

2016 No.52 (W. 22) (C. 4)

**TOWN AND COUNTRY
PLANNING, WALES**

The Planning (Wales) Act 2015
(Commencement No. 3 and
Transitional Provisions) Order 2016

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made by the Welsh Ministers under the Planning (Wales) Act 2015 (“the 2015 Act”).

Article 2 brings the following sections of the 2015 Act into force on 1 March 2016:

- section 17 (requirement to carry out pre-application consultation);
- section 18 (requirement to provide pre-application services);
- section 19 (developments of national significance: applications for planning permission);
- section 20 (developments of national significance: secondary consents);
- section 21 (developments of national significance: local impact reports);
- section 22 (timetable for determining applications); and
- section 49 (costs on applications, appeals and references).

Article 3 brings the following provisions of the 2015 Act into force on 1 March 2016 so far as they relate to developments of national significance and secondary consents:

- section 24 (further provision about applications made to the Welsh Ministers);
- section 25 (power to make provision by development order in respect of applications to the Welsh Ministers);

- section 26 (developments of national significance and applications made to Welsh Ministers: exercise of functions by appointed person);
- section 27 (applications to Welsh Ministers: further amendments);
- section 33 (decision notices);
- section 34 (notification of development);
- section 50 (procedure for certain proceedings);
- Schedule 3 (developments of national significance and applications made to Welsh Ministers: exercise of functions by appointed person); and
- Schedule 4 (applications to Welsh Ministers: further amendments).

Article 4 brings section 51 of the 2015 Act (costs and procedure on appeals etc: further amendments) into force on 1 March 2016 so far as it relates to those paragraphs of Schedule 5 (costs and procedure on appeals etc: further amendments) listed in that article.

Article 5 brings the following sections of the 2015 Act into force on 16 March 2016:

- section 28 (power of local planning authority to require information with application);
- section 29 (invalid applications: notice and appeal);
- section 30 (revocation of saving of Town and Country Planning (Applications) Regulations 1988);
- section 32 (power to decline to determine retrospective application);
- section 33 (decision notices);
- section 34 (notification of development);
- section 35 (duration of planning permission: general);
- section 36 (duration of outline planning permission);
- section 37 (consultation etc in respect of certain applications relating to planning permission);
- section 38 (stopping up or diversion of public paths where application for planning permission made);
- section 43 (breach of planning control: enforcement warning notice);
- section 44 (appeal against enforcement notice: deemed application for planning permission);
- section 45 (restrictions on right to appeal against planning decisions); and

- section 46 (restrictions on right to appeal against enforcement notice).

Articles 6 to 17.(1) contain transitional provisions.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2015 Act have been brought into force by Commencement Orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 2	1 April 2016	S.I. 2015/1987 (W. 297) (C. 123)
Section 3 (so far as it substitutes section 60 of the Planning and Compulsory Purchase Act 2004 with new sections 60, 60A and 60B)	4 January 2016	S.I. 2015/1987 (W. 297) (C. 123)
Section 4 (so far as not already in force)	5 October 2015	S.I. 2015/1736 (W. 237) (C. 106)
Sections 11 to 14 (so far as not already in force)	4 January 2016	S.I. 2015/1987 (W. 297) (C. 123)
Section 15(1) and (2) (so far as not already in force)	16 March 2016	S.I. 2015/1987 (W. 297) (C. 123)
Section 15(3)	1 April 2016	S.I. 2015/1987 (W. 297) (C. 123)
Section 31 (so far as not already in force)	4 January 2016	S.I. 2015/1987 (W. 297) (C. 123)
Sections 40 to 42 (so far as not already in force)	16 March 2016	S.I. 2015/1987 (W. 297) (C. 123)
Part 1 of Schedule 1 (so far as not already in force)	5 October 2015	S.I. 2015/1736 (W. 237) (C. 106)

See section 58(1) of the 2015 Act for provisions which came into force on the day the 2015 Act received Royal Assent and section 58(2) for the provisions which came into force 2 months after the 2015 Act received Royal Assent.

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PLANNING, WALES**

**The Planning (Wales) Act 2015
(Commencement No. 3 and
Transitional Provisions) Order 2016**

Made

27 January 2016

The Welsh Ministers make the following Order in exercise of the powers conferred on them by section 58(4) of the Planning (Wales) Act 2015(1).

Title and interpretation

1.—(1) The title of this Order is the Planning (Wales) Act 2015 (Commencement No. 3 and Transitional Provisions) Order 2016.

(2) In this Order—

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990(2);

“the 2015 Act” (“*Deddf 2015*”) means the Planning (Wales) Act 2015.

Provisions coming into force on 1 March 2016

2. The appointed day for the coming into force of the following sections of the 2015 Act so far as they are not already in force is 1 March 2016—

(a) sections 17 to 22; and

(b) section 49.

3. The appointed day for the coming into force of the following provisions of the 2015 Act so far as they

(1) 2015 anaw 4.
(2) 1990 c. 8.

relate to developments of national significance⁽¹⁾ and secondary consents⁽²⁾ is 1 March 2016—

- (a) sections 24 to 27;
- (b) sections 33 and 34;
- (c) section 50;
- (d) Schedule 3; and
- (e) Schedule 4.

4. The appointed day for the coming into force of section 51 of the 2015 Act is 1 March 2016 so far as it relates to the following paragraphs of Schedule 5 to the 2015 Act—

- (a) paragraphs 1 to 14;
- (b) paragraph 16(1) so far as it relates to sub-paragraph (2), and sub-paragraph (2);
- (c) paragraph 18 so far as it relates to paragraph 5(4) of Schedule 8 to the 1990 Act;
- (d) paragraph 19 so far as it relates to paragraph 20, and paragraph 21(1), (2)(a) and (b);
- (e) paragraph 20;
- (f) paragraph 21(1) so far as it relates to sub-paragraph (2)(a) and (b), and sub-paragraph (2)(a) and (b);
- (g) paragraph 22;
- (h) paragraph 23 so far as it relates to paragraphs 24, 25(1), 25(2)(a) and (b), and 26;
- (i) paragraph 24;
- (j) paragraph 25(1), (2)(a) and (b); and
- (k) paragraph 26.

Provisions coming into force on 16 March 2016

5. The appointed day for the coming into force of the following sections of the 2015 Act so far as they are not already in force is 16 March 2016—

- (a) sections 28 to 30;
- (b) sections 32 to 38; and
- (c) sections 43 to 46.

Transitional provisions

6. The amendments to the 1990 Act made by section 17 of the 2015 Act do not apply to an application for

(1) For the meaning of “development of national significance” *see* section 62D(3) and (4) of the 1990 Act and the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (S.I. 2016/53 (W.23)).

(2) For the meaning of “secondary consent” *see* section 62H(1) of the 1990 Act.

planning permission for major development⁽¹⁾ made before 1 August 2016.

7. The amendments to the 1990 Act made by section 19 of the 2015 Act do not apply to an application for planning permission made before 1 March 2016.

8. The amendment to the 1990 Act made by section 28 of the 2015 Act does not apply to an application for planning permission made before 16 March 2016.

9. The amendments to the 1990 Act made by section 29(1) and (2) of the 2015 Act do not apply to an application for planning permission, consent, agreement or approval made before 16 March 2016.

10. The amendments to the 1990 Act made by section 29(1) and (3) of the 2015 Act do not apply to an appeal that relates to an application made before 16 March 2016.

11. The amendment to the 1990 Act made by section 32 of the 2015 Act does not apply where before 16 March 2016—

- (a) an enforcement notice has been issued under section 172 of the 1990 Act and not withdrawn under section 173A of that Act; and
- (b) either or both of the following sub-paragraphs apply—
 - (i) an appeal under section 174 of the 1990 Act has been made against that notice;
 - (ii) an application for planning permission for the development to which that enforcement notice relates is made after the date on which that notice was issued and before 16 March 2016.

12. The amendments to the 1990 Act made by sections 33 and 34 of the 2015 Act do not apply to a planning permission granted before 16 March 2016.

13. The amendments to the 1990 Act made by sections 35 and 36 of the 2015 Act do not apply to an application made under section 73 of the 1990 Act before 16 March 2016.

14. The amendments to the 1990 Act made by sections 44 and 46 of the 2015 Act do not apply where, before 16 March 2016, an enforcement notice is issued under section 172 of the 1990 Act and not withdrawn under section 173A of that Act.

15. The amendment to the 1990 Act made by section 45 of the 2015 Act does not apply to an appeal made

(1) For the meaning of “major development” see article 2(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (S.I. 2012/801) (W. 110).

under section 78 of the 1990 Act before 16 March 2016.

16. The amendment to the 1990 Act made by section 49 of the 2015 Act does not apply to an application, appeal or reference made to the Welsh Ministers before 1 March 2016.

17.—(1) The amendments made by those paragraphs of Schedule 5 to the 2015 Act listed in article 4 do not apply to proceedings instituted before 1 March 2016.

(2) For the purposes of paragraph (1) “instituted” (“*a gychwynnir*”) means—

- (a) in relation to section 121 of the Highways Act 1980, the question of whether the withholding of a consent is unreasonable or whether any requirement is reasonable falls to be determined by the Welsh Ministers;
- (b) in relation to section 28F of the Wildlife and Countryside Act 1981, an appeal reaches the Welsh Ministers;
- (c) in relation to section 28L of the Wildlife and Countryside Act 1981, an appeal is made under section 28L(1);
- (d) in relation to Schedule 15 of the Wildlife and Countryside Act 1981, an order is submitted to the Welsh Ministers for confirmation under paragraph 7 of that Schedule;
- (e) in relation to section 175 of the 1990 Act, written notice of appeal under section 174 of the 1990 Act is given;
- (f) in relation to section 196 of the 1990 Act, notice of appeal under section 195 of the 1990 Act is served;
- (g) in relation to section 208 of the 1990 Act, written notice of appeal is given or sent;
- (h) in relation to section 320 of the 1990 Act, a local inquiry is caused to be held;
- (i) in relation to proceedings to which section 322 of the 1990 Act applies or would but for paragraph 13 of Schedule 5 to the 2015 Act have applied, the application or reference is made or notice of appeal is given;
- (j) in relation to proceedings to which section 322A of the 1990 Act applies or would but for paragraph 14 of Schedule 5 to the 2015 Act have applied, the Welsh Ministers are required to make arrangements for a hearing or inquiry to be held or arrangements are made for a hearing or inquiry in accordance with section 319B of the 1990 Act;
- (k) in relation to an appeal under the 1990 Act to which Schedule 6 of that Act applies, an appointed person determines to hold a hearing

or local inquiry or is directed by the Welsh Ministers to hold a local inquiry;

- (l) in relation to Schedule 8 to the 1990 Act, a reference to the Planning Inquiry Commission is made by the Welsh Ministers;
- (m) in relation to section 41 of the Planning (Listed Buildings and Conservation Areas) Act 1990, notice of appeal under section 39 of that Act is given;
- (n) in relation to an appeal under the Planning (Listed Buildings and Conservation Areas) Act 1990 to which Schedule 3 to that Act applies, an appointed person determines to hold a hearing or local inquiry or is directed by the Welsh Ministers to hold a local inquiry;
- (o) in relation to section 25 of the Planning (Hazardous Substances) Act 1990, an appeal is made under that section; and
- (p) in relation to an appeal under the Planning (Hazardous Substances) Act 1990 to which the Schedule to that Act applies, an appointed person determines to hold a hearing or local inquiry or is directed by the Welsh Ministers to hold a local inquiry.

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