) where the Welsh Ministers maintain a website for the purpose of advertisement of applications, by publication of the notice on the website.

(4) Where a direction has been given under regulation 21.(5), paragraph (1) has effect with the substitution—

- (a) for references to the hearing, with references to the part of the hearing which is to be held at a place specified in the direction; and
- (b) for references to the application, with references to that part of the application which is to be the subject of that part of the hearing.

(5) Any notice posted pursuant to paragraph (1) must be readily visible to and legible by members of the public.

(6) Where, without any fault or intention of the local planning authority, the notice is removed, obscured or defaced before the commencement of the hearing, the local planning authority is not for that reason to be treated as having not complied with the requirements of paragraph (5) if the local planning authority has taken reasonable steps for the protection of the notice and, if need be, its replacement.

(7) A notice of a hearing posted or published pursuant to paragraphs (1) and (2) must contain—

- (a) a statement of the date, time and place of the hearing;
- (b) a statement that the application is made under section 62D of the 1990 Act;
- (c) a description of the proposals contained in the application sufficient to identify the location of the proposed development with or without reference to a specified map;
- (d) a description of any secondary consents in relation to which the decision is to be made by the Welsh Ministers; and
- (e) details of a place where a copy of the application can be inspected.

(8) When the authority have satisfied the requirements of paragraph (1), they must inform the Welsh Ministers that they have done so within five working days, beginning with the day on which the notice is posted.

Appointment of an assessor

23. Where the Welsh Ministers appoint an assessor under paragraph 14 of Schedule 4D to the 1990 Act, they must notify the applicant, the local planning authority and any person invited to take part in the hearing of the name of the assessor and of the matters on which the assessor is to advise the appointed person.

Participation in a hearing

24.—(1) The persons who may take part in the hearing are—

- (a) the applicant;
- (b) the local planning authority;
- (c) any person invited to take part by the Welsh Ministers.

(2) Nothing in paragraph (1) precludes the Welsh Ministers from permitting any other person to take part in a hearing.

(3) Any person who takes part may do so on their own behalf or be represented by any other person.

Absence, adjournment, etc.

25.—(1) The Welsh Ministers may proceed with a hearing in the absence of the applicant, the local planning authority and any person invited to take part.

(2) The Welsh Ministers may from time to time adjourn a hearing and, if the date, time and place of the adjourned hearing are announced at the hearing before the adjournment, no further notice is required.

Procedure at hearing

26.—(1) The appointed person presides at any hearing and must determine the procedure at the hearing, subject to these Regulations.

(2) A hearing is to take the form of a discussion led by the appointed person and cross-examination is not to be permitted.

(3) Where the appointed person considers that cross-examination is required the appointed person must consider (after consulting the applicant) whether the hearing should be closed and an inquiry held instead.

(4) At the start of the hearing the appointed person must identify what are, in the appointed person's opinion, the matters on which the appointed person requires further representations at the hearing.

(5) The applicant, the local planning authority and any person invited to take part in a hearing are entitled to call evidence.

(6) The appointed person may permit any other person to call evidence.

(7) The appointed person may refuse to permit the giving or production of evidence or presentation of any other matter which the appointed person considers to be irrelevant or repetitious.

(8) Where the appointed person refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to the appointed person representations in writing before the close of the hearing.

(9) The appointed person may—

- (a) require any person taking part in, or present at, a hearing who, in the appointed person's opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the appointed person may specify,

but any such person may submit to the appointed person representations in writing before the close of the hearing.

(10) The appointed person may take into account any written representation or other document received before a hearing closes provided that the appointed person discloses it at the hearing.

(11) The appointed person may invite any person taking part in the hearing to make closing submissions and any person doing so must before the close of the hearing provide the appointed person with a copy of their closing submissions in writing.

(12) Subject to paragraph (7) the appointed person may permit any person to make oral representations at the hearing.

(13) Any person entitled or permitted to make oral representations at a hearing may do so on their own behalf or be represented by another person.

Hearing inappropriate

27. If at any time during a hearing it appears to the Welsh Ministers that the hearing procedure is inappropriate, the Welsh Ministers may decide to close the hearing and arrange for an inquiry to be held instead or determine that the matter is considered on the basis of written representations.

Procedure and report after a hearing

28.—(1) After the close of the hearing—

- (a) the assessor (if one is appointed) may make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to assist;
- (b) the appointed person must make a report in writing to the Welsh Ministers which must include the appointed person's conclusions and recommendations (or reasons for not making any recommendations).

(2) Where an assessor makes a report in accordance with paragraph (1)(a), the appointed person must—

- (a) append it to the appointed person's own report; and
- (b) state in that report how far the appointed person agrees or disagrees with the assessor's report and, where the appointed person disagrees with the assessor, the reasons for that disagreement.

(3) When making their determination, the Welsh Ministers may disregard any written representations or other document received after the hearing has closed.

(4) Paragraph (5) applies if, after the close of the hearing, the Welsh Ministers are minded to disagree

with a recommendation made by the appointed person because they—

- (a) differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person, or
- (b) have taken into consideration any new evidence or new matter of fact (not being a matter of policy).

(5) The Welsh Ministers must not come to a decision which is at variance with the appointed person's recommendation without first—

- (a) notifying the applicant, the local planning authority and those persons who submitted written representations and who took part in the hearing, of their disagreement and the reasons for their disagreement; and
- (b) affording them an opportunity of making written representations to the Welsh Ministers.

(6) Those making written representations must ensure that such representations are received by the Welsh Ministers within the period stated in the Welsh Ministers' notification under paragraph (5)(a).

(7) The Welsh Ministers may, as they think fit, cause a hearing to be re-opened.

(8) Where a hearing is re-opened (whether by the same or a different appointed person)—

- (a) the appointed person must send to the applicant, the local planning authority and persons who submitted written representations or who took part in the hearing, a written statement of the matters with respect to which further representations are invited for the purposes of the appointed person's further consideration of the application; and
- (b) regulation 26.(1) applies as if the references to a hearing were references to a re-opened hearing.

(9) Regulation 15.(2) to (6) apply to any evidence or representation in writing submitted to the appointed person in accordance with paragraph (6) of this regulation.

Determination

29. The Welsh Ministers may determine an application—

- (a) after the close of the hearing or any reopened hearing; or
- (b) if later, when the period allowed for the provision of written representations in accordance with regulation 28.(6) has expired

whether or not representations were received during that period.

PART 8

Inquiries

Application of Part 8

30.—(1) This Part applies where—

- (a) notice of acceptance has been given; and
- (b) the Welsh Ministers determine that the application is to be considered in whole or in part by way of a local inquiry.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part the application is to be considered on the basis of written representations or a hearing; and
- (b) they subsequently vary that determination such that the application or parts of the application is or are to be considered on the basis of an inquiry,

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the application.

(3) Regulations 22.(1) to 25.(1) and 28.(1) apply to local inquiries as they apply to hearings and accordingly those regulations are to be read as if references to hearings include references to inquiries so far as the context permits and subject to any provision in this Part.

Pre-inquiry meetings

31.—(1) The appointed person may hold a pre-inquiry meeting prior to an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously.

(2) An appointed person must give not less than two weeks' written notice of a pre-inquiry meeting which the appointed person proposes to hold under paragraph (1) to—

- (a) the applicant;
- (b) the local planning authority;
- (c) any person invited by the appointed person to take part at the pre-inquiry meeting.

(3) Where a pre-inquiry meeting has been held pursuant to paragraph (1), the appointed person may hold a further pre-inquiry meeting and must arrange for such notice to be given of a further pre-inquiry meeting as appears necessary.

- (4) The appointed person—
 - (a) is to preside at any pre-inquiry meeting;
 - (b) is to determine the matters to be discussed and the procedure to be followed;
 - (c) may require any person present at the pre-inquiry meeting who, in the appointed person's opinion, is behaving in a disruptive manner to leave; and
 - (d) may refuse to permit that person to return or to attend any further pre-inquiry meeting, or
 - (e) may permit that person to return or attend only on such conditions as the appointed person may specify.

Date and place of inquiry

32.—(1) The Welsh Ministers must fix the date for the inquiry.

(2) Subject to paragraph (3), the date fixed for the holding of an inquiry must be—

- (a) no later than—
 - (i) 13 weeks after the end of the representation period; or
 - (ii) (if later) in a case where a pre-inquiry meeting is held pursuant to regulation 31.(1), four weeks after the conclusion of that meeting (or such shorter period after conclusion of that meeting as the applicant, the local planning authority and the appointed person may agree); and
- (b) at least one week after the period allowed for further representations requested in accordance with regulation 15.(1) and (3).

(3) Where the Welsh Ministers consider it impracticable for the inquiry to be held on a date fixed in accordance with paragraph (2), the date for the inquiry must be the earliest date which the Welsh Ministers consider is practicable.

(4) The place at which an inquiry is to be held must be determined by the Welsh Ministers.

(5) Where the Welsh Ministers are satisfied, having regard to the nature of the application, that it is reasonable to do so, the Welsh Ministers may direct that different parts of an inquiry are held at different locations.

(6) Unless the Welsh Ministers agree a shorter period of notice with the applicant and the local planning authority, the Welsh Ministers must give at least four weeks' written notice of the date, time and place fixed by them for the holding of the inquiry to the applicant, the local planning authority and any person invited to take part in the inquiry.

(7) The Welsh Ministers may vary the date fixed for the inquiry, whether or not the date as varied is within the period of thirteen weeks mentioned in paragraph (2)(a); and paragraph (6) applies to a variation of a date as it applies to the date originally fixed.

(8) The Welsh Ministers may vary the time or place for the holding of inquiry and must give such notice of any variation as appears to them to be reasonable.

Procedure at inquiry

33.—(1) The appointed person presides at any inquiry and must determine the procedure at the inquiry, subject to these Regulations.

(2) Unless in any particular case the appointed person otherwise determines, the applicant is to begin and the local planning authority and other persons taking part are to be heard in such order as the appointed person may determine.

(3) At the start of the inquiry the appointed person must identify what are, in the appointed person's opinion, the matters on which the appointed person requires representations at the inquiry.

(4) The applicant, the local planning authority and any person invited to take part in an inquiry may call evidence.

(5) The appointed person may permit any other person to call evidence.

(6) The applicant and the local planning authority are entitled to cross-examine persons giving evidence, subject to paragraph (7).

(7) The appointed person may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter,

which the appointed person considers to be irrelevant or repetitious.

(8) Where the appointed person refuses to permit the giving of oral evidence, any person wishing to give the evidence may submit the evidence in writing to the appointed person before the close of the inquiry.

(9) The appointed person may—

- (a) require any person taking part in, or present at, an inquiry who, in the appointed person's opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the appointed person may specify,

but any such person may submit to the appointed person representations in writing before the close of the inquiry.

(10) Regulation 15.(2) to (6) apply to any evidence or representation in writing submitted to the appointed person in accordance with paragraph (8) or (9) of this regulation.

(11) The appointed person may direct that facilities are afforded to any person taking part in an inquiry to take or obtain copies of documents open to public inspection.

(12) The appointed person may take into account any written representation or any other document received by the appointed person from any person before an inquiry opens or during the inquiry provided that the appointed person discloses it at the inquiry.

(13) The appointed person may invite any person taking part in the inquiry to make closing submissions.

(14) Any person who makes closing submissions must by the close of the inquiry provide the appointed person with a copy of those closing submissions in writing.

Inquiry inappropriate

34. If at any time during an inquiry it appears to the Welsh Ministers that the inquiry procedure is inappropriate, the Welsh Ministers may decide to close the inquiry and arrange for a hearing to be held instead or may determine that the matter proceeds by way of written representations, having regard to any steps already taken in relation to the application.

Determination

35. The Welsh Ministers may proceed to determine an application—

- (a) after close of the inquiry or any reopened inquiry; or
- (b) if later, when the period allowed for the provision of written representations in accordance with regulation 28.(6) (as applied by regulation 30.(3)) has expired whether or not representations were received during that period.

Notice of decision

36.—(1) The Welsh Ministers must notify the decision to any person who has asked to be notified of the decision and whom the Welsh Ministers consider it reasonable to notify.

(2) Notification of a decision and reasons under this regulation are taken to have been given to a person where—

- (a) the Welsh Ministers have published the decision and reasons on a website; and
- (b) the person is notified of—
 - (i) the publication of the decision and reasons on a website;
 - (ii) the address of the website.

(3) Where a copy of the appointed person's report is not sent with the notification of the decision, the notification must be accompanied by a statement of the appointed person's conclusions and of any recommendations made by the appointed person.

(4) In this regulation, “report” (“*adroddiad*”) does not include any documents appended to the appointed person's report; but any person who has received a copy of the report may apply to the Welsh Ministers in writing for an opportunity to inspect any such documents and the Welsh Ministers must afford that person that opportunity.

(5) For the purposes of paragraph (4), an opportunity is to be taken to have been afforded to a person where that person is notified of—

- (a) publication of the relevant documents on a website;
- (b) the address of the website; and
- (c) the place on the website where the documents may be accessed and how they may be accessed.

PART 9

Quashed decisions

Procedure following quashing of a decision

37.—(1) Where the grant or refusal of an application by the Welsh Ministers is quashed in proceedings before any court and the Welsh Ministers are required to reconsider their decision, they—

- (a) must send to the persons who submitted written representations or who took part in the hearing or inquiry, a written statement of the matters with respect to which further representations are invited for the purposes of their further consideration of the application;
- (b) must afford to those persons the opportunity of making written representations to them in respect of those matters; and
- (c) may, as they think fit—
 - (i) cause the hearing or inquiry to be reopened;

- (ii) in the case of a hearing, cause an inquiry to be held instead (whether by the same or a different appointed person);
- (iii) in the case of an inquiry, cause a hearing to be held instead (whether by the same or a different appointed person);
- (iv) cause a hearing or inquiry to be held (where none was held previously); or
- (v) determine the matter by way of written representations.

(2) If the Welsh Ministers re-open the hearing or inquiry regulations 21.(1) and 32.(1) apply as if the references to a hearing or inquiry are to a re-opened hearing or inquiry.

(3) Those persons making representations must ensure that such representations are received by the Welsh Ministers within the period stated in the Welsh Ministers' statement under paragraph (1)(a).

PART 10

National security directions

Modifications where national security direction given

38. The modifications to these Regulations set out in Schedule 1 have effect in relation to applications made under section 62D of the 1990 Act where a direction is given by the Welsh Ministers or the Secretary of State under section 321(3) of the 1990 Act (planning inquiries to be held in public subject to certain exceptions).

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

39.—(1) The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006(1) are amended as follows.

(2) In regulation 6(4) after “major development” insert “or development of national significance”.

(3) In regulation 6(8) at the appropriate place insert—

□ “development of national significance” (“*datblygiad o arwyddocâd cenedlaethol*”) means development which is of national significance for the purposes of section 62D of the 1990 Act. □

(1) S.I. 2006/1387 (W. 137).

PART 11

Secondary consents

Application of this Part

40.—(1) This Part applies where a decision in relation to a secondary consent is to be made by the Welsh Ministers—

- (a) by virtue of section 62F(2) of the 1990 Act; or
- (b) under any other enactment where the Welsh Ministers consider that the secondary consent is connected to an application under section 62D of the 1990 Act.

(2) For the purposes of this Part references to the 2016 Order are references to the 2016 Order as at the date these Regulations come into force.

Application of and modification of primary legislation

41. Where the 2016 Order is applied by a Schedule to these Regulations either with or without modifications, in addition to any modifications in that Schedule, the Order is read as if—

- (a) in article 5 after paragraph (1) there is inserted—
 - (1A) An applicant must notify the Welsh Ministers and the relevant person⁽¹⁾ of all the secondary consents⁽²⁾ the applicant intends to apply for and whether the applicant intends to apply to the Welsh Ministers or the relevant person.□;
- (b) after article 12(7) there is inserted—
 - (7A) Where the Welsh Ministers receive an application for a secondary consent they must as soon as practicable notify the relevant person of its receipt.”;
- (c) after article 12 there is inserted—
 - 12A On the day on which the applicant makes an application the applicant must submit to the Welsh Ministers applications for all secondary consents that the applicant wishes the Welsh Ministers to determine.□;
- (d) in article 18(1) after “An application” there is inserted “and an application for a secondary consent”;
- (e) in article 18 after paragraph (3) there is inserted—

(1) See section 62G(2) of the 1990 Act for the meaning of “relevant person”.

(2) See section 62H of the 1990 Act for the meaning of “secondary consent”.

- (3A) The Welsh Ministers must notify the community council for the area in which the land to which the application for a secondary consent relates is situated.□;
- (f) in article 22 after paragraph (5) there is inserted—
 - (6) For the purposes of this article the relevant person is a specialist consultee.□;
- (g) article 24 is omitted;
- (h) in article 27—
 - (i) in paragraph (1) after “Subject to the following provisions of this article, an application” there is inserted “and an application for a secondary consent”;
 - (ii) in paragraph (2) after “a particular application” there is inserted “and an application for a secondary consent”.

Control of works affecting scheduled monuments

42. Schedule 2 applies where the secondary consent is a consent under section 2(3) of the Ancient Monuments and Archaeological Areas Act 1979 (control of works affecting scheduled monuments)(1).

Placing rails, beams etc. over highways

43. Schedule 3 applies where the secondary consent is a consent under section 178(1) of the Highways Act 1980 (restriction on placing rails, beams etc. over highways)(2).

Listed building consent

44. Schedule 4 applies where the secondary consent is a consent under section 8(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (authorisation of works: listed building consent)(3).

Control of demolition in a conservation areas

45. Schedule 5 applies where the secondary consent is a consent under section 74(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (control of demolition in conservation areas)(4).

Hazardous substances consent

46. Schedule 6 applies where the secondary consent is a consent under—

-
- (1) 1979 c. 46.
 - (2) 1980 c. 66.
 - (3) 1990 c. 9.
 - (4) Section 74(1) was amended by section 63 of, and paragraphs 7, 12(1) and (2) of Schedule 17 to, the Enterprise and Regulatory Reform Act 2013 (c. 24).

- (a) section 4(1) of the Planning (Hazardous Substances) Act 1990⁽¹⁾ (requirement of hazardous substances consent);
- (b) section 13(1) of that Act (application for hazardous substances consent without condition attached to previous consent); and
- (c) section 17(1) of that Act (revocation of hazardous substances consent on change of control of land).

Planning permission

47. Schedule 7 applies where the secondary consent is planning permission under section 57(1) of the 1990 Act (planning permission required for development).

Highways affected by development

48. Schedule 8 applies where the secondary consent is—

- (a) an order under section 247(1) of the 1990 Act (highways affected by development: orders by Secretary of State) and the Welsh Ministers are satisfied that an order should be made under that section;
- (b) an order under section 248(2) of the 1990 Act (highways crossing or entering route of proposed new highway, etc.) and it appears to the Welsh Ministers that an order under that section is expedient in the interests of users of the main highway (as defined in section 248(1)) or to facilitate the movement of traffic on the main highway;
- (c) an order extinguishing a public right of way under section 251(1) of the 1990 Act (extinguishment of public rights of way over land held for planning purposes).

(1) 1990 c. 10.

Deregistration and exchange of common land

49. Schedule 9 applies where the secondary consent is a consent under section 16(1) of the Commons Act 2006 (deregistration and exchange: applications)(**1**).

Works on common land

50. Schedule 10 applies where the secondary consent is a consent under section 38(1) of the Commons Act 2006 (prohibition on works without consent).

PART 12

Applications treated as nationally significant development applications

51. For the purposes of section 62D(6) of the 1990 Act (developments of national significance: applications to be made to Welsh Ministers)(**2**), an application within section 62D(7) of that Act is to be treated as a nationally significant development application only if the application—

- (a) relates to development of national significance as provided for in section 62D(3) and (4) of that Act;
- (b) is made pursuant to section 73 of that Act (determination of applications to develop land without compliance with conditions previously attached)(**3**); and
- (c) relates to a time limit imposed by or under section 91 of that Act (general condition limiting duration of planning permission)(**4**).

(1) 2006 c. 26.

(2) 1990 c. 8. Section 62D was inserted by section 19 of the Planning (Wales) Act 2015.

(3) Section 73 was amended by sections 42(2) and 120 of, and Schedule 9 to, the Planning and Compulsory Purchase Act 2004 (c. 5). Article 2(1) of the Developments of National Significance (Application of Enactments) (Wales) Order 2016 (S.I. 2016/54) (W. 24) applies section 73, with modifications, to applications made to the Welsh Ministers in accordance with section 62D of the 1990 Act.

(4) There are amendments to section 91 not relevant to these Regulations.

Carl Sargeant
Minister for Natural Resources, one of the Welsh
Ministers
27 January 2016

Modifications where national security direction given

Interpretation

1. Regulation 2 is read as if in the appropriate places there is inserted—

““appointed representative” (*“cynrychiolydd penodedig”*) means a person appointed under section 321(5) or (6) of the 1990 Act;”;

““closed evidence” (*“tystiolaeth gaeedig”*) means evidence which is subject to a security direction;”;

““security direction” (*“cyfarwyddyd diogelwch”*) means a direction given by the Welsh Ministers or the Secretary of State under section 321(3) of the 1990 Act (matters related to national security);”.

Further information

2. Regulation 15.(1) is read as if after paragraph (7) there is inserted—

□(7A) Paragraph (7) does not apply where the representations and written responses received by the Welsh Ministers (“further representations”) include or refer to closed evidence.

(7B) Where further representations includes or refers to closed evidence—

- (a) the Welsh Ministers must, as soon as practicable after receipt, send the further representations to the applicant and any appointed representative; and
- (b) must make the further representations (other than the closed evidence) available in such manner as the Welsh Ministers think appropriate as soon as practicable. □

Site inspections

3. Regulation 16.(1) is read as if—

(a) at the end of paragraph (2) there is inserted “and they must so notify any appointed representative”;

(b) after paragraph (2) there is inserted—

□(2A) Where an inspection of a site involves the inspection of closed evidence, the Welsh Ministers may inspect the land in the company

of the applicant and any appointed representative.□

Pre-inquiry meetings

4. Regulation 31.(2) is read as if after sub-paragraph (b) there is inserted—

□(ba) any appointed representative;□.

Date and place of inquiry

5. Regulation 32.(6) is read as if after “applicant” in both places there is inserted “, any appointed representative”.

Absence, adjournment, etc.

6. Regulation 25.(1) (as applied to inquiries by regulation 30.(3)) is read as if after “applicant” there is inserted “, any appointed representative”.

Procedure at inquiry

7. Regulation 33.(1) is read as if—

- (a) in paragraph (2) after “local planning authority” there is inserted “, any appointed representative”;
- (b) in paragraph (4) after “local planning authority” there is inserted “, any appointed representative”;
- (c) in paragraph (6) after “applicant” there is inserted “, any appointed representative”;
- (d) at the end of paragraph (12) there is inserted “subject to paragraph (12A)”;
- (e) after paragraph (12) there is inserted—
 - (12A) Where any written representation or other document (“further information”) contains closed evidence, the appointed person must—
 - (a) disclose the further information to the applicant and any appointed representative;
 - (b) disclose the further information other than any closed evidence to the local planning authority and every person who takes part in the inquiry.□

Procedure after inquiry

8. Regulation 28.(1) (as it applies to inquiries by regulation 30.(3)) is read as if—

- (a) after paragraph (2) there is inserted—
 - (2A) Where closed evidence was considered at the inquiry—

- (a) the appointed person and assessor, where one has been appointed, must set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
 - (b) where an assessor has been appointed, the appointed person must append the closed part of the assessor's report to the closed part of the appointed person's report and must state in the closed part of that report the level of agreement or disagreement with the closed part of the assessor's report and, where there is disagreement with the assessor, the reasons for that disagreement.□;
- (b) after paragraph (5) there is inserted—
- (5A) Where the Welsh Ministers differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person in relation to a matter in respect of which closed evidence has been given, the notification referred to in paragraph (5) must include the reasons for the Welsh Ministers' disagreement unless—
- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
 - (b) inclusion of the reasons would disclose any part of the closed evidence.□;
- (c) in paragraph (8) after “applicant” there is inserted “, the appointed representative”.

Procedure following quashing of decision

9. Regulation 37.(1) is read as if—

- (a) at the beginning of sub-paragraph (a) of paragraph (1) there is inserted “subject to paragraph (1A),”; and
- (b) after paragraph (1) there is inserted—
 - (1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the Welsh Ministers must only send the written statement to—
 - (a) any appointed representative; and
 - (b) a person specified, or of any description specified, in the security direction.□

Closed evidence not to be disclosed

10. Part 10 is read as if after regulation 39.(1) there is inserted—

Closed evidence not to be disclosed

39A. Nothing in these Regulations is to be taken so as to require or permit closed evidence to be disclosed to a person other than—

- (a) the Welsh Ministers;
- (b) the appointed representative; or
- (c) a person specified, or of any description specified, in the security direction.

SCHEDULE 2 Regulation 42

Control of works affecting scheduled monuments

1.—(1) The 2016 Order applies with the following modifications.

(2) Article 15 (acceptance of applications) is to be read as if in the case of a consent under section 2 of the 1979 Act (control of works affecting scheduled monuments), the application is accompanied by—

- (a) one or more of the certificates listed in paragraph 2 of Schedule 1 to that Act⁽¹⁾ signed by or on behalf of the applicant; and
- (b) the items listed in regulation 2(2) of the Ancient Monuments (Application for Scheduled Monument Consent) Regulations 1981⁽²⁾.

2.—(1) The provisions of these Regulations apply in relation to the grant of consent under section 2(3) of the 1979 Act subject to the following modification.

(2) In regulation 2 the definition of “appointed person” is read as “means the person appointed by the Welsh Ministers under paragraph 3(2)(b) of Part 1 of Schedule 1 to the 1979 Act”.

(1) There are amendments to Schedule 1 not relevant to these Regulations.

(2) S.I.1981/1301. The Ancient Monuments (Applications for Scheduled Monument Consent) (Welsh Forms and Particulars) Regulations 2001 (S.I. 2001/1438) (W. 100) prescribe the Welsh version of the relevant forms.

SCHEDULE 3 Regulation 43

Placing rails, beams etc. over highways

Modifications to primary legislation

1. Section 178 of the Highways Act 1980 (restriction on placing rails, beams etc. over highways) is read as if—

- (a) in subsection (1) reference to the highway authority for the highway and the highway authority are references to the Welsh Ministers;
- (b) subsections (2) and (3) are omitted.

SCHEDULE 4 Regulation 44

Listed building consent

PART 1

Modifications to primary legislation

1.—(1) The Planning (Listed Buildings and Conservation Areas) Act 1990⁽¹⁾ (“the Listed Buildings Act”) (“*y Ddeddf Adeiladau Rhestredig*”) applies with the following modifications.

(2) Section 10 (making of applications for listed building consent) is read as if—

- (a) for subsection (1) there were substituted “An application for listed building consent must be made to and dealt with by the Welsh Ministers”;
- (b) in subsection (2)(c) “the Welsh Ministers” is substituted for “the authority”.

(3) Section 62 (validity of certain orders and decisions), is read as if—

- (a) in subsection (2) the following is inserted after paragraph (a)—
 - (aza) any decision on an application for listed building consent where that decision is made by the Welsh Ministers by virtue of section 62F(2) of the principal Act.□;
- (b) in subsections (1) and (3) “the Welsh Ministers” is substituted for “the Secretary of State” in relation to decisions within subsection (2)(aza).

(1) 1990 c. 9.

PART 2

Modifications to secondary legislation

2.—(1) The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012⁽¹⁾ apply with the following modifications.

(2) Regulation 3 (applications for listed building consent or for conservation area consent) is read as if—

- (a) in paragraph (1)(a) for “to a local planning authority” there is substituted “to the Welsh Ministers”;
- (b) in paragraph (1)(c)(ii) and (iii) for “the local planning authority” there is substituted “the Welsh Ministers”;
- (c) paragraph (3) and Part 1 of Schedule 1 are omitted;
- (d) in paragraph (4) “after sending an acknowledgement as required by paragraph (3),” is omitted and for “the local planning authority” there is substituted “the Welsh Ministers”;
- (e) for paragraph (5) there is substituted—
 - (5) Where a valid application has been received by the Welsh Ministers, the time within which the Welsh Ministers must give notice to the applicant of their decision is the determination period as described in section 62L of the principal Act. □;
- (f) in paragraph (6) “or reference to the Welsh Ministers” is omitted and for “the local planning authority decide to grant” there is substituted “the Welsh Ministers decide to grant”;
- (g) paragraph (7) is omitted.

(3) Regulation 6(1) is read as if for “Any application to a local planning authority for listed building consent” there is substituted “Any application for listed building consent where the decision on that consent is to be made by the Welsh Ministers in accordance with section 62F of the principal Act”.

(4) Regulation 7 (certificate to accompany applications and appeals) is read as if—

- (a) in paragraph (1) for “A local planning authority” there is substituted “The Welsh Ministers and “or 4” is omitted;
- (b) in paragraph (3)—
 - (i) “or 4” is omitted;
 - (ii) for “the local planning authority” there is substituted “the Welsh Ministers”;

(1) S.I. 2012/793 (W. 108).

(iii) for sub-paragraph (a) there is substituted—

□(a) must determine the application before the end of the determination period as provided for in section 62L of the 1990 Act”; □

(iv) in sub-paragraph (b) for “that period” there is substituted “the representation period as provided for in article 4 of the Developments of National Significance (Procedure) (Wales) Order 2016”.

(5) Regulations 8 and 9 do not apply.

(6) Regulation 10 (advertisement of applications) is read as if—

(a) paragraph (1) is omitted; and

(b) for paragraph (2) there is substituted—

“The time within which the Welsh Ministers must give notice to the applicant of their decision is the determination period as described in section 62L of the principal Act”.

(7) Regulations 11, 12 and 12A are omitted.

3.—(1) The 2016 Order applies with the following modifications.

(2) Article 15 (acceptance of applications) is to be read as if in the case of a consent under section 8 of the Listed Building Act, the application is accompanied by those items listed in regulations 3(1), 3(2) and 6 (design and access statements) of the Planning (Listed Buildings and Conservation Areas)(Wales) Regulations 2012.

(3) Article 18 (publicity of applications for planning permission: Welsh Ministers) is to be read as if it does not apply in relation to any application for—

(a) listed building consent to carry out works affecting only the interior of a building which when last notified to the local planning authority by the Welsh Ministers as a building of special architectural or historic interest was classified as a Grade II (unstarred) listed building; or

(b) the variation or discharge of conditions attached to a listed building consent in respect of the interior of such a Grade II (unstarred) listed building.

Demolition in conservation areas

PART 1

Modifications to primary legislation

1. Section 74(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) (control of demolition in conservation areas) is read as if in paragraph (a) “and” is omitted and after that paragraph there is inserted—

- (aa) in relation to applications where the decision on the consent is to be made by the Welsh Ministers by virtue of section 62F(2) of the principal Act (developments of national significance: meaning of secondary consents), the Welsh Ministers; and□.

PART 2

Modifications to secondary legislation

2.—(1) The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012(1), in relation to the grant of consent under section 74(2) of the Listed Buildings Act, apply subject to the following modifications.

(2) Regulation 3 (applications for listed building consent or for conservation area consent) is read as if—

- (a) in paragraph (1)(a) for “to a local planning authority” there is substituted “to the Welsh Ministers”;
- (b) in paragraph (1)(c)(ii) and (iii) for “the local planning authority” there is substituted “the Welsh Ministers”;
- (c) paragraph (3) and Part 1 of Schedule 1 are omitted;
- (d) in paragraph (4) for “the local planning authority” there is substituted “the Welsh Ministers”;
- (e) for paragraph (5) there is substituted—

□(5) Where a valid application under paragraph (1) has been received by the Welsh Ministers, the Welsh Ministers must give notice to the applicant of their decision before the end of the determination period as described in section 62L of the principal Act.□;

(1) S.I. 2012/793 (W. 108).

(f) in paragraph (6) “or reference to the Welsh Ministers” is omitted and for “the local planning authority decide to grant listed building consent or” there is substituted “the Welsh Ministers decide to grant”;

(g) paragraph (7) is omitted.

(3) Regulation 6(1) is read as if for “Any application to a local planning authority for listed building consent” there is substituted “Any application for conservation area consent where the decision on that consent is to be made by the Welsh Ministers in accordance with section 62F of the principal Act”.

(4) Regulation 7 (certificate to accompany applications and appeals) is read as if—

(a) in paragraph (1) for “A local planning authority” there is substituted “The Welsh Ministers” and “or 4” is omitted;

(b) in paragraph (3)—

(i) “or 4” is omitted;

(ii) for “the local planning authority” there is substituted “the Welsh Ministers”;

(iii) for sub-paragraph (a) there is substituted—

□(a) must determine the application before the end of the determination period as provided for in section 62L of the principal Act□;

(iv) in sub-paragraph (b) for “that period” there is substituted “the representation period as provided for in article 4 of the Developments of National Significance (Procedure) (Wales) Order 2016”.

(5) Regulations 8 (use of electronic communications) and 9 (applications by local planning authorities) do not apply.

(6) Regulation 10 (advertisement of applications) is read as if—

(a) paragraph (1) is omitted; and

(b) for paragraph (2) there is substituted—

“The time within which the Welsh Ministers must give notice to the applicant of their decision is the determination period as described in section 62L of the principal Act”.

(7) Regulations 11 (advertisement of applications for urgent works relating to Crown development), 12 (appeals) and 12A (appeal made: functions of the local planning authority) do not apply.

3.—(1) The 2016 Order applies with the following modifications.

(2) Article 15 (acceptance of applications) is to be read as if in the case of a consent under section 74 of

the Listed Buildings Act, the application is accompanied by those items listed in regulation 3(1) and (2) of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012.

(3) Article 18 (publicity for applications for planning permission: Welsh Ministers) does not apply in relation to any application for—

- (a) listed building consent to carry out works affecting only the interior of a building which when last notified to the local planning authority by the Welsh Ministers as a building of special architectural or historic interest was classified as a Grade II (unstarred) listed building; or
- (b) the variation or discharge of conditions attached to a listed building consent in respect of the interior of such a Grade II (unstarred) listed building.

SCHEDULE 6 Regulation 46

Hazardous substances consent

PART 1

Modifications to primary legislation

1.—(1) The Planning (Hazardous Substances) Act 1990 (“the Hazardous Substances Act”) applies with the following modifications.

(2) Sections 9 (determination of applications for hazardous substances consent) and 10 (power to impose conditions on grant of hazardous substances consent) are read as if references to the hazardous substances authority are references to the Welsh Ministers.

PART 2

Modifications to secondary legislation

2.—(1) The Planning (Hazardous Substances) (Wales) Regulations 2015(1) in relation to the grant of consent under sections 4(1), 13 and 17 of the Hazardous Substances Act, apply subject to the following modifications.

(2) Regulation 5(1)(a) is read as if for “the hazardous substances authority” there is substituted “the Welsh Ministers”.

(3) Regulation 6 (publication of notices of applications) is read as if for “the hazardous

(1) S.I. 2015/1597(W. 196).

substances authority” in each place where it occurs there is substituted “the Welsh Ministers”.

(4) Regulation 7(1) is read as if for “the hazardous substances authority” there is substituted “the Welsh Ministers”.

(5) Regulation 8 (inspection of applications) is read as if there is substituted—

□ Following receipt of an application under regulation 5, the Welsh Ministers must ensure that a copy of the application is available for inspection at the offices of the relevant person during the period allowed for making representations pursuant to regulation 6(1). □

(6) Regulation 9 (receipt of applications by hazardous substances authority) is read as if for “the hazardous substances authority” in each place where it occurs there is substituted “the Welsh Ministers”.

(7) Regulation 10 (consultation before the grant of hazardous substances consent) is read as if—

- (a) in paragraph (1) for “the hazardous substances authority” and “the authority” there is substituted “the Welsh Ministers”;
- (b) for paragraph (1)(b) there is substituted “the relevant person;”;
- (c) for paragraph (1)(j) there is substituted “where it appears to the Welsh Ministers that land in the area of any county or county borough council other than the relevant person may be affected, that council;”;
- (d) in paragraph (1)(m) “where that authority is not also the hazardous substances authority” is omitted;
- (e) in paragraphs (2) and (3) for “the hazardous substances authority” and “the authority” there is substituted “the Welsh Ministers”;
- (f) in paragraph (4) for “a hazardous substances authority” and “the authority” there is substituted “the Welsh Ministers”.

(8) Regulation 11 (determination of applications for hazardous substances consent) is read as if—

- (a) in paragraph (1) for “A hazardous substances authority” there is substituted “The Welsh Ministers” and references to regulations 6(1) and 10(3) are to those regulations as modified by sub-paragraphs (3) and (7) above;
- (b) in paragraph (2) for “the hazardous substances authority” there is substituted “the Welsh Ministers”;
- (c) for paragraph (3) there is substituted—

□(3) The Welsh Ministers must give the applicant written notice of their decision

within the determination period as described in section 62L of the 1990 Act.□;

- (d) paragraph (4) is omitted;
- (e) in paragraph (5) for “a hazardous substances authority” there is substituted “the Welsh Ministers” and paragraph (5)(b) and the word “and” preceding it, are omitted;
- (f) paragraph (6) is read as if for “The hazardous substances authority” there is substituted “The Welsh Ministers” and for sub-paragraph (c) there is substituted—

□(c)the relevant person concerned□;

- (g) in paragraph (7) for “The hazardous substances authority must make available” there is substituted “The Welsh Ministers must make available”.

(9) Regulation 22 (consents register) is read as if after paragraph (2) there is inserted—

□(2A) The Welsh Ministers must notify the hazardous substances authority of all matters in relation to a secondary consent that must be contained on the register.□

3. Regulations 15.(1) to 33.(1) of these Regulations in their application to the grant of consent under sections 4(1), 13 and 17 of the Hazardous Substances Act, are read as if for “local planning authority” wherever it appears there is substituted “hazardous substances authority”.

SCHEDULE 7 Regulation 47

Planning permission

PART 1

Modifications to primary legislation

1.—(1) The following provisions of the 1990 Act apply with modifications so that references to local planning authorities are treated as references to the Welsh Ministers—

- (a) section 62(1);
- (b) section 62(3);
- (c) section 65(5);
- (d) section 70(1);
- (e) section 70(2)(1);

(1) There are amendments to section 70(2) not relevant to these Regulations.

- (f) section 70A(1)(1);
- (g) section 70A(2);
- (h) section 71(1)(2);
- (i) section 71(2);
- (j) section 72(1);
- (k) section 73(2);
- (l) section 73A(1)(3); and
- (m) section 327A(2)(4).

(2) Where any other provision of the 1990 Act refers to a provision modified by these Regulations, the reference is to be read in relation to an application under section 62D of that Act as a reference to the provision as modified.

PART 2

Modifications to secondary legislation

2.—(1) The Town and Country Planning (Development Management Procedure) (Wales) Order 2012(5) applies with the following modifications.

(2) Articles 1 to 23, 25 to 28 and 31 to 33 do not apply.

3.—(1) The 2016 Order applies with the following modifications.

(2) Article 29 (written notice of decision relating to an application) and article 30 (revised notice of decision to grant planning permission) do not apply.

SCHEDULE 8 Regulation 48

Highways affected by development

Modifications to secondary legislation

1.—(1) The following provisions of these Regulations, in relation to orders under sections 247(1), 248(2) and 251(1) of the 1990 Act, apply with the following modifications.

(2) For the purpose of regulations 17.(1), 20.(1) and 30.(1), Parts 6, 7 and 8 also apply where the Welsh Ministers have determined not to hold a hearing or

-
- (1) Section 70A was inserted by section 17 of the Planning and Compensation Act 1991 (c. 34). There are amendments to section 70A not relevant to these Regulations.
 - (2) Section 71(1) and (2) were substituted by section 16(2) of the Planning and Compensation Act 1991.
 - (3) Section 73A was inserted by section 32 of, and paragraph 16 of Schedule 7 to, that Act.
 - (4) Section 327A was inserted by section 42(5) of the Planning and Compulsory Purchase Act 2004 (c. 5).
 - (5) S.I. 2012/801 (W. 110). There are amendments to that Order not relevant to this Schedule.

inquiry before making an order under section 247, 248 or 251 of the 1990 Act.

(3) The report of the appointed person under regulations 18.(1) (report) and 28.(1) (procedure and report after a hearing) must include, in addition to the appointed person's conclusions and recommendations in relation to the application, a recommendation in relation to an order under section 247, 248 or 251 of the 1990 Act.

(4) Regulation 18.(3)(a) is read as if for "persons who submitted written representations" there is substituted "persons who made objections to the making of an order under section 247, 248 or 251 of the 1990 Act".

(5) Regulation 21.(5) is read as if for reference to "the application" there is substituted "proposed order under section 247, 248 or 251 of the 1990 Act".

(6) Notice under regulation 22.(7) must contain in addition those matters listed in section 252(1) of the 1990 Act.

(7) Regulation 28.(1) is read as if—

- (a) in paragraph (3) for "written representations or other document" there is substituted "any objection to the making of an order under section 247, 248 or 251 of the 1990 Act";
- (b) in paragraph (5)(a) for "submitted written representations" there is substituted "made objections to the making of an order under section 247, 248 or 251 of the 1990 Act";
- (c) in paragraph (8)(a) for "submitting written representations" there is substituted "making objections to the making of an order under section 247, 248 or 251 of the 1990 Act".

SCHEDULE 9 Regulation 49

Deregistration and exchange of common land

Modifications to secondary legislation

1.—(1) The Deregistration and Exchange of Common Land and Greens (Procedure) (Wales) Regulations 2012(1) in relation to consent requested under section 16(1) of the Commons Act 2006, apply with the following modifications.

(2) The definition of "inspector" (*"arolygydd"*) in regulation 2(2) is read as if sub-paragraph (b) and the word "or" preceding it, are omitted.

(3) Regulations 4 to 9 do not apply.

(4) Regulation 10(1) is read as if for “to the determining authority by the date specified in the notice of application” there is substituted “to the Welsh Ministers before the expiry of the representation period”.

(5) Regulation 10(3) to (6) does not apply.

(6) Regulations 11 to 18 do not apply.

2.—(1) The 2016 Order applies with the following modifications.

(2) Article 2 (interpretation) is read as if the following are inserted at each appropriate place—

““register” (*“cofrestr”*) means a register of common land or a register of town or village greens;”;

““release land” (*“tir a ryddheir”*) has the meaning in section 16(1) of the Commons Act 2006;”;

““replacement land” (*“tir cyfnewid”*) has the meaning in section 16(3) of the Commons Act 2006;”.

(3) Article 12 (applications: general requirements) is read as if the application must be accompanied by—

(a) an Ordnance Map, at a scale of not less than 1:2,500 if available, and in any case not less than 1:10,000, showing—

(i) the boundary of the release land marked in red;

(ii) if the release land constitutes part of the land in a larger register unit, the boundary of the land in that register unit marked in dark green; and

(iii) the boundary of any replacement land marked in light green; and

(b) a copy of the entry in the register which relates to the release land or land including it.

(4) Article 18 (publicity for applications for planning permission: Welsh Ministers) is read as if the requisite notice includes—

(a) the name of the applicant;

(b) the name of the common land or town or village green affected by the proposal;

(c) the location and area in square metres of the release land;

(d) whether the application includes a proposal for land to be registered as replacement land and, if so, the location and area in square metres of the replacement land;

(e) a brief statement of the reason for the application.

(5) Article 18(2)(b) is read as if the requisite notice must be sent to—

- (a) any person (other than the applicant) occupying the release land;
- (b) the occupier of any property shown in the register as being property to which rights of common over the release land are attached and whom the applicant believes to be exercising those rights or likely to be affected by the application;
- (c) any other person known to the applicant to be entitled to exercise rights of common over the release land and whom the applicant believes to be exercising those rights or likely to be affected by the application; and
- (d) the community council or councils (if any) for the area in which the release land and the replacement land are situated.

(6) Article 18(3) is read as if the information to be published on a website maintained by the Welsh Ministers must include the matters listed in subparagraph (4)(a) to (e).

(7) Article 19(2) is read as if there is substituted:

“(2) The local planning authority must give notice by site display, in a form supplied to them by the Welsh Ministers, for not less than 21 days at the principal places of entry to (or, if there are no such places, at a conspicuous place on the boundary of)—

- (i) the release land; and
- (ii) the replacement land (if any).”

(8) Article 29 (written notice of decision relating to an application) is read as if the Welsh Ministers must also—

- (a) send their order under section 17 of the Commons Act 2006 to the commons registration authority for the area in which the release land and the replacement land (if any) are situated; and
- (b) send a copy of the order to the applicant.

3.—(1) The following provisions of these Regulations in relation to consent requested under section 16(1) of the Commons Act 2006, apply with the following modifications.

(2) Regulation 2 (interpretation) is read as if—

- (a) reference to an “appointed person” (“*person penodedig*”) is to the person appointed by the Welsh Ministers under regulation 3 of the Deregistration and Exchange of Common Land and Greens (Procedure) (Wales) Regulations 2012 to exercise all or any of their functions in relation to applications under section 16 of the Commons Act 2006 generally or in relation to the application;

(b) there is inserted at the appropriate place—
““release land” (“*tir a ryddheir*”) has the meaning in section 16(1) of the Commons Act 2006;” and
““replacement land” (“*tir cyfnewid*”) has the meaning in section 16(3) of the Commons Act 2006;”.

(3) Regulation 16.(1)(1) (site inspections) is read as if for “land to which the application relates” there is substituted “release land and any replacement land”.

(4) For the purpose of regulation 22.(1) (public notice of hearing) the notice posted or published pursuant to paragraphs (1) and (2) of that regulation must include—

- (a) the location of the release land; and
- (b) a statement as to whether it is proposed that any land be registered as replacement land and, if so, the location of the replacement land.

SCHEDULE 10 Regulation 50

Restricted works on common land

Modifications to secondary legislation

1.—(1) The Works on Common Land, etc. (Procedure) (Wales) Regulations 2012(1) in relation to applications under section 38(1) of the Commons Act 2006, apply with the following modifications.

(2) In regulation 2(2) the definition of “the determining authority” (“*yr awdurdod sy’n penderfynu*”) is read as if sub-paragraph (b) and the word “or” preceding it, are omitted.

(3) Regulations 4 to 9 do not apply.

(4) Regulation 10(1) is read as if for “to the determining authority by the date specified in the notice of application” there is substituted “to the Welsh Ministers before the expiry of the representation period.”

(5) Regulation 10(3) to (6) does not apply.

(6) Regulations 11 to 18 do not apply.

2.—(1) The 2016 Order applies with the following modifications.

(2) Article 2 (interpretation) is read as if at the appropriate place there is inserted—

“common land” (“*tir comin*”) means land of a type specified in section 38(5)(a) and (b) of the Commons Act 2006;”.

(3) Article 12 (applications: general requirements) is read as if the application must be accompanied by—

(1) S.I. 2012/737 (W. 97).

- (a) a map showing the common land on which the works are proposed to be carried out, with—
 - (i) the boundary of the common land marked in green; and
 - (ii) the site of the proposed works marked in red;
- (b) (if appropriate) a plan or drawing of the proposed works; and
- (c) if the land is registered common land, a copy of the relevant entry in the register of common land kept by the relevant commons registration authority under section 1 of the Commons Act 2006.

(4) Article 18 (publicity for applications for planning permission: Welsh Minsters) is read as if the requisite notice includes—

- (a) the name of the applicant;
- (b) the name of the common land affected by the proposed works;
- (c) a description of the proposed works, and their location.

(5) Article 18(2)(b) is read as if the requisite notice must be sent to—

- (a) the owner of the land on which the works are proposed (if the owner is not the applicant);
- (b) any other person occupying the land;
- (c) if the land is registered common land, the occupier of any property shown in the register of common land as being property to which rights of common over the land are attached and who the applicant believes to be exercising those rights or likely to be affected by the application;
- (d) any other person known to the applicant to be entitled to exercise rights of common over the land and who the applicant believes to be exercising those rights or likely to be affected by the application;
- (e) the community council (if any) for the area in which the works are proposed.

(6) Article 18(3) is read as if the information to be published on a website maintained by the Welsh Ministers must include the matters listed in subparagraph (4)(a) to (c).

(7) Article 19(2) is read as if there is substituted—

“(2) The local planning authority must give notice by site display, in a form supplied to them by the Welsh Ministers, for not less than 21 days at the principal places of entry to (or, if there are no such places, at a conspicuous place on the boundary of)

the common land on which the works are proposed.”

(8) Article 29(3) is read as if there is substituted—

□(3) The decision must state, with reasons, whether consent to the proposed works is—

- (a) granted as sought in the application;
- (b) granted only in part, or subject to modifications or conditions; or
- (c) refused. □

3. In regulation 2 of these Regulations in their application to consent requested under section 38(1) of the Commons Act 2006, reference to an “appointed person” (“*person penodedig*”) is to the person appointed by the Welsh Ministers under regulation 3 of the Works on Common Land, etc. (Procedure) (Wales) Regulations 2012.