

## SCHEDULE 7

(introduced by section 55)

### REGULATIONS AND ORDERS MADE BY WELSH MINISTERS

#### *Regulations under PCPA 2004*

- 1 (1) Section 122 of PCPA 2004 (regulations and orders) is amended as follows.
  - (2) In subsection (1)(b), for “National Assembly for Wales” substitute “Welsh Ministers”.
  - (3) In subsection (5)(g), for “National Assembly for Wales” substitute “Welsh Ministers”.
  - (4) After subsection (6) insert—
    - “(6A) Subsection (6) does not apply in relation to a statutory instrument containing subordinate legislation made by the Welsh Ministers.
    - (6B) The Welsh Ministers must not make a statutory instrument containing subordinate legislation which includes provision amending or repealing an enactment contained in primary legislation unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
    - (6C) A statutory instrument containing subordinate legislation made by the Welsh Ministers to which subsection (6B) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
  - (5) After subsection (10) insert—
    - “(11) In subsection (6B), “primary legislation” means—
      - (a) an Act of Parliament;
      - (b) an Act or Measure of the National Assembly for Wales.”
- 2 In Schedule 11 to the [Government of Wales Act 2006 \(c. 32\)](#) (transitional provisions), in paragraph 35(4), in Table 2, omit the entries relating to PCPA 2004.

#### *Regulations under TCPA 1990*

- 3 In section 333 of TCPA 1990 (regulations and orders), after subsection (3A) insert—
  - “(3B) Subsection (3) does not apply to a statutory instrument containing regulations made by the Welsh Ministers.
  - (3C) A statutory instrument containing regulations made by the Welsh Ministers under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
  - (3D) Subsection (3C) does not apply to a statutory instrument if—
    - (a) it contains only regulations under section 88(7),
    - (b) it contains (whether alone or with other provision) regulations under section 315, or
    - (c) it is within subsection (3F).

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*Status: This is the original version (as it was originally enacted).*

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(3E) The Welsh Ministers may not make a statutory instrument within subsection (3F) unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.

(3F) A statutory instrument is within this subsection if it contains (whether alone or with other provision) regulations under—

- (a) section 9, if the regulations include provision amending an Act of Parliament or an Act or Measure of the National Assembly for Wales;
- (b) section 62D(3);
- (c) section 62H;
- (d) section 116;
- (e) section 303;
- (f) section 303ZA;
- (g) section 316, if the regulations relate to land of the Welsh Ministers or to the development of land by the Welsh Ministers;
- (h) section 319ZB.”

4 (1) TCPA 1990 is further amended as follows.

(2) In section 116 (modification of compensation provisions in respect of mineral working etc)—

- (a) in subsection (3), after “shall be made” insert “by the Secretary of State”;
- (b) in subsection (4)—
  - (i) after “Secretary of State” insert “or (as the case may be) the Welsh Ministers”;
  - (ii) after “him” insert “or them”.

(3) In section 202A (tree preservation regulations: general), which is inserted by section 192(7) of the [Planning Act 2008 \(c. 29\)](#), omit subsections (6) and (7).

(4) In section 208 (appeals against notices under section 207), omit subsections (4B) and (4C).

(5) In section 303 (fees for planning applications etc)—

- (a) in subsection (8)—
  - (i) after “under this section” insert “by the Secretary of State”;
  - (ii) omit the words after “each House of Parliament”;
- (b) omit subsection (9).

(6) In section 303ZA (fees for appeals), which is inserted by section 200 of the [Planning Act 2008](#)—

- (a) in subsection (6)—
  - (i) after “under this section” insert “by the Secretary of State”;
  - (ii) omit the words after “each House of Parliament”;
- (b) omit subsection (7).

(7) In section 321B (special provision in relation to planning inquiries: Wales), omit subsection (6).

*Orders under TCPA 1990*

- 5 In section 59 of TCPA 1990 (development orders: general), after subsection (3) insert—
- “(4) In this Act, references to a development order are—
- (a) in relation to England, references to a development order made by the Secretary of State;
  - (b) in relation to Wales, references to a development order made by the Welsh Ministers.”
- 6 (1) Section 333 of TCPA 1990 is amended as follows.
- (2) In subsection (4), after “power” insert “of the Secretary of State”.
- (3) For subsection (4A) substitute—
- “(4A) The power of the Welsh Ministers to make development orders and orders under sections 2(1B), 55(2)(f), 87(3), 149(3)(a), 293(1)(c) and 319B(9) is exercisable by statutory instrument.
- (4B) A development order made by the Welsh Ministers may make different provision for different purposes, for different cases (including different classes of development) and for different areas.”
- (4) In subsection (5)—
- (a) in paragraph (a), after “an order under” insert “subsection (1) of”;
  - (b) in paragraph (b)—
    - (i) after “a development order” insert “made by the Secretary of State”;
    - (ii) after “an order” insert “made by the Secretary of State”;
    - (iii) omit “(unless it is made by the National Assembly for Wales)”.
- (5) After subsection (5A) insert—
- “(5B) A statutory instrument containing any of the following is subject to annulment in pursuance of a resolution of the National Assembly for Wales—
- (a) an order under subsection (1B) of section 2 which has been made after a local inquiry has been held in accordance with subsection (2) of that section,
  - (b) a development order made by the Welsh Ministers, or
  - (c) an order under section 87(3) or 149(3)(a) made by the Welsh Ministers.
- (5C) The Welsh Ministers may not make a statutory instrument containing an order under section 62L(9), 293(1)(c) or 319B(9) unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.”
- (6) In subsection (6)—
- (a) after “subsection (5)” insert “or (5B)”;
  - (b) after “each House of Parliament” insert “(in the case of an order made by the Secretary of State) or the National Assembly for Wales (in the case of an order made by the Welsh Ministers)”.
- 7 (1) TCPA 1990 is further amended as follows.

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- (2) In section 78 (right to appeal against planning decisions and failure to take such decisions), omit subsections (4B) to (4D).
- (3) In section 195 (appeals against refusal or failure to give decision on application for certificate), omit subsections (1D) to (1F).
- (4) In section 293 (application of Act to Crown land: preliminary definitions), in subsection (5), after “order made” insert “by the Secretary of State”.
- (5) In section 319B (determination of procedure for certain proceedings), omit subsection (11).

*Regulations and orders under the Commons Act 2006*

- 8 (1) Section 59 of the [Commons Act 2006 \(c. 26\)](#) (orders and regulations) is amended as follows.
  - (2) In subsection (3A), after “order under section 15C(5)” insert “made by the Secretary of State”.
  - (3) After subsection (4) insert—
    - “(5) A statutory instrument containing regulations under section 29(1) or an order under section 15C(5), 54 or 55 may not be made by the Welsh Ministers unless a draft has been laid before and approved by a resolution of the National Assembly for Wales.
    - (6) Subject to subsection (5), a statutory instrument containing any order or regulations made under this Act by the Welsh Ministers other than an order under section 56 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- 9 In section 61(1) of that Act (interpretation), in the definition of “appropriate national authority”, for “National Assembly for Wales” substitute “Welsh Ministers”.