

Status: Point in time view as at 06/09/2015.

Changes to legislation: There are currently no known outstanding effects for the Planning (Wales) Act 2015, SCHEDULE 7. (See end of Document for details)

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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- (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).

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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 ”.

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