
WELSH STATUTORY INSTRUMENTS

2020 No. 1318

The Town and Country Planning (General Permitted Development) (Amendment) (No. 3) (Wales) Order 2020

Development by electronic communications code operators

4.—(1) In article 4(3)—

(a) after sub-paragraph (aa) insert—

“(aaa) development permitted by Part 24 which consists of the installation, alteration or replacement of a Regulation 2020/1070 small cell system;”;

(b) in sub-paragraph (c), after “provides” insert “but this is subject to paragraph (3A)”.

(2) After article 4(3) insert—

“(3A) A direction under paragraph (1) or (2) may not affect the carrying out of development consisting of the installation, alteration or replacement of a Regulation 2020/1070 small cell system.”

(3) In article 4(6), at the appropriate place insert—

““Regulation 2020/1070 small cell system” has the same meaning as in Part 24 of Schedule 2;”.

(4) Part 24 of Schedule 2 is amended as set out in paragraphs (5) to (8).

(5) In paragraph A.1—

(a) in sub-paragraph (h), for “paragraphs” substitute “sub-paragraphs” and for “paragraph” substitute “sub-paragraph”;

(b) in sub-paragraph (j)—

“(i) in paragraph (i), for “small cell antennas” substitute “Regulation 2020/1070 small cell systems or small cell systems”;

(ii) for paragraph (iii) substitute—

“(iii) in the case of antennas other than dish antennas, Regulation 2020/1070 small cell systems or small cell systems, the development would result in the presence on the building or structure of—

(aa) more than four antenna systems; or

(bb) any antenna system operated by more than four electronic communications code operators; or”;

(c) for sub-paragraph (k)(ii) substitute—

“(ii) in the case of antennas other than dish antennas, Regulation 2020/1070 small cell systems or small cell systems, the development would result in the presence on the building or structure of—

(aa) more than five antenna systems; or

(bb) any antenna system operated by more than four electronic communications code operators; or”;

(d) for sub-paragraph (l) substitute—

“(1) in the case of development on any protected land it would consist of—

- (i) the installation or alteration of an antenna other than a Regulation 2020/1070 small cell system or a small cell system, or of any apparatus which includes or is intended for the support of such an antenna; or
- (ii) the replacement of an antenna or such apparatus by an antenna other than a Regulation 2020/1070 small cell system or a small cell system, or apparatus which differs from that which is being replaced,

unless the development is carried out in an emergency or is development described in the introductory words to sub-paragraph (m) and which is allowed by the paragraphs which follow those introductory words;”;

(e) in sub-paragraph (m)(ii), after “dish antennas” insert “Regulation 2020/1070 small cell systems or small cell systems;”;

(f) for sub-paragraphs (q) to (t) substitute—

“(q) in the case of the installation, alteration or replacement on a dwellinghouse or within the curtilage of a dwellinghouse of any electronic communications apparatus, that apparatus—

- (i) is not a Regulation 2020/1070 small cell system or a small cell system;
- (ii) being a Regulation 2020/1070 small cell system or a small cell system, is or would be on any protected land or within a World Heritage Site, unless the development is carried out in an emergency or is development which is allowed by sub-paragraph (r);
- (iii) being a small cell system, would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than two small cell systems; or
- (iv) being a small cell system, is to be located on a roof or on a chimney so that the highest part of the antenna would exceed in height the highest part of that roof or chimney respectively;

(r) in the case of the installation, alteration or replacement on protected land or within a World Heritage Site of a Regulation 2020/1070 small cell system or a small cell system on a dwellinghouse or within the curtilage of a dwellinghouse, the antenna—

(i) is to be located—

- (aa) on a chimney;
- (bb) on a building which exceeds 15 metres in height;
- (cc) on a wall or roof slope which fronts a highway; or
- (dd) on a roof, other than a roof slope which fronts a highway, so that the highest part of the antenna would exceed in height the highest part of that roof;

(ii) is or would be on protected land (other than a conservation area⁽¹⁾) and would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than either—

- (aa) two Regulation 2020/1070 small cell systems;
- (bb) two small cell systems; or

(1) See section 336(1) of the Town and Country Planning Act 1990 for the definition of “conservation area”.

- (cc) one Regulation 2020/1070 small cell system and one small cell system; or
 - (iii) is or would be in a conservation area or within a World Heritage site and would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than one Regulation 2020/1070 small cell system or one small cell system;
 - (s) in the case of the installation, alteration or replacement of a Regulation 2020/1070 small cell system or a small cell system on a building or other structure, which is not a dwellinghouse or within the curtilage of a dwellinghouse, in a conservation area or World Heritage Site—
 - (i) unless the development is carried out in an emergency;
 - (ii) the installation of a Regulation 2020/1070 small cell system or a small cell system would result in the presence on the building or other structure of more than either—
 - (aa) two Regulation 2020/1070 small cell systems;
 - (bb) two small cell systems; or
 - (cc) one Regulation 2020/1070 small cell system and one small cell system; or
 - (iii) the replacement or alteration of a Regulation 2020/1070 small cell system or a small cell system would result in the presence on the building or other structure of more than either—
 - (aa) two Regulation 2020/1070 small cell systems;
 - (bb) two small cell systems;
 - (cc) one Regulation 2020/1070 small cell system and one small cell system; or
 - (dd) if greater, the number of Regulation 2020 small cell systems or small cell systems on the building or other structure before alteration or replacement of the antenna.”
- (6) In paragraph A.3(4)(c)—
- (a) for “small cell antennas” substitute “Regulation 2020/1070 small cell systems or small cell systems”, and
 - (b) omit the words from “as expressed in” to the end.
- (7) In paragraph A.4(1)—
- (a) omit the definitions of “small antenna” and “small cell antenna”;
 - (b) at the appropriate place insert—
 - ““Commission Regulation 2020/1070” means Commission Implementing Regulation (EU) 2020/1070 on specifying the characteristics of small-area wireless access points pursuant to Article 57 paragraph 2 of the Directive;”;
 - ““the Directive” means Directive (EU) 2018/1972 of the European Parliament and Council establishing the European Electronic Communications Code (recast);”;
 - ““Regulation 2020/1070 small cell system” means a small cell system—
- (a) to which Commission Regulation 2020/1070 applies;
 - (b) which complies with the requirements of the European Standard laid down at point B of the Annex to Commission Regulation 2020/1070; and

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(c) meets the conditions set out in Point A of the Annex to Commission Regulation 2020/1070;”;

““small cell system” means an antenna which may be referred to as a femtocell, picocell, metrocell or microcell antenna, together with any ancillary apparatus, which—

(a) operates on a point to multi point or area basis in connection with an electronic communications service;

(b) does not, in any two dimensional measurement, have a surface area exceeding 5000 square centimetres; and

(c) does not have a volume exceeding 50,000 cubic centimetres;

but does not include a Regulation 2020/1070 small cell system and any calculation for the purposes of paragraph (b) or (c) includes any power supply unit or casing, but excludes any mounting, fixing, bracket or other support structure;.”.

(8) After paragraph A.4(2) insert—

“(3) Any reference in this Order to Commission Regulation 2020/1070 is a reference to that Regulation as amended from time to time.”