

SCHEDULE 4

(introduced by section 27)

APPLICATIONS TO WELSH MINISTERS: FURTHER AMENDMENTS

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

“Applications made to the Welsh Ministers: applicable provisions

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

- (1) A development order may provide for an applicable enactment or requirement—
 - (a) to apply, with or without modifications, to an application made to the Welsh Ministers under section 62D, 62M or 62O, or
 - (b) not to apply to such an application.
 - (2) For this purpose an applicable enactment or requirement, in relation to an application made to the Welsh Ministers under section 62D, 62M or 62O, is—
 - (a) any provision of or made under this Act, or any other enactment, relating to applications of that kind when made to the relevant authority;
 - (b) any requirements imposed by a development order in respect of applications of that kind when made to the relevant authority.
 - (3) The “relevant authority”, in relation to an application made to the Welsh Ministers under section 62D, 62M or 62O, is the authority to which, but for the section in question, the application would have been made.”
- 8 In section 87 (exclusion of certain land or descriptions of development from simplified planning zone scheme), after subsection (4) insert—

Status: This is the original version (as it was originally enacted).

- “(5) A simplified planning zone scheme does not have effect to grant planning permission for the development of land in Wales, where the development is of national significance for the purposes of section 62D.”
- 9 In section 88 (planning permission for development in enterprise zones), after subsection (10) insert—
- “(11) An enterprise zone scheme does not have effect to grant planning permission for the development of land in Wales, where the development is of national significance for the purposes of section 62D.”
- 10 In section 92 (outline planning permission), in subsection (1), after “authority” insert “, the Welsh Ministers”.
- 11 In section 93 (provisions supplementary to sections 91 and 92), in subsection (1) (a), after “authority” insert “, the Welsh Ministers”.
- 12 In section 99 (procedure for orders revoking or modifying planning permission: unopposed cases), in subsection (8)(a), after “Secretary of State” insert “or the Welsh Ministers”.
- 13 In section 253 (procedure in anticipation of planning permission), in subsection (2), after paragraph (a) insert—
- “(aa) that application has been made to the Welsh Ministers under section 62D, 62F, 62M or 62O; or”.
- 14 In section 257 (footpaths etc affected by other development: orders by other authorities), in subsection (4)—
- (a) in paragraph (a), after “Secretary of State” insert “or by the Welsh Ministers”;
- (b) in paragraph (c), after “62A” insert “or to the Welsh Ministers under section 62D, 62F, 62M or 62O”.
- 15 (1) Section 284 (actions which may be questioned in legal proceedings only so far as provided by Part 12) is amended as follows.
- (2) In subsection (1)(f), after “Secretary of State” insert “or the Welsh Ministers”.
- (3) In subsection (3)—
- (a) in the opening words, after “action on the part of the Secretary of State” insert “or the Welsh Ministers”;
- (b) in paragraph (a), for “him” substitute “the Secretary of State or the Welsh Ministers”;
- (c) after paragraph (a) insert—
- “(aa) any decision on an application made to the Welsh Ministers under section 62D;
- (ab) any decision on a secondary consent dealt with by the Welsh Ministers under section 62F, unless, by virtue of an enactment not contained in this Act—
- (i) an appeal against that decision may be made to a person other than the Welsh Ministers, or
- (ii) the validity of the decision may otherwise be questioned by way of application to a person other than the Welsh Ministers;

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- (ac) any decision on an application made to the Welsh Ministers under section 62M or section 62O (not including a decision to refer an application under section 62O(5));”;
 - (d) in paragraph (h), after “Secretary of State” insert “or the Welsh Ministers”.
- (4) In subsection (4), after “Secretary of State” insert “or the Welsh Ministers”.
- 16 (1) Section 288 (proceedings for questioning the validity of other orders, etc) is amended as follows.
 - (2) In subsection (1)(b), after “Secretary of State” insert “or the Welsh Ministers”.
 - (3) In subsection (2), after “Secretary of State” insert “or the Welsh Ministers”.
 - (4) In subsection (4), after “Secretary of State” insert “or the Welsh Ministers”.
 - (5) In subsection (10)—
 - (a) in paragraph (a), for “has modified” substitute “or the Welsh Ministers have modified”;
 - (b) in paragraph (b)—
 - (i) after “Secretary of State” insert “or the Welsh Ministers”;
 - (ii) for “him” substitute “the Secretary of State or the Welsh Ministers”.
- 17 (1) Section 293A (urgent Crown development: application) is amended as follows.
 - (2) In subsection (2), omit “to the local planning authority”.
 - (3) In subsection (3), for “the application to the Secretary of State” substitute “an application under this section”.
- 18 In section 303 (fees for planning applications, etc), after subsection (1A) insert—
 - “(1B) The Welsh Ministers may by regulations make provision for the payment of a fee or charge to the Welsh Ministers in respect of—
 - (a) the performance by the Welsh Ministers of any function they have in respect of an application under section 62D (developments of national significance), section 62M (option to make application directly to Welsh Ministers) or section 62O (connected applications);
 - (b) anything done by the Welsh Ministers which is calculated to facilitate, or is conducive or incidental to, the performance of any such function.
 - (1C) References in subsection (1B) to functions that the Welsh Ministers have in respect of an application include references—
 - (a) in the case of an application under section 62D, to any functions that the Welsh Ministers have in respect of a secondary consent to which, by virtue of the connection between the consent and the application under section 62D, section 62F(2) applies;
 - (b) to any functions that the Welsh Ministers have, by virtue of provision under section 61Z1, in respect of an application proposed to be made to the Welsh Ministers under section 62D, 62F, 62M or 62O.”
- 19 (1) Section 316 (land of interested planning authorities and development by them) is amended as follows

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- (2) In subsection (4), for “such land, or for such development,” substitute “land of an interested planning authority other than the Welsh Ministers, or for the development of land by an interested planning authority other than the Welsh Ministers.”
- (3) In subsection (5), after “interested planning authority” insert “other than the Welsh Ministers”.
- (4) In subsection (6), after “that land” insert “or the Welsh Ministers”.
- (5) After subsection (8) insert—
- “(9) The power to make regulations under this section relating to land of the Welsh Ministers or to the development of land by the Welsh Ministers is exercisable by the Welsh Ministers.”
- 20 (1) Section 319B (determination of procedure for certain proceedings) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) In a case where an application has been made to the Welsh Ministers under section 62D, 62M or 62O, they must also notify any representative persons they consider appropriate.”
- (3) In subsection (7), before paragraph (a) insert—
- “(za) an application made to the Welsh Ministers under section 62D, including proceedings relating to any secondary consent in respect of which, by virtue of its connection to that application, section 62F(2) applies;
- (zb) an application made to the Welsh Ministers under section 62M or 62O;”.
- (4) After subsection (8) insert—
- “(8A) For the purposes of this section as it applies where an application has been made to the Welsh Ministers under section 62D, 62M or 62O—
- “the local planning authority” means the local planning authority to which, but for the section in question, the application would have been made;
- “representative persons” are prescribed persons, or persons of a prescribed description, who appear to the Welsh Ministers to be representative of interested persons;
- “interested persons” are persons, other than the applicant and the local planning authority, who appear to the Welsh Ministers to have an interest in the proceedings.”
- 21 In section 324 (rights of entry), in subsection (1), after paragraph (b) insert—
- “(ba) any application made to the Welsh Ministers under section 62O;
- (bb) any secondary consent in respect of which, by virtue of section 62F(2), a decision is to be made by the Welsh Ministers;”.
- 22 In Schedule 1A (distribution of local planning authority functions: Wales), in paragraph 8 (claims for payment of compensation where planning permission revoked or modified), after sub-paragraph (2) insert—

“(2A) Sub-paragraph (2B) applies where the planning permission the revocation or modification of which gave rise to the claim was granted by the Welsh Ministers by virtue of section 62D, 62F, 62M or 62O.

(2B) The local planning authority to which the application for planning permission would, but for the section in question, have been made, are to be treated for the purposes of sub-paragraph (2)(a) as having granted the permission.”

- 23 (1) In Schedule 16, Part 1 (provisions which may be modified in relation to development relating to minerals etc.) is amended as follows.
- (2) For the entry relating to sections 61 and 62 substitute—
“Section 61.
Sections 61Z to 61Z2.
Section 62.
Sections 62D to 62S.”
- (3) After the entry relating to section 70A insert—
“Sections 71ZA and 71ZB.”
- (4) After the entry relating to section 100 insert—
“Section 100A.”