

Planning (Wales) Act 2026

2026 asc 6

CONTENTS

PART 1

INTRODUCTORY PROVISIONS

CHAPTER 1

INTRODUCTION AND OVERVIEW

1 Introduction to this Act
2 Overview of this Act

CHAPTER 2

"DEVELOPMENT" AND RELATED DEFINITIONS

3 Meaning of "development"
4 Building, engineering and mining operations
5 Uses of land that involve a material change
6 Operations and changes in use that are not development

CHAPTER 3

PLANNING AUTHORITIES

7 The planning authority for an area
8 Power to designate joint planning area and establish joint planning board
9 Joint planning areas and National Parks

PART 2

THE DEVELOPMENT PLAN

CHAPTER 1

INTRODUCTORY

10 Meaning of "the development plan" for an area

11 Sustainable development

CHAPTER 2

NATIONAL DEVELOPMENT FRAMEWORK FOR WALES

12 Duty to prepare and publish National Development Framework
13 Preparation of Framework: statement of public participation
14 Procedure for preparation and publication of Framework
15 Review and revision of Framework

CHAPTER 3

STRATEGIC AND LOCAL PLANNING: MAIN FUNCTIONS OF AUTHORITIES

Strategic planning by corporate joint committees

16 Survey of corporate joint committee's area
17 Duty to prepare strategic development plan

Local planning by planning authorities

18 Survey of planning authority's area
19 Duty to prepare local development plan

CHAPTER 4

STRATEGIC AND LOCAL DEVELOPMENT PLANS: PROCEDURE

Introduction

20 Meaning of "plan" and "plan-making authority"

Preparation and adoption of plans

21 Preparation of plan: procedure and delivery agreement
22 Sustainability appraisal
23 Independent examination
24 Adoption of plan

Intervention by the Welsh Ministers and withdrawal of plans before adoption

25 Power to direct authority to modify plan
26 Power to direct authority to submit plan for approval
27 Power to direct authority to withdraw plan
28 Withdrawal of plan in absence of direction
29 Default powers of the Welsh Ministers

Representations about plans

30 Exclusion of certain representations relating to highways and new towns

Review, revision, revocation and monitoring of plans after adoption or approval

31 Duty to consider whether to review plan
32 Review of plan
33 Revision of plan
34 Revocation of plan
35 Annual monitoring report

Joint local development plans

36 Joint exercise of functions by planning authorities
37 End of joint arrangements between planning authorities

Costs of independent examinations of plans

38 Power to require plan-making authority to pay costs of independent examination

CHAPTER 5

GENERAL

39 Urban development corporations
40 Guidance
41 Regulations about exercise of functions relating to plans

PART 3

PLANNING PERMISSION

CHAPTER 1

INTRODUCTORY

Overview

42 Overview of this Part

Requirement for planning permission

43 Planning permission required for development

CHAPTER 2

PLANNING PERMISSION GRANTED BY ORDER

44 Power of the Welsh Ministers to grant permission by development order
45 Power of planning authority to grant permission by local development order
46 Completion of development after withdrawal of permission granted by order

CHAPTER 3

PLANNING PERMISSION GRANTED ON APPLICATION: INTRODUCTORY

47 Grant of planning permission on application
48 Outline planning permission
49 Planning permission for development already carried out
50 Planning permission for development without complying with previous conditions
51 Sustainable development duty

CHAPTER 4

PRE-APPLICATION PROCEDURE

52 Requirement for applicant to carry out pre-application consultation and publicity
53 Pre-application services provided by planning authority or the Welsh Ministers
54 Pre-application services: records and statement of services

CHAPTER 5

APPLYING FOR PLANNING PERMISSION AND RELATED APPROVALS

Requirements for applications to planning authorities

55 Application for planning permission to be made to planning authority
56 Application for planning permission, approval of reserved matters etc.: general requirements
57 Application for planning permission: design and access statement and pre-application consultation report
58 Notice of application for planning permission or approval of reserved matters

Failure to comply with requirements for applications

59 Planning authority not to consider invalid application
60 Planning authority to give notice that application is not valid
61 Right to appeal against notice of invalidity
62 Determination of appeal against notice

CHAPTER 6

DEALING WITH APPLICATIONS

Procedure for dealing with applications

63 Procedure for dealing with applications: general
64 Requirement to respond to consultation
65 Notifying community councils of applications

Determination of applications and conditions of planning permission

66 General considerations relevant to determination of applications
67 Grant or refusal of planning permission and imposition of conditions
68 Determining applications to develop without compliance with previous conditions
69 Decision notices

Cases where planning authorities do not deal with applications made to them

70 Power to refuse to consider similar applications
71 Power to refuse to consider application made after issue of enforcement notice
72 Reference of application to the Welsh Ministers

Appeals to the Welsh Ministers

73 Right to appeal against planning authority decision or failure to make decision
74 Procedure for making appeal
75 Restriction on varying application after service of notice of appeal
76 Decision on application after service of notice of appeal
77 Determination of appeal

CHAPTER 7

APPLICATIONS FOR PLANNING PERMISSION AND RELATED APPROVALS: SPECIAL CASES

Optional applications to the Welsh Ministers

78 Option to make application to the Welsh Ministers
79 Designation of planning authority for the purposes of section 78
80 Option to make application to the Welsh Ministers: connected applications
81 Powers to impose requirements in relation to applications to the Welsh Ministers
82 Procedure for dealing with planning applications made to the Welsh Ministers
83 Pre-application services and determination of applications: functions of inspectors

The Crown

84 Applications by the Crown
85 Applications relating to urgent Crown development

Combination of applications

86 Combination of applications for planning permission with other applications

CHAPTER 8

PLANNING PERMISSION FOR DEVELOPMENT WITH GOVERNMENT AUTHORISATION

87 Authorisation for development by local authorities and statutory undertakers

88 Consent for electricity generating stations and electric lines
89 Orders under the Transport and Works Act 1992
90 Application of this Act to planning permission granted under this Chapter

CHAPTER 9

EFFECT, DURATION AND IMPLEMENTATION OF PLANNING PERMISSION

Effect of planning permission

91 Benefit of planning permission
92 Permission to erect a building: purposes for which building may be used

Duration of planning permission

93 Condition about period within which development must start
94 Conditions of outline planning permission
95 Breach of condition about period within which development must start etc.
96 Duration of minerals permission

Implementation of planning permission

97 Notice of starting and carrying out development

Termination of planning permission where development has not been completed

98 Power to make termination order

Interpretation

99 Time when development starts

CHAPTER 10

CHANGES TO PLANNING PERMISSION

Non-material changes to planning permission

100 Power of planning authority to make non-material change to planning permission
101 Further provision about applications for non-material changes

Modification and revocation of planning permission

102 Power to make order modifying or revoking planning permission

Reviews of planning permission for minerals development

103 Giving effect to minerals permissions relating to dormant sites
104 Periodic review of minerals permissions

CHAPTER 11

COMPENSATION AND PURCHASE OF INTERESTS IN LAND

Compensation for changes to planning permission

105 Compensation for refusal or conditional grant of planning permission previously granted by order
106 Compensation where planning permission is modified or revoked
107 Compensation for changes to planning permission: supplementary provision
108 Apportionment and recovery of compensation for depreciation
109 Compensation for changes to planning permission for minerals development

Right to require purchase of interest in land

110 Service of purchase notice where planning permission is refused, revoked or made conditional

CHAPTER 12

REGISTER

111 Register of local development orders, planning applications etc.

PART 4

ENFORCEMENT

Introductory

112 Expressions used in connection with enforcement
113 Time limits for taking enforcement action

Investigatory powers

114 Power of planning authority to serve enforcement investigation notice
115 Offence of failing to comply with enforcement investigation notice
116 Powers to enter land for enforcement purposes
117 Warrant to enter land
118 Supplementary provision about powers of entry

Enforcement warning notices

119 Power of planning authority to issue enforcement warning notice

Temporary stop notices

120 Power of planning authority to issue temporary stop notice
121 Restrictions on power to issue temporary stop notice
122 Duration etc. of temporary stop notice

123 Offence of breaching temporary stop notice
124 Compensation for loss or damage caused by temporary stop notice

Breach of condition notices

125 Power of planning authority to serve breach of condition notice
126 Offence of failing to comply with breach of condition notice
127 Effect of grant of planning permission or removal of condition on breach of condition notice

Enforcement notices

128 Power of planning authority to issue enforcement notice
129 Service, taking effect etc. of enforcement notice
130 Variation and withdrawal of enforcement notice

Appeals against enforcement notices

131 Right to appeal against enforcement notice
132 Determination of appeal: general
133 Grant of planning permission etc. on determination of appeal
134 Issue of certificate of lawfulness on determination of appeal

Compliance with enforcement notices

135 Order to permit steps required by enforcement notice
136 Power to enter land and take steps required by enforcement notice
137 Recovery of costs of compliance with enforcement notice
138 Offences of failing to comply with enforcement notice
139 Assurance that person is not at risk of prosecution for offence under section 138

Further provisions about effect of enforcement notices

140 Grounds for appeal not to be raised in other proceedings
141 Effect of grant of planning permission on enforcement notice
142 Deemed planning permission where enforcement notice is complied with
143 Continuing effect of enforcement notice in relation to later development

Enforcement by the Welsh Ministers

144 Power of the Welsh Ministers to issue enforcement notice

Stop notices

145 Power of planning authority to issue stop notice
146 Restrictions on power to issue stop notice
147 Service and display of stop notice
148 Withdrawal of stop notice
149 Duration and effect of stop notice

150 Power of the Welsh Ministers to issue stop notice
151 Offence of breaching stop notice
152 Compensation for loss or damage caused by stop notice

Injunctions

153 Injunctions restraining breaches of planning control

Register

154 Register of enforcement notices, other enforcement action and stop notices

PART 5

CERTIFICATES OF LAWFULNESS

155 Expressions relating to lawfulness
156 Certificate of lawfulness of existing use or development
157 Certificate of lawfulness of proposed use or development
158 Further provision about applications for certificates of lawfulness
159 Further provision about certificates of lawfulness
160 Right to appeal against refusal of application or failure to make decision
161 Restriction on varying application after service of notice of appeal
162 Determination of appeal
163 Revocation of certificate of lawfulness
164 Offence of making false statement etc. to influence outcome of application or appeal

PART 6

OBLIGATIONS RELATING TO DEVELOPMENT AND USE OF LAND

CHAPTER 1

PLANNING OBLIGATIONS

165 Planning obligations
166 Enforcement of planning obligations
167 Modification and discharge of planning obligations
168 Appeals relating to applications to modify or discharge planning obligations
169 Legal challenges relating to applications made to the Welsh Ministers or Secretary of State
170 Interpretation of this Chapter

CHAPTER 2

COMMUNITY INFRASTRUCTURE LEVY

The levy

171 CIL regulations
172 Charging for development

173 Use of CIL: funding infrastructure

Liability for CIL

174 Terms relating to liability
175 Assuming liability
176 Default liability for CIL
177 Time when liability arises
178 Liability in other cases
179 Further provision about liability for CIL

Exemptions and reductions

180 Exemptions and reductions: general
181 Charities: exemption from liability
182 Exemptions and reductions: procedure

Amount of CIL

183 Charging schedule
184 Estimate of amount
185 Appeals relating to calculation of CIL

Collection of CIL

186 Collection and payment of CIL

Enforcement of CIL

187 Enforcement: general
188 Consequences of failure to comply
189 Interest and penalties
190 Power to stop development
191 Powers of entry
192 Offences
193 Registration or notification of liability

Compensation

194 Compensation: loss or damage as a result of enforcement action

Use of CIL payments

195 Funding by CIL
196 CIL funding: lists
197 Duty to pass CIL to other persons
198 Duty to pass on CIL: further provision
199 Use of CIL in area to which duty to pass on CIL does not apply

Reviews and appeals

200 Reviews and appeals

Procedure

201 Power to make further provision about procedures

Guidance

202 Guidance

Relationship with other powers

203 Relationship with other powers

General

204 CIL regulations: general
205 Interpretation of this Chapter

PART 7

OTHER POWERS RELATING TO USE OR CONDITION OF LAND

CHAPTER 1

POWERS TO REQUIRE DISCONTINUANCE OF USE OF LAND ETC.

Discontinuance orders

206 Power to make discontinuance order
207 Planning permission granted by discontinuance order

Prohibition orders and protection orders

208 Power to make prohibition order or protection order

Enforcement of orders

209 Powers to enter land, take steps required by order and recover costs
210 Offence of failing to comply with order

Compensation and purchase of interests in land

211 Compensation for damage caused by discontinuance order
212 Compensation for effects of orders relating to minerals
213 Service of purchase notice following making of discontinuance order

CHAPTER 2

LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

Maintenance of land notices

214 Power of planning authority to issue maintenance of land notice

Appeals against maintenance of land notices

215 Right to appeal against maintenance of land notice
216 Determination of appeal
217 Grounds for appeal not to be raised in other proceedings

Enforcement of maintenance of land notices

218 Order to permit steps required by maintenance of land notice
219 Powers to enter land, take steps required by maintenance of land notice and recover costs
220 Offence of failing to comply with maintenance of land notice

PART 8

CONTROL OF ADVERTISEMENTS

Control of advertisements regulations

221 Control of advertisements regulations
222 Consent for the display of advertisements
223 Restricting the display of advertisements where express consent is not ordinarily required
224 Appeals
225 Changing or revoking consent
226 Compensation
227 Control of advertisements regulations: supplementary
228 Power to make different provision for different areas, including areas of special control

Deemed planning permission for display of advertisements

229 Deemed planning permission for advertisements displayed in accordance with regulations

Enforcement of regulations

230 Offence of displaying advertisement in breach of regulations
231 Power to remove or obliterate placard and poster
232 Compensation for damage caused in removing or obliterating placard or poster

PART 9

PRESERVATION OF TREES AND WOODLANDS

CHAPTER 1

TREE PRESERVATION ORDERS AND WOODLAND PRESERVATION ORDERS ETC.

General duty of planning authorities

233 Planning permission to include provision for preservation and planting of trees

Tree preservation orders and woodland preservation orders

234 Power of planning authority to make tree preservation order
235 Power of planning authority to make woodland preservation order
236 Power of the Welsh Ministers to make tree preservation orders and woodland preservation orders

Tree preservation regulations

237 Tree preservation regulations: general
238 Interests of amenity: factors to be taken into account
239 Making, varying or revoking tree preservation orders and woodland preservation orders
240 Activities that may be prohibited
241 Consent for prohibited activities and appeals
242 Compensation
243 Registers of information relating to tree preservation orders and woodland preservation orders
244 Tree preservation regulations: restriction relating to felling licences under the Forestry Act 1967

Replacement of trees

245 Replacement of trees: tree preservation orders
246 Replacement of trees: woodland preservation orders

CHAPTER 2

TREES IN CONSERVATION AREAS

247 Preservation of trees in conservation areas
248 Replacement of trees in conservation areas
249 Register of notices of intention to carry out works

CHAPTER 3

ENFORCEMENT

Enforcement of prohibition on works

250 Offences of breaching tree preservation provisions
251 Injunction restraining breach of tree preservation provisions

Enforcement of requirement to replace trees

252 Power of planning authority to issue tree replacement notice
253 Variation of tree replacement notice
254 Right to appeal against tree replacement notice
255 Determination of appeal
256 Order to permit trees to be planted
257 Power to enter land and plant trees
258 Recovery of costs of planting trees

Powers of entry

259 Powers to enter land without warrant
260 Warrant to enter land
261 Supplementary provisions about powers of entry

PART 10

ACQUISITION AND APPROPRIATION OF LAND FOR PLANNING PURPOSES ETC.

Powers of relevant local authority to acquire land for planning purposes

262 Acquisition of land by agreement for planning purposes
263 Compulsory acquisition of land for planning purposes

Power of local authority to appropriate land forming part of common or allotment

264 Appropriation of land forming part of common or allotment for another purpose

Appropriation, disposal and development of land held by local authority for planning purposes

265 Land to which sections 266 to 268 apply
266 Appropriation of land held for planning purposes
267 Disposal of land held for planning purposes
268 Development and use of land held for planning purposes

Removal of restrictions on obtaining possession of dwellings

269 Power of local authority to obtain possession of dwellings let under certain tenancies

Joint body to hold land acquired by local authority for planning purposes

270 Power of the Welsh Ministers to establish joint body to hold land acquired for planning purposes

Acquisition and disposal of land by the Welsh Ministers

271 Compulsory acquisition of land by the Welsh Ministers
272 Disposal of land acquired under section 271

Ending of certain rights on compulsory acquisition of land

273 Ending of rights relating to land acquired compulsorily under this Part

Removal of restrictions on use of open spaces, burial grounds etc.

274 Meaning of "relevant acquisition" and "relevant appropriation"
275 Development and use of commons, open spaces and allotments
276 Development and use of burial grounds
277 Development and use of land connected to religious worship other than burial grounds
278 Further provision about regulations under sections 276 and 277

General

279 Interpretation of this Part

PART 11

HIGHWAYS

CHAPTER 1

HIGHWAYS AFFECTED BY DEVELOPMENT

Stopping up and diversion of highways: powers of the Welsh Ministers

280 Stopping up or diversion of highway to enable development
281 Stopping up or diversion of highway crossing or entering route of new highway
282 Procedure before grant of planning permission
283 Further provision about orders under sections 280 and 281
284 Orders under section 281: stopping up of private means of access
285 Compensation where private means of access is stopped up

Pedestrianisation of highways: powers of the Welsh Ministers

286 Pedestrianisation of highway to improve amenity
287 Revocation of order for pedestrianisation of highway
288 Further provision about orders under sections 286 and 287
289 Compensation where highway is pedestrianised

Further powers where orders are made by the Welsh Ministers

290 Compulsory acquisition of land in connection with order
291 Ending of rights of statutory undertakers and network operators
292 Electronic communications apparatus affected by order

Stopping up or diversion of public paths: powers of planning authorities

293 Stopping up or diversion of public path to enable development
294 Confirmation of order made by planning authority
295 Electronic communications apparatus affected by order

Mineral working: temporary orders

296 Temporary stopping up or diversion for surface working of minerals

CHAPTER 2

ENDING RIGHTS OF WAY OVER LAND HELD FOR PLANNING PURPOSES

Powers of the Welsh Ministers

297 Power of the Welsh Ministers to end right of way over land held for planning purposes
298 Compulsory acquisition of land to provide alternative right of way
299 Concurrent proceedings relating to orders and acquisitions

Powers of local authorities

300 Power of local authority to end right of way over public path on land held for planning purposes

Electronic communications apparatus

301 Electronic communications apparatus affected by order

CHAPTER 3

GENERAL

302 Interpretation of this Part

PART 12

STATUTORY UNDERTAKERS ETC.

Interpretation of terms relating to statutory undertakers

303 Meaning of "statutory undertaker" and "statutory undertaking"
304 Meaning of "operational land": statutory undertakers generally

305 Meaning of "operational land": Civil Aviation Authority and air traffic licensees
306 Meaning of "operational land": universal postal service providers
307 Meaning of "operational land": supplementary provision
308 Meaning of "the appropriate Minister" etc.

Development and use of land of statutory undertakers

309 Applications for planning permission by statutory undertakers
310 Conditional grant of planning permission
311 Modification or revocation of planning permission
312 Discontinuance orders, prohibition orders and protection orders
313 Display of advertisements on operational land

Statutory undertakers and network operators: ending of rights and removal of apparatus

314 Removal notices: ending rights over land etc. of statutory undertakers and network operators
315 Removal notices: withdrawal or taking effect
316 Powers of statutory undertakers or network operators to enter land to remove or re-site apparatus

Extending or modifying statutory undertakers' functions

317 Orders to extend or modify statutory undertakers' functions

Relieving statutory undertakers of impracticable obligations

318 Orders to relieve statutory undertakers of impracticable obligations

Compensation

319 Right to compensation for effects of certain planning decisions and orders
320 Rights to compensation for ending rights over land etc.
321 Assessing compensation
322 Statutory undertakers' power to exclude section 321

PART 13

BLIGHTED LAND

Key terms

323 Key terms

Blight notices

324 Notice requiring purchase of blighted land

Counter-notices

325 Counter-notice objecting to blight notice
326 Grounds of objection to a blight notice
327 Grounds of objection: further provision
328 Further counter-notice where certain proposals come into force
329 Reference of objection to Upper Tribunal: general
330 Effect of objection where no reference is made to Upper Tribunal

Blight notices where no objection or where upheld by the Upper Tribunal

331 Effect of blight notice
332 Blight notice in respect of part of hereditament or unit

Effect of Grounds 2, 3 and 4 on compulsory acquisition powers

333 Effect on powers of compulsory acquisition where no intention to acquire
334 Effect on powers of compulsory acquisition where intention to acquire part

Blight notice requiring purchase of unaffected area of agricultural unit

335 Requirement to purchase parts of agricultural units unaffected by blight
336 Additional ground of objection to blight notice including requirement to purchase unaffected area
337 Upper Tribunal: objection to blight notice including requirement to purchase unaffected area
338 Effect of blight notice including requirement to purchase unaffected area
339 Effect of blight notice where claim in respect of unaffected area withdrawn or rejected
340 Effect of blight notice where claim in respect of unaffected area and part of affected area withdrawn or rejected

Withdrawal of blight notice

341 Withdrawal of blight notice

Compensation: special cases

342 Compensation: cases where prospect of planning permission to be ignored
343 Compensation: listed buildings in need of repair
344 Compensation: blight notice including claim in respect of unaffected area

Personal representatives

345 Powers of personal representatives in respect of blight notice served before death
346 Power of personal representative to serve blight notice

347 Grounds of objection to blight notice served by personal representative

Mortgagees

348 Power of mortgagee to serve blight notice
349 Grounds of objection to blight notice served by mortgagee

Prohibition on simultaneous blight notices

350 Prohibition on service of simultaneous notices under sections 324, 346 and 348

Partnerships

351 Partnerships: special provision

Powers to acquire land where blight notice served

352 Power of the Welsh Ministers to acquire land identified by National Development Framework for Wales
353 Power of the Welsh Ministers to acquire land affected by order relating to new town
354 Power of the Welsh Ministers to acquire land affected by order relating to urban development area
355 Power of the Welsh Ministers to acquire land identified in infrastructure policy statement
356 Power of the Secretary of State to acquire land identified in national policy statement

Miscellaneous and supplementary provisions

357 No withdrawal of notice to treat deemed to have been served under this Part
358 Assistance to acquire property where objection on Ground 4

Interpretation

359 Interpretation of this Part

PART 14

ADMINISTRATION AND VALIDITY

CHAPTER 1

EXERCISE OF FUNCTIONS OF PLANNING AUTHORITIES

Fees and charges

360 Fees and charges for exercise of functions by planning authorities

Arrangements for exercise of functions relating to applications

361 Power to require functions to be exercised by committees, sub-committees or officers
362 Size and composition of committees to exercise functions
363 Arrangements for exercise of functions: supplementary

CHAPTER 2

PROCEEDINGS BEFORE THE WELSH MINISTERS

Fees and charges

364 Fees and charges for applications and appeals to the Welsh Ministers

Procedural provisions applying to proceedings before the Welsh Ministers

365 Determination of appeal by inspector
366 Choice of inquiry, hearing or written procedure for appeals and applications
367 Procedural requirements for appeals, applications and other proceedings

Local inquiries

368 Power of the Welsh Ministers to hold local inquiry
369 Power of person holding inquiry to require evidence
370 Access to evidence at inquiry
371 Payment of appointed representative where access to evidence restricted

Costs of proceedings before the Welsh Ministers

372 Payment of costs of the Welsh Ministers
373 Orders relating to costs of parties

CHAPTER 3

VALIDITY OF PLANS, DECISIONS AND ORDERS

Review by High Court of plans, decisions and orders

374 Statutory review of development plans
375 Validity of certain decisions and orders
376 Application for statutory review of decision or order
377 Statutory review of orders relating to highways and statutory undertakers

Appeals to High Court against decisions relating to certain notices

378 Appeal against decision relating to enforcement notice

379 Appeal against decision relating to maintenance of land notice or tree replacement notice

CHAPTER 4

CORRECTION OF DECISIONS OF THE WELSH MINISTERS

380 Meaning of "decision document" and "correctable error"
381 Power to correct correctable errors in decision documents
382 Effect and validity of correction notice

PART 15

GENERAL

Powers to require information about interests in land

383 Power to serve information notice
384 Offences of failing to comply with information notice
385 Information about interests in Crown land

Powers of entry

386 Powers to enter land
387 Powers of entry: scope and restrictions
388 Powers of entry: offences and compensation
389 Powers to enter Crown land

Offences

390 Offences by bodies corporate

Compensation

391 Making claims for compensation
392 Determination of compensation claims by Upper Tribunal
393 Compensation for depreciation of value of land
394 Power to modify compensation provisions in relation to minerals

Financial contributions

395 Contributions towards costs incurred by authorities

Forms

396 Form of local authority documents
397 Powers to make provision about forms for applications and appeals

Service of documents

398 Service of notices and other documents: general
399 Service of documents on persons having an interest in land or occupying land
400 Service of documents on the Crown

The Crown

401 Definitions relating to the Crown
402 Representation of Crown and Duchy interests in land
403 Enforcement steps in relation to Crown land

Other special cases

404 Listed buildings and features of special architectural or historical interest
405 Development by, and land of, planning authorities and the Welsh Ministers
406 Church of England land

General

407 Regulations
408 Interpretation
409 Coming into force
410 Short title

Schedule 1 – Local development orders
Schedule 2 – Appeals under section 61: determination by inspectors
Schedule 3 – Conditions relating to mining operations and depositing of waste
Schedule 4 – Applications to the Welsh Ministers: exercise of functions by inspectors
Schedule 5 – Condition limiting duration of minerals permission
Schedule 6 – Termination orders
Schedule 7 – Orders modifying or revoking planning permission
Schedule 8 – Minerals permissions relating to dormant sites
Schedule 9 – Periodic review of minerals permissions
Schedule 10 – Apportionment and recovery of compensation for depreciation
Schedule 11 – Compensation for changes to planning permission for minerals development
Schedule 12 – Purchase notices
Schedule 13 – Community Infrastructure Levy: charging schedules
Schedule 14 – Discontinuance orders
Schedule 15 – Prohibition orders and protection orders
Schedule 16 – Compensation for effects of orders relating to minerals
Schedule 17 – Orders relating to highways
Schedule 18 – Orders relating to statutory undertakers and network operators
Schedule 19 – Blighted land
Schedule 20 – Determination of appeals by inspectors or the Welsh Ministers

Planning (Wales) Act 2026

An Act of Senedd Cymru to consolidate certain enactments relating to planning.

[27 April 2026]

Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:

PART 1

INTRODUCTORY PROVISIONS

CHAPTER 1

INTRODUCTION AND OVERVIEW

1 Introduction to this Act

(1) This Act forms part of a code of Welsh law relating to planning.

(2) It consolidates enactments contained in or made under various Acts, including—

(a) the Town and Country Planning Act 1990 (c. 8);

(b) section 22 of, and Schedule 2 to, the Planning and Compensation Act 1991 (c. 34), and Schedules 13 and 14 to the Environment Act 1995 (c. 25), so far as they continue to have effect immediately before this Act comes into force;

(c) the Planning and Compulsory Purchase Act 2004 (c. 5);

(d) Part 11 of the Planning Act 2008 (c. 29);

(e) the Planning (Wales) Act 2015 (anaw 4).

(3) The Planning (Consequential Provisions) (Wales) Act 2026 amends and repeals enactments, and makes transitional and saving provision, in connection with this Act.

2 Overview of this Act

(1) This section gives an overview of this Act.

(2) Chapters 2 and 3 of this Part make provision about the meaning in this Act of "development" and related terms, and of references to the planning authority for an area.

(3) Part 2 makes provision about the documents that form the development plan for areas in Wales, which are—

(a) the National Development Framework for Wales,

(b) strategic development plans prepared by corporate joint committees, and

(c) local development plans prepared by planning authorities.

(4) Part 3 requires the development of land in Wales to be authorised by planning permission, and makes provision about the grant and effect of planning permission and about making changes to planning permission. Section 42 provides a more detailed overview of that Part.

(5) Part 4 confers on planning authorities and the Welsh Ministers powers to enforce the requirement for development to be authorised by planning permission, including powers to obtain information and enter land, and to issue temporary stop notices, enforcement notices and stop notices.

(6) Part 5 provides for the issue of certificates (referred to as "certificates of lawfulness") confirming that existing or proposed uses of land or operations on land are lawful in the sense that no enforcement action may be taken in respect of them under this Act.

(7) In Part 6—

(a) Chapter 1 provides for persons interested in land to enter into obligations (referred to as "planning obligations") relating to the use of the land or requiring payments to a planning authority, and provides for the enforcement, modification and discharge of planning obligations;

(b) Chapter 2 enables the Welsh Ministers to make regulations about the imposition on owners or developers of land of a charge in respect of chargeable development (referred to as "the community infrastructure levy"), to be used for funding infrastructure in order to support development.

(8) In Part 7—

(a) Chapter 1 confers on planning authorities and the Welsh Ministers powers to make orders (referred to as "discontinuance orders") which, among other things, may require a use of land to be discontinued or make its use subject to conditions; it also confers powers to make prohibition orders and protection orders in relation to land that has been used for carrying out mining operations or depositing mineral waste;

(b) Chapter 2 confers on planning authorities powers to issue notices (referred to as "maintenance of land notices") requiring remedial steps where the condition of land is adversely affecting the amenity of an area, and provides for appeals and the enforcement of the steps required by notices.

(9) Part 8 enables the Welsh Ministers to make regulations to restrict or regulate the use of land in Wales for the display of advertisements, and provides for the enforcement of the regulations.

(10) Part 9 makes provision for the preservation of trees and confers on planning authorities and the Welsh Ministers powers to make orders (referred to as "tree preservation orders" and "woodland preservation orders") for that purpose. Provision is also made for a requirement to replace trees and for the enforcement of the Part's requirements.

(11) Part 10 makes provision in connection with—

(a) the acquisition, appropriation, disposal, development and use of land for planning and other purposes by local authorities and the Welsh Ministers, and

(b) the development and use of commons, open spaces, allotments, burial grounds, consecrated land and other land connected to religious worship where land has been acquired by a local authority, a government department (which includes the Welsh Ministers and a Minister of the Crown) or a statutory undertaker.

(12) In Part 11—

(a) Chapter 1 enables the Welsh Ministers and planning authorities to authorise highways to be stopped up or diverted to enable development to be carried out;

(b) Chapter 2 enables the Welsh Ministers and local authorities to extinguish public rights of way over land acquired or appropriated for planning purposes.

(13) Part 12 makes provision about this Act's application to statutory undertakers and their operational land, and about the rights and functions of statutory undertakers and electronic communications code network operators following certain types of acquisitions and appropriations.

(14) Part 13 enables a person with an interest in land described in Schedule 19 (referred to as "blighted land") to require an appropriate authority to purchase that interest and includes provision about conditions to be met and procedures to be followed.

(15) Part 14 makes provision in connection with the exercise of functions under this Act, including—

(a) provision about arrangements for the exercise of functions by planning authorities and about the procedure for applications and appeals to the Welsh Ministers;

(b) provision for challenges to the validity of plans, orders and decisions and for the correction of decisions made by the Welsh Ministers.

(16) Part 15 makes general provision for the purposes of this Act, including provision conferring powers to obtain information and enter land and general provision about serving documents and claiming compensation.

CHAPTER 2

"DEVELOPMENT" AND RELATED DEFINITIONS

3 Meaning of "development"

(1) This Chapter applies for the purposes of this Act (except Chapter 2 of Part 6).

(2) "Development" means—

(a) carrying out operations on land (see section 4), or

(b) making a material change in the use of land (see section 5).

(3) This is subject to section 6 (operations and changes in use that are not development).

(4) In this Chapter references to use of land do not include use for carrying out operations on the land.

4 Building, engineering and mining operations

(1) "Operations" means building, engineering, mining or other operations.

(2) "Building operations" includes—

(a) demolishing a building;

(b) rebuilding a building;

(c) making any structural alteration or addition to a building;

(d) other operations normally undertaken by a person carrying on business as a builder.

(3) "Engineering operations" includes forming or laying out a means of access to a highway.

(4) Where placing or assembling a tank in inland waters for the purpose of fish farming would not otherwise be development of the land below the tank, it is to be treated as carrying out engineering operations over that land.

(5) "Mining operations" means winning and working minerals on land, whether by underground or surface working, and includes—

(a) removing material of any description from a deposit of—

(i) mineral waste,

(ii) pulverised fuel ash or other furnace ash or clinker, or

(iii) iron, steel or other metallic slags;

(b) extracting minerals from a disused railway embankment.

(6) In subsection (3) "means of access" includes any means of access, whether private or public, for vehicles or foot passengers, and includes a street.

(7) In subsection (4)—

"fish farming" ("*ffermio pysgod*") means breeding, rearing or keeping fish or shellfish (which includes all kinds of crustaceans and molluscs);

"inland waters" ("*dyfroedd mewndirol*") means waters that do not form part of the sea or of a creek, bay or estuary or of a river as far as the tide flows;

"tank" ("*tanc*") includes a cage and any other structure for use in fish farming.

5 Uses of land that involve a material change

(1) This section provides that certain uses of land involve a material change in the use of the land (whether or not they would otherwise do so).

(2) Where a building was previously used as a single dwelling, using it as two or more separate dwellings involves a material change in the use of the building and of each part of it that is used as a dwelling.

(3) Depositing waste on land involves a material change in the use of the land, even if the land is included in a site already used for that purpose, if—

(a) the surface area of the deposit is increased, or

(b) the height of the deposit is increased and exceeds the level of the land adjoining the site.

(4) The use for the display of advertisements of an external part of a building that is not normally used for that purpose involves a material change in the use of that part of the building.

6 Operations and changes in use that are not development

(1) This section provides that certain operations and changes in the use of land are not development.

(2) Carrying out works for the maintenance, improvement or alteration of a building is not development if—

(a) the works affect only the interior of the building or do not materially affect its external appearance, and

(b) the works do not increase—

(i) the gross internal floor area of the building, or

(ii) the volume of underground space in the building.

(3) The following operations are not development—

(a) the carrying out by a highway authority on land within the boundaries of a road of—

(i) works required exclusively for the maintenance of the road, or

(ii) other works required for the maintenance or improvement of the road, other than works that may have significant adverse effects on the environment;

(b) the carrying out by a local authority or statutory undertaker of works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including breaking open a street or other land for that purpose.

(4) See also section 5(2) of the Pipe-lines Act 1962 (c. 58), which provides that certain works in relation to pipe-lines are not development.

(5) The following changes in the use of land are not development—

(a) changing the use of a building or other land within the curtilage of a dwelling to any use that is incidental to the enjoyment of the dwelling;

(b) changing the use of land to any use for agriculture or forestry (including afforestation), or changing the use of a building that is occupied with land so used to any use for either of those purposes.

(6) Regulations may provide that, where land is used for a purpose within a class specified in the regulations, changing the use of the land to use for any other purpose within the same class is not development.

(7) Regulations under subsection (6) apply equally to a change in the use of part of the land, except so far as the regulations provide otherwise.

(8) In subsection (3)(b)—

(a) the reference to a local authority does not include a National Park authority;

(b) the reference to a statutory undertaker does not include a universal postal service provider.

CHAPTER 3

PLANNING AUTHORITIES

7 The planning authority for an area

(1) The planning authority for an area in Wales is the county council or county borough council for the area.

(2) But—

(a) a National Park authority for a National Park in Wales is the planning authority for the area of the Park;

(b) a joint planning board established under section 8 is the planning authority for its joint planning area.

(3) Subsection (2)(a) applies to a National Park authority from the time specified in the order under section 63 of the Environment Act 1995 (c. 25) establishing the authority.

(4) Subsection (2)(b) applies to a joint planning board from the time specified in the regulations under section 8 establishing the board.

8 Power to designate joint planning area and establish joint planning board

(1) Regulations may—

(a) designate two or more areas, each of which is the whole or part of a county or county borough in Wales, as a joint planning area, and

(b) establish a joint board (to be known as a "joint planning board") for the joint planning area.

(2) The Welsh Ministers may not make regulations under this section unless either—

(a) they have caused a local inquiry to be held, or

(b) all the constituent councils have agreed.

(3) A joint planning board is a body corporate.

(4) A joint planning board consists of members appointed by the constituent councils.

(5) The regulations establishing the board must determine the number of members.

(6) Regulations under this section may—

(a) regulate the appointment, tenure of office and vacation of office of members of a joint planning board;

(b) regulate the meetings and proceedings of the board;

(c) provide for the payment of the board's costs by the constituent councils;

(d) apply to the board (with or without modifications) any enactment relating to the constitution, functions or financial arrangements (including audit) of local authorities of any description;

(e) make any other provision that the Welsh Ministers think appropriate in connection with the exercise of the board's functions.

(7) Regulations under this section may also—

(a) provide for the transfer of property, rights and liabilities (including rights and liabilities relating to contracts of employment);

(b) provide for the adjustment of accounts and apportionment of liabilities.

(8) The "constituent councils" of a joint planning board are each county council or county borough council all or part of whose area is included in the board's joint planning area.

9 Joint planning areas and National Parks

(1) A joint planning area may not include any part of a National Park for which there is a National Park authority, but this is subject to any regulations made under this section.

(2) Regulations may make provision for and in connection with enabling—

(a) an area that includes all or part of a National Park for which there is a National Park authority to be designated as a joint planning area, and

(b) a joint planning board to be established as the planning authority for such a joint planning area for the purposes of this Act (except Part 2) and the Historic Environment Act.

(3) The regulations may also make provision about whether the functions of a planning authority under the Hazardous Substances Act are to be exercisable, in relation to any part of a National Park included in a joint planning area, by the joint planning board or by the National Park authority.

(4) Regulations under this section may provide for a function to be exercisable by or in relation to another person instead of, or as well as, a person by or in relation to whom the function would otherwise be exercisable.

(5) Regulations under this section may amend or otherwise modify—

(a) any enactment contained in, or made under, the Welsh planning Acts;

(b) any other enactment relating to functions exercisable by or in relation to planning authorities;

(c) any enactment relating to National Parks or to functions exercisable by or in relation to National Park authorities.

PART 2

THE DEVELOPMENT PLAN

CHAPTER 1

INTRODUCTORY

10 Meaning of "the development plan" for an area

(1) The development plan for an area in Wales consists of—

(a) the National Development Framework for Wales,

(b) any strategic development plan for an area that includes all or part of the area in question, and

(c) the local development plan for the area in question.

(2) If a policy in the development plan for an area conflicts to any extent with another policy in the development plan, the conflict must be resolved in favour of the policy contained in the last document to be adopted, approved or published.

11 Sustainable development

(1) This section applies to the exercise by a public body of a function under this Part in relation to the National Development Framework for Wales, a strategic development plan or a local development plan.

(2) The function must be exercised, as part of carrying out sustainable development in accordance with the Well-being Act, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales.

(3) In complying with subsection (2), a public body must take account of any relevant guidance issued by the Welsh Ministers (including relevant guidance issued under section 14 of the Well-being Act).

(4) In this section "public body" has the meaning given by section 6 of the Well-being Act.

CHAPTER 2

NATIONAL DEVELOPMENT FRAMEWORK FOR WALES

12 Duty to prepare and publish National Development Framework

(1) The Welsh Ministers must prepare and publish a plan, to be known as the National Development Framework for Wales.

(2) The Framework must set out such of the policies of the Welsh Ministers in relation to the development and use of land in Wales as the Welsh Ministers consider appropriate.

(3) The Framework may specify that development of a particular description, in a particular area or location in Wales, is to be a significant infrastructure project for the purposes of the Infrastructure (Wales) Act 2024 (asc 3).

(4) The Framework must give reasons for—

(a) the policies it sets out, and

(b) any provision it makes under subsection (3).

(5) The Framework must explain how, in preparing the Framework, the Welsh Ministers have taken account of relevant policies set out in—

(a) the national natural resources policy published under section 9 of the Environment (Wales) Act 2016 (anaw 3),

(b) each marine plan adopted and published by them under Part 3 of the Marine and Coastal Access Act 2009 (c. 23), and

(c) the Wales Transport Strategy published under section 2 of the Transport (Wales) Act 2006 (c. 5).

(6) The Framework must specify the period for which it is to have effect.

(7) A plan ceases to be the National Development Framework for Wales at the end of the period specified under subsection (6).

13 Preparation of Framework: statement of public participation

(1) The Welsh Ministers must prepare and publish a statement of public participation setting out their policies relating to the consultation to be carried out in preparing the National Development Framework for Wales.

(2) In particular, the statement must include provision about—

(a) the form the consultation will take,

(b) when the consultation will take place, and

(c) the steps that will be taken to involve members of the public in the preparation of the Framework.

(3) The statement must provide that, as part of the consultation, the Welsh Ministers will—

(a) publish a draft of the Framework, and

(b) allow a period of 12 weeks beginning with the publication of the draft during which any person may make representations about the draft.

(4) The Welsh Ministers may revise the statement and must publish the statement as revised.

14 Procedure for preparation and publication of Framework

(1) Before publishing the National Development Framework for Wales, the Welsh Ministers must—

(a) prepare a draft of the Framework,

(b) carry out an appraisal of the sustainability of the policies set out in the draft, and

(c) carry out consultation in accordance with the statement of public participation.

(2) In preparing the draft of the Framework, the Welsh Ministers must have regard to the most recent sustainable land management report published under section 6 of the Agriculture (Wales) Act 2023 (asc 4).

(3) The appraisal under subsection (1)(b) must include an assessment of the likely effects of the policies in the draft on the use of the Welsh language.

(4) If, after complying with subsection (1), the Welsh Ministers wish to proceed with the draft of the Framework (with or without changes), they must lay before Senedd Cymru—

(a) the draft, and

(b) a report that—

(i) summarises the representations they received during the consultation carried out under subsection (1)(c), and

(ii) explains how they have taken the representations into account.

(5) The Welsh Ministers must have regard to—

(a) any resolution passed by Senedd Cymru in relation to the draft of the Framework during the Senedd consideration period, and

(b) any recommendation made by a committee of the Senedd in relation to the draft during that period.

(6) After the Senedd consideration period ends, the Welsh Ministers—

(a) may publish the National Development Framework for Wales in the terms of the draft laid under subsection (4), or

(b) if they propose to make changes to that draft, may—

(i) lay before Senedd Cymru an amended draft of the Framework, and

(ii) publish the National Development Framework for Wales in the terms of the amended draft.

(7) If a resolution was passed or a recommendation was made as mentioned in subsection (5), the Welsh Ministers must also, not later than the day the Framework is published, lay before Senedd Cymru a statement explaining how they have had regard to the resolution or recommendation.

(8) In this section "the Senedd consideration period" means 60 days beginning with the day a draft of the Framework is laid before Senedd Cymru under subsection (4), not counting any time when the Senedd is dissolved or is in recess for more than 4 days.

15 Review and revision of Framework

(1) The Welsh Ministers must keep the National Development Framework for Wales under review.

(2) The Welsh Ministers may revise the Framework at any time and must publish the Framework as revised.

(3) Sections 13 and 14 apply for the purposes of the revision of the Framework, but as if references to the Framework (or a draft of the Framework) were references to the Framework as revised (or a draft of the Framework as revised).

(4) Subsection (5) applies if the Welsh Ministers, having published a draft of a revised Framework in accordance with the statement of public participation, decide not to proceed with the revision of the Framework.

(5) The Welsh Ministers must—

(a) publish notice of their decision and the reasons for it, and

(b) if a draft of a revised Framework has been laid before Senedd Cymru under section 14(4), lay a copy of the notice before Senedd Cymru.

(6) Subsection (7) applies if—

(a) a review period ends, and

(b) the Welsh Ministers have not, within that period—

(i) published a revised Framework, or

(ii) laid a draft revised Framework before Senedd Cymru under section 14(4).

(7) As soon as reasonably practicable after the end of the review period, the Welsh Ministers must publish and lay before Senedd Cymru a statement—

(a) setting out their assessment of whether the Framework should be revised and giving reasons for that assessment, and

(b) if they consider that the Framework should be revised, setting out a timetable for its revision.

(8) For the purposes of subsections (6) and (7)—

(a) the first review period—

(i) begins with the day the Framework is first published, and

(ii) ends with the fifth anniversary of that day or, if earlier, with the day a revised Framework is published;

(b) each subsequent review period—

(i) begins with the day after the last day of the preceding review period, and

(ii) ends with the fifth anniversary of the last day of the preceding review period or, if earlier, with the day a revised Framework is published.

CHAPTER 3

STRATEGIC AND LOCAL PLANNING: MAIN FUNCTIONS OF AUTHORITIES

Strategic planning by corporate joint committees

16 Survey of corporate joint committee's area

(1) A corporate joint committee must keep under review the matters that may be expected to affect the development and use, or the planning of the development and use, of land in its area.

(2) Those matters include—

(a) the principal physical, economic, social and environmental characteristics of the area (including the extent to which the Welsh language is used in the area);

(b) the principal purposes for which land is used in the area;

(c) the size, composition and distribution of the population of the area;

(d) the communications networks, transport system and traffic of the area;

(e) any other considerations that may be expected to affect the matters mentioned in paragraphs (a) to (d);

(f) any other matters specified in regulations or in a direction given to the corporate joint committee by the Welsh Ministers.

(3) A corporate joint committee may also keep under review the matters mentioned in subsection (2) in relation to a neighbouring area for which there is a corporate joint committee, to the extent that those matters may be expected to affect its own area.

(4) In doing so, the committee must consult the corporate joint committee for the neighbouring area.

17 Duty to prepare strategic development plan

(1) A corporate joint committee must prepare a plan for its area, to be known as a strategic development plan.

(2) The plan must set out—

(a) the committee's objectives in relation to the development and use of land in its area, and

(b) the committee's policies for the implementation of those objectives.

(3) The plan must be in general conformity with the National Development Framework for Wales.

(4) The plan must specify the period for which it is to have effect.

(5) Regulations may make provision about the period that may be specified.

(6) In preparing its strategic development plan, a corporate joint committee must have regard to—

(a) the National Development Framework for Wales;

(b) other national policies issued by the Welsh Ministers;

(c) any strategic development plan for an area that adjoins the committee's area;

(d) the local development plan for each area all or part of which is included in the committee's area;

(e) the resources likely to be available for implementing the strategic development plan;

(f) any other matters specified in regulations.

(7) A plan is a strategic development plan only so far as it is—

(a) adopted by a resolution of the corporate joint committee as its strategic development plan under section 24, or

(b) approved by the Welsh Ministers under section 26(5) or 29(5).

(8) A plan ceases to be a strategic development plan at the end of the period specified under subsection (4).

Local planning by planning authorities

18 Survey of planning authority's area

(1) A planning authority must keep under review the matters that may be expected to affect the development and use, or the planning of the development and use, of land in its area.

(2) Those matters include—

(a) the principal physical, economic, social and environmental characteristics of the area (including the extent to which the Welsh language is used in the area);

(b) the principal purposes for which land is used in the area;

(c) the size, composition and distribution of the population of the area;

(d) the communications networks, transport system and traffic of the area;

(e) any other considerations that may be expected to affect the matters mentioned in paragraphs (a) to (d);

(f) any other matters specified in regulations or in a direction given to the planning authority by the Welsh Ministers.

(3) A planning authority may also keep under review the matters mentioned in subsection (2) in relation to a neighbouring area to the extent that those matters may be expected to affect its own area.

(4) In doing so, the planning authority must consult—

(a) if the neighbouring area is in Wales, the planning authority for that area;

(b) if the neighbouring area is in England—

(i) the local planning authority for that area, within the meaning given by Part 2 of the Planning and Compulsory Purchase Act 2004 (c. 5), and

(ii) the minerals and waste planning authority for that area, within the meaning given by that Part.

19 Duty to prepare local development plan

(1) A planning authority must prepare a plan for its area, to be known as a local development plan.

(2) The plan must set out—

(a) the authority's objectives in relation to the development and use of land in its area, and

(b) the authority's general policies for the implementation of those objectives.

(3) The plan may also set out specific policies in relation to any part of the authority's area.

(4) The plan must be in general conformity with—

(a) the National Development Framework for Wales, and

(b) any strategic development plan for an area that includes all or part of the authority's area.

(5) The plan must specify the period for which it is to have effect.

(6) Regulations may make provision about the period that may be specified.

(7) In preparing its local development plan, a planning authority must have regard to—

(a) the National Development Framework for Wales;

(b) other national policies issued by the Welsh Ministers;

(c) any strategic development plan for an area that includes all or part of the authority's area or adjoins its area;

(d) any area statement published under section 11 of the Environment (Wales) Act 2016 (anaw 3) for an area that includes all or part of the authority's area;

(e) the local well-being plan published under section 39 or 44(5) of the Well-being Act by each public services board whose area includes all or part of the authority's area;

(f) the resources likely to be available for implementing the local development plan;

(g) any other matters specified in regulations.

(8) A plan is a local development plan only so far as it is—

(a) adopted by a resolution of the planning authority as its local development plan under section 24, or

(b) approved by the Welsh Ministers under section 26(5) or 29(5).

(9) A plan ceases to be a local development plan at the end of the period specified under subsection (5).

CHAPTER 4

STRATEGIC AND LOCAL DEVELOPMENT PLANS: PROCEDURE

Introduction

20 Meaning of "plan" and "plan-making authority"

In this Chapter—

"plan" ("*cynllun*") means a strategic development plan or a local development plan;

"plan-making authority" ("*awdurdod sy'n gwneud cynllun*")—

(a) in relation to a strategic development plan for an area, means the corporate joint committee for the area;

(b) in relation to a local development plan for an area, means the planning authority for the area.

Preparation and adoption of plans

21 Preparation of plan: procedure and delivery agreement

(1) A plan-making authority must prepare its plan in accordance with—

(a) the procedure specified in regulations, and

(b) the delivery agreement for the plan.

(2) The delivery agreement for the plan consists of—

(a) the timetable for the preparation and adoption of the plan, and

(b) the authority's community involvement scheme.

(3) The authority's community involvement scheme is a statement of its policies for the involvement in the preparation of the plan of persons who are listed in the scheme.

(4) The persons listed in the community involvement scheme—

(a) must include the persons specified in regulations;

(b) may include any other persons the plan-making authority considers to have an interest in matters relating to the development and use of land in its area.

(5) The plan-making authority and the Welsh Ministers must attempt to agree the terms of the delivery agreement for the plan.

(6) But to the extent that they cannot agree the terms, the Welsh Ministers may direct that the delivery agreement must be in the terms specified in the direction.

(7) The plan-making authority must comply with the direction.

(8) Regulations may specify—

(a) the procedure to be followed in preparing a delivery agreement;

(b) circumstances in which the requirements of a delivery agreement need not be complied with.

22 Sustainability appraisal

(1) In preparing its plan, a plan-making authority must—

(a) carry out an appraisal of the sustainability of the plan, and

(b) prepare a report of the findings of the appraisal.

(2) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the authority's area.

(3) Regulations may specify the procedure to be followed in carrying out an appraisal under this section.

23 Independent examination

(1) Before a plan-making authority adopts its plan, it must submit the plan to the Welsh Ministers for independent examination.

(2) But the authority must not submit its plan unless—

(a) it has complied with any relevant requirements of regulations under this Part, and

(b) it considers that the plan is ready for independent examination.

(3) Regulations may specify other documents and information that the authority must send to the Welsh Ministers in addition to the plan.

(4) An independent examination must be carried out by an inspector.

(5) The purpose of the examination is to determine whether the plan—

(a) satisfies the requirements imposed by and under this Part, and

(b) is sound.

(6) If a person who makes representations seeking to change the plan requests an opportunity to appear before and be heard by the inspector, the person must be given such an opportunity.

(7) The inspector must—

(a) make recommendations;

(b) give reasons for the recommendations.

(8) The plan-making authority must publish the recommendations and the reasons.

(9) Regulations may make provision about—

(a) the procedure to be followed in connection with an independent examination under this Chapter;

(b) the remuneration and allowances payable to an inspector appointed to carry out an independent examination.

24 Adoption of plan

(1) A plan-making authority may—

(a) adopt its plan as originally submitted for independent examination if the inspector appointed to carry out the examination recommends that the plan is adopted as originally submitted;

(b) adopt the plan with modifications if the inspector recommends the modifications.

(2) A plan is adopted for the purposes of this section if it is adopted by a resolution of the authority.

(3) A plan-making authority must not adopt a plan if the Welsh Ministers direct it not to do so.

Intervention by the Welsh Ministers and withdrawal of plans before adoption

25 Power to direct authority to modify plan

(1) If the Welsh Ministers consider that a plan that has not yet been adopted is unsatisfactory, they may direct the plan-making authority to modify the plan in accordance with the direction.

(2) If the Welsh Ministers give a direction under this section, they must state their reasons for doing so.

(3) The plan-making authority—

(a) must comply with the direction;

(b) must not adopt the plan unless the Welsh Ministers give notice that they are satisfied that the authority has complied with the direction.

(4) In exercising their functions under this section in relation to a plan, the Welsh Ministers must have regard to the delivery agreement for the plan (see section 21).

26 Power to direct authority to submit plan for approval

(1) The Welsh Ministers may at any time before a plan is adopted direct the plan-making authority to submit the plan to them for their approval.

(2) If the Welsh Ministers give a direction under this section—

(a) the plan-making authority must not take any further steps in connection with the adoption of the plan;

(b) if the direction is given before the authority has submitted the plan for independent examination, the Welsh Ministers must cause an independent examination of the plan to be held in accordance with section 23(4) to (7);

(c) if the direction is given after the authority has submitted the plan for independent examination, the inspector appointed to carry out the examination must make recommendations to the Welsh Ministers;

(d) the plan has no effect unless it is approved by the Welsh Ministers.

(3) The Welsh Ministers must publish the recommendations made to them by virtue of subsection (2)(b) or (c) and the reasons of the inspector who makes the recommendations.

(4) In considering a plan submitted to them in accordance with a direction under this section, the Welsh Ministers may take account of any matter they consider relevant, whether or not it was taken into account by the plan-making authority.

(5) Where a plan is submitted to them in accordance with a direction under this section, the Welsh Ministers may—

(a) approve the plan as submitted,

(b) approve it with modifications, or

(c) reject it.

(6) The Welsh Ministers must give reasons for their decision.

(7) In exercising their functions under this section in relation to a plan, the Welsh Ministers must have regard to the delivery agreement for the plan (see section 21).

27 Power to direct authority to withdraw plan

(1) The Welsh Ministers may at any time before a plan is adopted direct the plan-making authority to withdraw the plan.

(2) If the Welsh Ministers give a direction under this section, they must state their reasons for doing so.

(3) The authority must withdraw the plan in accordance with the direction.

28 Withdrawal of plan in absence of direction

(1) This section applies where a plan-making authority has not been directed to withdraw its plan.

(2) The authority may withdraw the plan at any time before adopting it; but this is subject to the following provisions of this section.

(3) A plan-making authority may not withdraw a plan if the Welsh Ministers have—

(a) directed the authority to submit the plan for approval under section 26, or

(b) taken any step under section 29 in connection with the plan.

(4) A plan-making authority may withdraw a plan that has been submitted for independent examination under section 23 only if—

(a) the inspector who carries out the examination recommends that the plan is withdrawn, and

(b) the recommendation is not overruled by a direction given by the Welsh Ministers.

(5) A plan-making authority may withdraw a plan to which subsection (6) applies only if—

(a) the authority has given notice to the Welsh Ministers of its intention to withdraw the plan, and

(b) the notice period has ended.

(6) This subsection applies to a plan if the authority—

(a) has not yet submitted the plan for independent examination under section 23, but

(b) has taken steps in connection with the preparation of the plan that are specified in regulations.

(7) Where a plan-making authority has given notice under subsection (5)(a), the Welsh Ministers may give a direction to the authority doing either or both of the following—

(a) requiring the authority to provide further information;

(b) extending the notice period.

(8) "The notice period" means the period, beginning with the day notice is given under subsection (5)(a), that is specified in regulations; but this is subject to any direction given under subsection (7)(b) in a particular case.

29 Default powers of the Welsh Ministers

(1) This section applies if the Welsh Ministers consider that a plan-making authority is failing to do anything it is necessary for the authority to do in connection with the preparation or adoption of its plan.

(2) The Welsh Ministers may prepare the plan.

(3) The Welsh Ministers must cause an independent examination to be held in accordance with section 23(4) to (7).

(4) The Welsh Ministers must publish the recommendations and reasons of the inspector who carries out the examination.

(5) The Welsh Ministers may approve the plan as a strategic development plan or local development plan (as the case may be).

(6) The Welsh Ministers must give reasons for anything they do under subsection (2) or (5).

(7) The plan-making authority must reimburse the Welsh Ministers for any costs they incur in connection with anything—

(a) that they do under subsection (2) or (5), and

(b) that the authority failed to do as mentioned in subsection (1).

Representations about plans

30 Exclusion of certain representations relating to highways and new towns

(1) A plan-making authority or the Welsh Ministers may disregard a representation about a plan if it considers or they consider that the representation is in substance a representation or objection to which this section applies.

(2) This section applies to a representation about, or an objection to, anything done or proposed to be done in pursuance of—

(a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the Highways Act (orders and schemes relating to trunk roads, classified roads, special roads, bridges, tunnels and diversion of watercourses);

(b) an order under section 1 of the New Towns Act 1981 (c. 64) (designation of site of proposed new town).

Review, revision, revocation and monitoring of plans after adoption or approval

31 Duty to consider whether to review plan

(1) Following the publication of the National Development Framework for Wales or a revised Framework, a plan-making authority must consider whether to carry out a review of its plan.

(2) Following the adoption or approval of a strategic development plan or revised strategic development plan for all or part of its area, a planning authority must consider whether to carry out a review of its local development plan.

32 Review of plan

(1) A plan-making authority must carry out a review of its plan—

(a) if, after consideration under section 31, it considers that the plan should be reviewed;

(b) at any other time specified in regulations.

(2) The authority must—

(a) report the findings of the review to the Welsh Ministers, and

(b) publish the report.

33 Revision of plan

(1) A plan-making authority may prepare a revision of its plan at any time.

(2) The authority must prepare a revision of its plan—

(a) if, after a review under section 32, it considers that the plan should be revised;

(b) at any other time if the Welsh Ministers direct it to do so.

(3) This Part applies to the revision of a plan as it applies to the preparation of the plan.

34 Revocation of plan

The Welsh Ministers may at any time revoke a plan at the request of the plan-making authority.

35 Annual monitoring report

A plan-making authority must make an annual report to the Welsh Ministers about the extent to which the objectives set out in its plan are being achieved.

Joint local development plans

36 Joint exercise of functions by planning authorities

(1) The Welsh Ministers may direct two or more planning authorities to prepare a joint local development plan for their areas.

(2) A direction under subsection (1) may not be given to a National Park authority.

(3) If the Welsh Ministers give a direction, they must state their reasons for doing so.

(4) The authorities to which the direction is given must comply with it.

(5) Two or more planning authorities may, in the absence of a direction to any of them under subsection (1), agree to prepare a joint local development plan for their areas.

(6) This Part applies in relation to a joint local development plan as it applies in relation to any other local development plan.

(7) Anything that must be done by or in relation to a planning authority in connection with a local development plan must be done by or in relation to each of the authorities mentioned in subsection (1) or (5) in connection with a joint local development plan.

(8) In this section and section 37, "joint local development plan" means a local development plan prepared jointly by two or more planning authorities.

37 End of joint arrangements between planning authorities

(1) This section applies if—

(a) the Welsh Ministers withdraw a direction to prepare a joint local development plan or vary it so that it ceases to apply to a planning authority, or

(b) a planning authority withdraws from an agreement to prepare a joint local development plan.

(2) Steps taken in relation to the joint local development plan must be treated as steps taken—

(a) by a planning authority to which the direction or agreement applied for the purposes of a corresponding local development plan prepared by the authority, or

(b) by two or more planning authorities to which the direction or agreement applied for the purposes of a corresponding joint local development plan prepared by those authorities.

(3) Any independent examination of a joint local development plan to which the direction or agreement applied must be suspended.

(4) But the Welsh Ministers may direct that—

(a) the examination is to be resumed in relation to the corresponding local development plan or corresponding joint local development plan;

(b) steps taken for the purposes of the suspended examination are to have effect for the purposes of the resumed examination.

(5) The Welsh Ministers may give a direction under subsection (4) only if—

(a) a planning authority to which the direction or agreement applied requests them to do so, and

(b) the request is made before the end of the period specified in regulations.

(6) Regulations may—

(a) specify circumstances in which subsections (2), (4) and (5) are not to apply in relation to a planning authority;

(b) make provision about what is a corresponding local development plan or a corresponding joint local development plan.

Costs of independent examinations of plans

38 Power to require plan-making authority to pay costs of independent examination

(1) This section applies where the Welsh Ministers appoint an inspector to carry out an independent examination of a plan under this Chapter.

(2) The Welsh Ministers may require the plan-making authority to pay the costs incurred by the Welsh Ministers in relation to the examination (or so much of those costs as the Welsh Ministers may require).

(3) The Welsh Ministers may certify the amount of their costs; and an amount they certify and require the plan-making authority to pay is recoverable from the authority as a civil debt.

(4) The costs incurred by the Welsh Ministers in relation to an independent examination include—

(a) the entire administrative cost incurred by the Welsh Ministers in connection with the examination, including in particular a reasonable amount that they determine in respect of general staff costs and overheads of the Welsh Government;

(b) costs in respect of an examination that does not take place.

(5) Regulations may specify a standard daily amount for independent examinations of a specified description.

(6) Where an inspector is appointed to carry out an independent examination of a specified description, the costs incurred by the Welsh Ministers are to be taken to be—

(a) the standard daily amount for each day (or an appropriate proportion of that amount for a part of a day) on which the inspector is engaged in carrying out the examination or on work connected with it,

(b) costs actually incurred on travelling or subsistence allowances payable to or for the inspector in connection with the examination,

(c) costs attributable to the appointment of an assessor to assist the inspector, and

(d) any other costs attributable to the appointment of the inspector.

(7) In this section "specified" means specified in regulations.

CHAPTER 5

GENERAL

39 Urban development corporations

The Welsh Ministers may direct that Chapters 3 and 4 do not apply to the area of an urban development corporation.

40 Guidance

In exercising functions conferred by or under Chapters 3 and 4 and by regulations under section 41, a corporate joint committee or planning authority must have regard to any relevant guidance issued by the Welsh Ministers.

41 Regulations about exercise of functions relating to plans

(1) Regulations may make provision in connection with the exercise by any person of functions under Chapters 2 to 4.

(2) The regulations may, in particular, make provision about—

(a) notification and publicity;

(b) consultation with and participation by the public;

(c) making and considering representations about anything to be included in a plan;

(d) the form and content of plans or other documents;

(e) making plans or other documents available for public inspection;

(f) how notices, directions or other documents are to be given;

(g) how documents are to be published;

(h) when anything must be done;

(i) monitoring the exercise of functions by corporate joint committees and planning authorities.

PART 3

PLANNING PERMISSION

CHAPTER 1

INTRODUCTORY

Overview

42 Overview of this Part

(1) This section gives an overview of this Part.

(2) Section 43 requires the development of land in Wales to be authorised by planning permission.

(3) Chapters 2 to 8 are about granting planning permission. They provide for planning permission to be granted—

(a) by a development order made by the Welsh Ministers (see Chapter 2);

(b) by a local development order made by a planning authority (see Chapter 2);

(c) by a planning authority, or in certain circumstances by the Welsh Ministers, on an application for planning permission (see Chapters 3 to 7);

(d) by a government department when granting authorisations under certain enactments (see Chapter 8).

(4) Other enactments under which planning permission may be granted, or treated as having been granted, include the following provisions of this Act—

paragraph 6 of Schedule 12 (grant of permission instead of confirming purchase notice);

section 133 (grant of permission on determination of appeal against enforcement notice);

section 142 (permission treated as having been granted where enforcement notice is complied with);

section 207 and paragraph 1(7) of Schedule 14 (grant of permission by discontinuance order);

section 229 (permission treated as having been granted where advertisement is displayed in accordance with control of advertisements regulations).

(5) This Part also makes provision—

(a) about the effect, duration and implementation of planning permission (see Chapter 9);

(b) for making changes to planning permission (see Chapter 10);

(c) conferring rights to claim compensation and require the purchase of interests in land following certain planning decisions and changes to planning permission (see Chapter 11).

(6) This Part includes provisions about planning permission for development relating to minerals and waste, in particular provisions about conditions subject to which permission may or must be granted, the review of conditions and compensation (see sections 67(6), 96, 103, 104 and 109 and Schedules 3, 5, 8, 9 and 11).

Requirement for planning permission

43 Planning permission required for development

(1) Planning permission is required for the development of land in Wales.

(2) But this is subject to—

(a) section 20(1) of the Infrastructure (Wales) Act 2024 (asc 3) (which provides that planning permission is not required for development to the extent that infrastructure consent is required),

(b) section 33(1) of the Planning Act 2008 (c. 29) (which provides that planning permission is not required for development to the extent that development consent is required), and

(c) the following provisions of this section.

(3) Where planning permission to develop land has been granted subject to limitations by a development order or a local development order, planning permission is not required for the use of the land which (apart from its use in accordance with the permission) is its normal use.

(4) Where, on an application for planning permission to develop land, planning permission has been granted for a limited period, planning permission is not required for the resumption at the end of that period of the use of the land which was its normal use before the permission was granted.

(5) Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for the use of the land for a purpose for which it could lawfully have been used if that development had not been carried out.

(6) In determining what is or was the normal use of land for the purposes of subsections (3) and (4), no account is to be taken of any use of the land that started in breach of planning control or in breach of a planning obligation, discontinuance order or prohibition order.

(7) In this section references to use of land do not include use for carrying out operations on the land.

CHAPTER 2

PLANNING PERMISSION GRANTED BY ORDER

44 Power of the Welsh Ministers to grant permission by development order

(1) The Welsh Ministers may by order (a "development order") grant planning permission for—

(a) specified development;

(b) development of a specified description.

(2) A development order may make provision in relation to—

(a) all land in Wales (subject to any specified exceptions);

(b) land in Wales of a specified description;

(c) specified land in Wales.

(3) A development order may grant planning permission subject to specified conditions or limitations.

(4) Where a development order grants planning permission for the erection of a building, a condition may (for example) require the approval of the planning authority to be obtained for the design or external appearance of the building.

(5) Where a development order grants planning permission for development of a specified description, it may enable the Welsh Ministers or the planning authority to direct that the permission does not apply to—

(a) development in a particular area, or

(b) a particular development.

(6) Subsection (7) applies where a development order grants planning permission for the use of land for any purpose (whether or not specified in the order) on a limited number of days in a specified period.

(7) The order is to be treated as granting planning permission subject to the limitation that the land must not be used for any one purpose in reliance on the permission on more than that number of days in that period.

(8) A development order may—

(a) make different provision for different purposes and for different areas;

(b) make incidental, supplementary, consequential, transitional or saving provision.

(9) A development order must be made by Welsh statutory instrument and is subject to the Senedd annulment procedure.

(10) For further provision about the planning permission that may be granted by a development order in connection with proposals for the development of an urban development area or a new town, see section 148 of the Local Government, Planning and Land Act 1980 (c. 65) and section 7 of the New Towns Act 1981 (c. 64).

(11) In this section—

"the planning authority" ("*yr awdurdod cynllunio*") means the planning authority in whose area the development is or would be carried out;

"specified" ("*penodedig*") means specified in the development order.

(12) Subsection (7) does not limit the meaning of references to limitations in this Act.

45 Power of planning authority to grant permission by local development order

(1) A planning authority may by order (a "local development order") grant planning permission for—

(a) specified development;

(b) development of a specified description.

(2) A local development order may relate to—

(a) all land in the authority's area;

(b) land in a specified part of the authority's area;

(c) specified land in the authority's area.

(3) A local development order may grant planning permission subject to specified conditions or limitations.

(4) Where a local development order grants planning permission for development of a specified description, it may enable the planning authority to direct that the permission does not apply to—

(a) development in a particular area, or

(b) a particular development.

(5) A local development order may make different provision for different purposes and for different areas.

(6) Regulations may specify an area or description of development in respect of which a local development order must not be made.

(7) A local development order has effect only so far as it is adopted by a resolution of the planning authority that prepared it.

(8) Schedule 1 makes further provision about local development orders (including provision for their preparation, revision and revocation).

(9) In subsections (1) to (4) "specified" means specified in the local development order.

46 Completion of development after withdrawal of permission granted by order

(1) A development order or local development order may permit the completion of development if—

(a) the order grants planning permission for the development, and

(b) the planning permission is withdrawn after the development starts but before it is completed.

(2) For the purposes of this section, the planning permission is withdrawn if—

(a) a direction given in the exercise of a power conferred by the order under section 44(5) or 45(4) takes effect in relation to the development;

(b) the order is amended or revised—

(i) so that it ceases to grant planning permission for the development, or

(ii) so as to materially change any condition or limitation to which the permission is subject;

(c) the order is revoked.

CHAPTER 3

PLANNING PERMISSION GRANTED ON APPLICATION: INTRODUCTORY

47 Grant of planning permission on application

(1) Where planning permission for the development of land in Wales is not granted by a development order or a local development order, it may be granted on an application under this Part.

(2) Regulations may make provision about the granting of planning permission on an application under this Part.

48 Outline planning permission

(1) Regulations under section 47(2) may provide that planning permission for development of a description specified in the regulations may be granted with the reservation for subsequent approval of matters not set out in an application for permission.

(2) The development described in the regulations must be development consisting of or including operations.

(3) The regulations may provide that matters may be reserved for the approval of—

(a) the planning authority in whose area the land to which the permission relates is situated, or

(b) the Welsh Ministers.

(4) In this Act—

"outline planning permission" ("*caniatâd cynllunio amlinellol*") means planning permission granted in accordance with provision made under this section;

"reserved matter" ("*mater a gadwyd yn ôl*") means a matter reserved under an outline planning permission.

(5) Section 94 makes provision about conditions subject to which outline planning permission must be granted.

49 Planning permission for development already carried out

(1) The planning permission that may be granted on an application includes planning permission for relevant development carried out before the day the application was made.

(2) In this section "relevant development" means development carried out—

(a) without planning permission,

(b) without complying with a condition subject to which planning permission was granted, or

(c) in accordance with planning permission granted for a limited period.

(3) Planning permission for the relevant development may be granted to have effect—

(a) from the beginning of the day the development was carried out, or

(b) if it was carried out in accordance with planning permission granted for a limited period, from the end of that period.

50 Planning permission for development without complying with previous conditions

(1) The planning permission that may be granted on an application includes planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) Section 68 makes provision about the determination of applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

51 Sustainable development duty

(1) This section applies to the exercise by a public body of a function under or by virtue of this Act in relation to an application (or proposed application) for—

(a) planning permission, or

(b) approval of a reserved matter.

(2) The function must be exercised, as part of carrying out sustainable development in accordance with the Well-being Act, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales.

(3) In complying with subsection (2), a public body must take account of any relevant guidance issued by the Welsh Ministers (including relevant guidance issued under section 14 of the Well-being Act).

(4) In this section "public body" has the meaning given by section 6 of the Well-being Act.

(5) Nothing in this section affects—

(a) whether regard must be had to a particular consideration under section 66 (determination of applications), or

(b) the weight to be given to a consideration to which regard is had under that section.

CHAPTER 4

PRE-APPLICATION PROCEDURE

52 Requirement for applicant to carry out pre-application consultation and publicity

(1) This section applies where a person ("the applicant") proposes to make an application for planning permission for development of a description specified in regulations.

(2) The applicant must publicise and consult on the proposed application in accordance with this section.

(3) The applicant must publicise the proposed application in a way the applicant reasonably considers likely to bring it to the attention of a majority of the owners and occupiers of land in the vicinity of the proposed development.

(4) In doing so, the applicant must—

(a) set out how persons wishing to comment on the proposed development may contact the applicant;

(b) give enough information about the timetable for commenting on the proposed development to ensure that persons wishing to comment can do so in good time.

(5) The applicant must consult every person specified in regulations, or of a description specified in regulations, about the proposed application.

(6) This section does not apply—

(a) if the proposed application is an application under section 85 (urgent Crown development), or

(b) in cases specified in regulations.

(7) Regulations may make provision in connection with publicity and consultation under this section.

(8) That provision may include—

(a) provision about how the publicity and consultation are to be carried out (including provision about the form and content of documents, and about information and other materials that are to be provided to a person for the purposes of, or in connection with, the publicity or consultation);

(b) provision about the timetable (including deadlines) for the publicity and consultation;

(c) provision about responding to the consultation (including provision requiring a person who is consulted to respond to the consultation, to respond to it in a particular way, or to respond within a particular time);

(d) provision requiring a person who is consulted to make a report to the Welsh Ministers about the person's compliance with any requirement imposed by virtue of paragraph (c) (including provision about the form and content of the report and when it must be made).

53 Pre-application services provided by planning authority or the Welsh Ministers

(1) Regulations may make provision for and in connection with the provision of pre-application services by a planning authority or the Welsh Ministers.

(2) The regulations may, in particular, make provision—

(a) about circumstances in which pre-application services are required to be provided (including provision about the form and content of requests for services, and information that is to be included with a request);

(b) about the nature of the services required to be provided, and when and how they are to be provided;

(c) for information and documents relating to services provided under the regulations, or to requests for those services, to be published or otherwise made available to the public, or to persons specified in the regulations, by a planning authority or the Welsh Ministers;

(d) about other steps required to be taken by any person in connection with, or for the purposes of, the provision of services under the regulations.

(3) In this Chapter "pre-application services" means services provided to a person, in respect of a qualifying application the person proposes to make in respect of the development of land, for the purpose of assisting the person in making the application.

(4) A "qualifying application" is an application under or by virtue of this Part that is of a description specified in regulations.

54 Pre-application services: records and statement of services

(1) Regulations may make provision requiring—

(a) records to be kept of requests for pre-application services;

(b) records to be kept of pre-application services provided;

(c) a statement, giving information about the range of pre-application services provided by a planning authority or the Welsh Ministers, to be prepared and published or otherwise made available.

(2) The regulations may, in particular, make provision about—

(a) the form and content of the records to be kept;

(b) how the records are to be kept;

(c) the form and content of the statement;

(d) the publication of the statement and the persons to whom, and circumstances in which, it must be made available.

CHAPTER 5

APPLYING FOR PLANNING PERMISSION AND RELATED APPROVALS

Requirements for applications to planning authorities

55 Application for planning permission to be made to planning authority

(1) An application for planning permission for the development of land must be made to the planning authority in whose area the land is situated.

(2) But this is subject to—

(a) section 78 (option to make application to the Welsh Ministers) and section 80 (connected applications);

(b) regulations under section 84 (applications by the Crown);

(c) section 85 (urgent Crown development);

(d) regulations under section 86 (combination of applications for planning permission with other applications);

(e) regulations under section 405 (development by, and land of, planning authorities and the Welsh Ministers).

56 Application for planning permission, approval of reserved matters etc.: general requirements

(1) This section applies to applications to planning authorities for—

(a) planning permission;

(b) approval of a reserved matter;

(c) any other consent, agreement or approval required by a condition or limitation subject to which planning permission has been granted.

(2) Regulations may make provision about applications to which this section applies.

(3) That provision may include provision about—

(a) the form and content of an application;

(b) how an application must be made;

(c) documents or other materials that are to be included with an application.

(4) A planning authority may require that an application must include—

(a) any information that the authority considers necessary;

(b) any evidence in support of anything in or relating to the application that it considers necessary.

(5) A requirement imposed under subsection (4)—

(a) must not be inconsistent with provision made under subsection (3);

(b) must be reasonable having regard, in particular, to the nature and scale of the proposed development;

(c) may require information or evidence about a matter only if it is reasonable to believe that the matter will be a relevant consideration in the determination of the application.

57 Application for planning permission: design and access statement and pre-application consultation report

(1) Regulations must require a person who makes an application for planning permission of a description specified in the regulations to include with the application a statement about either or both of the following (as specified in the regulations)—

(a) the design principles that have been applied to the development;

(b) how issues relating to access to the development have been dealt with.

(2) Regulations must require a person who—

(a) has been required by section 52 to publicise and consult on a proposed application for planning permission for development, and

(b) makes an application for planning permission for the development (whether or not in the same terms as the proposed application),

to include with the application a pre-application consultation report.

(3) A pre-application consultation report is a report giving details of—

(a) how the applicant complied with section 52;

(b) responses to the consultation received from persons mentioned in subsection (3) or (5) of that section;

(c) the account taken of those responses.

(4) Regulations may make provision about the form and content of—

(a) a statement required under subsection (1);

(b) a pre-application consultation report.

58 Notice of application for planning permission or approval of reserved matters

(1) Regulations must require an applicant for planning permission or for approval of a reserved matter to give notice of the application to every person (other than the applicant) who on a date specified in the regulations is—

(a) an owner of any of the land to which the application relates, or

(b) an agricultural tenant of any of the land.

(2) The regulations may require the applicant to make a declaration that any requirements of the regulations have been complied with.

(3) The regulations may make provision about—

(a) the form and content of a notice or declaration;

(b) how a notice or declaration must be given (which may include provision requiring a notice to be published).

(4) It is an offence for a person in purported compliance with a requirement imposed under this section—

(a) to make a declaration that the person knows to be false or misleading in a material respect, or

(b) to recklessly make a declaration that is false or misleading in a material respect.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine.

(6) Despite section 127 of the Magistrates' Courts Act 1980 (c. 43), a magistrates' court may try an information in respect of an offence under subsection (4) whenever it is laid.

(7) In this section—

"agricultural tenant" ("*tenant amaethyddol*"), in relation to land, means—

(a) a tenant, under a tenancy to which the Agricultural Holdings Act 1986 (c. 5) applies, of an agricultural holding (within the meaning of that Act) any part of which is included in that land, or

(b) a tenant, under a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 (c. 8), of land any part of which is included in that land;

"owner" ("*perchennog*"), in relation to land, means—

(a) an owner of the freehold estate,

(b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run, or

(c) in the case of an application of a description specified in regulations, a person who is entitled to an interest in any mineral specified in the regulations.

Failure to comply with requirements for applications

59 Planning authority not to consider invalid application

(1) A planning authority must not consider—

(a) an application made to it for planning permission if any requirement imposed by regulations under section 56, 57 or 58 has not been complied with;

(b) an application made to it for approval of a reserved matter if any requirement imposed by regulations under section 56 or 58 has not been complied with;

(c) an application made to it for any other consent, agreement or approval required by a condition or limitation subject to which planning permission has been granted if any relevant requirement has not been complied with.

(2) In subsection (1)(c) "relevant requirement" means—

(a) a requirement imposed by regulations under section 56, or

(b) a requirement imposed by a development order or a local development order in relation to—

(i) the form or content of an application or how it must be made, or

(ii) the form or content of any documents or other materials to be included with an application.

60 Planning authority to give notice that application is not valid

(1) This section applies where an application is made to a planning authority for—

(a) planning permission,

(b) approval of a reserved matter, or

(c) any other consent, agreement or approval required by a condition or limitation subject to which planning permission has been granted.

(2) The planning authority must give notice to the applicant if it considers that—

(a) it must not consider the application because a requirement mentioned in section 59 has not been complied with, or

(b) a period specified under section 63(2)(f) or 73(4) does not begin to run in relation to the application because a requirement imposed by the authority under section 56(4) has not been complied with.

(3) In the case of an application for a consent, agreement or approval mentioned in subsection (1)(b) or (c), the planning authority must also give notice to the applicant if it considers that the application does not comply with a term of the planning permission imposing a requirement in relation to—

(a) the form or content of the application or how it must be made, or

(b) the form or content of any documents or other materials to be included with the application.

(4) A notice under this section must—

(a) identify the requirement to which it relates, and

(b) set out the planning authority's reasons for considering that the requirement has not been complied with.

(5) Regulations may make provision about the giving of notice under this section (including provision about information to be included in a notice and how and when it must be given).

61 Right to appeal against notice of invalidity

(1) If a planning authority gives an applicant notice under section 60, the applicant may appeal to the Welsh Ministers.

(2) An appeal may be made on either or both of the following grounds—

(a) that the application complies with the requirement identified in the notice;

(b) that the application is not one to which the requirement applies.

(3) In the case of a notice given under section 60(2) in relation to a requirement imposed under section 56(4), an appeal may also be made on either or both of the following grounds—

(a) that the period specified under section 63(2)(f) or 73(4) begins to run in relation to the application irrespective of whether the requirement is complied with;

(b) that the requirement does not comply with section 56(5).

(4) An appeal must be made by serving a notice of appeal on the Welsh Ministers.

(5) Regulations may make provision about—

(a) the form and content of a notice of appeal;

(b) information that must be included with a notice of appeal;

(c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).

62 Determination of appeal against notice

(1) On an appeal under section 61, the Welsh Ministers must either—

(a) dismiss the appeal, or

(b) quash or vary the notice to which it relates.

(2) The decision of the Welsh Ministers on the appeal is final.

(3) The appeal is to be determined on the basis of representations in writing.

(4) The appeal is to be determined by an inspector unless the Welsh Ministers direct that it is to be determined by them.

(5) Where an inspector determines an appeal, the inspector's decision is to be treated as the decision of the Welsh Ministers.

(6) Schedule 2 makes further provision about the determination of appeals under this section by inspectors.

CHAPTER 6

DEALING WITH APPLICATIONS

Procedure for dealing with applications

63 Procedure for dealing with applications: general

(1) Regulations may make provision about how planning authorities are to deal with applications for—

(a) planning permission;

(b) approval of a reserved matter;

(c) any other consent, agreement or approval required by a condition or limitation subject to which planning permission has been granted.

(2) The regulations may, in particular, make provision—

(a) imposing requirements relating to publicity for applications;

(b) imposing requirements for notification or consultation in relation to applications (which may include provision enabling the Welsh Ministers to direct a planning authority to notify or consult persons specified in the direction);

(c) requiring that an authority must not determine an application before the end of a period specified in the regulations;

(d) specifying representations that an authority must take into account in determining an application;

(e) relating to the variation of applications;

(f) requiring an authority to give an applicant, within a period specified in the regulations, notice of how an application has been dealt with (including provision about the form and content of a notice and how it must be given);

(g) requiring information to be given to the Welsh Ministers or any other person about how an application has been dealt with (which may include provision enabling the Welsh Ministers to direct a planning authority to give a person information).

(3) Regulations may enable the Welsh Ministers to give a direction restricting the grant by a planning authority of applications for planning permission—

(a) for development specified in the direction or of a description specified in it, and

(b) indefinitely or for a period specified in the direction.

64 Requirement to respond to consultation

(1) Where a planning authority consults a person who exercises functions for the purposes of any enactment and either or both of the following conditions are met, the person must give a substantive response to the consultation.

(2) The first condition is that the consultation is required by regulations under section 63.

(3) The second condition is that—

(a) the consultation relates to an application made to the planning authority for—

(i) approval of a reserved matter, or

(ii) any other consent, agreement or approval required by a condition subject to which planning permission has been granted on an application made to the authority under this Part, and

(b) regulations under section 63 required the planning authority to consult the person before determining the application for the planning permission.

(4) The substantive response must be given before the end of—

(a) the period specified in regulations, or

(b) any other period agreed in writing between the person consulted and the planning authority.

(5) Regulations may make provision—

(a) about the procedure to be followed for the purposes of this section;

(b) about the requirements of a substantive response;

(c) requiring a person to make a report to the Welsh Ministers about the person's compliance with subsections (1) and (4) (including provision about the form and content of the report and when it must be made).

65 Notifying community councils of applications

(1) Subsection (3) applies if a community council makes a request in writing to a planning authority asking to be notified of—

(a) all relevant planning applications, or

(b) relevant planning applications of a description specified in the request.

(2) "Relevant planning application" means an application that—

(a) is an application for planning permission or for approval of a reserved matter, and

(b) relates to land in the area of the community council.

(3) If a relevant planning application falling within the terms of the request is made to the planning authority, the authority must notify the community council of—

(a) the application, and

(b) any variation of the application accepted by the authority, unless it considers that the variation is trivial.

(4) A planning authority must comply with the duty to notify a community council of an application by sending the council—

(a) a copy of the application, or

(b) notification in writing indicating the nature of the development that is the subject of the application and identifying the land to which it relates.

(5) A planning authority must comply with the duty to notify a community council of a variation of an application by—

(a) sending the council a copy of the variation, or

(b) informing the council in writing of its general effect.

(6) Regulations may provide that, where this section requires a planning authority to notify a community council of a relevant application, the authority must—

(a) give the council an opportunity to make representations about how the application should be determined;

(b) take account of representations made by the council;

(c) notify the council of how the application has been dealt with.

Determination of applications and conditions of planning permission

66 General considerations relevant to determination of applications

(1) In determining an application for planning permission or for approval of a reserved matter, a planning authority must—

(a) have regard to the development plan for its area and any other relevant considerations, and

(b) make its decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(2) The fact that a person has entered into a planning obligation or proposes to do so may be a reason for granting an application for planning permission only if the obligation is—

(a) directly related to the development to which the application relates,

(b) necessary to make the development acceptable in planning terms, and

(c) fairly and reasonably related in scale and kind to the development.

(3) See also—

(a) section 404 (duty to have special regard to desirability of preserving listed building, its setting and any features of special interest);

(b) section 160 of the Historic Environment Act (duty to have special regard to desirability of preserving or enhancing character or appearance of conservation area).

67 Grant or refusal of planning permission and imposition of conditions

(1) On determining an application for planning permission, a planning authority may—

(a) grant permission subject to the conditions required by this Part and any other conditions the authority considers appropriate, or

(b) refuse permission.

(2) The conditions that may be imposed include (for example) conditions—

(a) regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made), or

(b) requiring works to be carried out on any such land for the purposes of or in connection with the development authorised by the planning permission.

(3) The conditions that may be imposed also include conditions requiring—

(a) the removal of buildings or works authorised by the planning permission, or the discontinuance of a use of land authorised by the permission, at the end of a specified period, and

(b) the carrying out of any works that are required for the restoration of land at the end of that period.

(4) In this Act "planning permission granted for a limited period" means planning permission granted subject to a condition mentioned in subsection (3).

(5) In subsection (3)(a) the reference to use of land does not include use for carrying out operations on the land other than mining operations.

(6) Schedule 3 makes further provision about conditions that may be imposed on the grant of planning permission for development that consists of mining operations or includes the depositing of waste.

(7) See also—

(a) Chapter 9 for provision requiring planning permission to be granted subject to conditions relating to the duration and implementation of the permission;

(b) section 233 for provision requiring a planning authority to impose appropriate conditions relating to the preservation or planting of trees.

68 Determining applications to develop without compliance with previous conditions

(1) In determining an application for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted, a planning authority must consider only the question of the conditions subject to which planning permission should be granted.

(2) If the authority decides that planning permission should be granted subject to different conditions from those subject to which the previous permission was granted, it must grant planning permission accordingly.

(3) If the authority decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, it must refuse the application.

(4) This section does not apply if—

(a) the previous planning permission was granted subject to a condition specifying the period within which the development to which it related must start, and

(b) that period has ended without the development having started.

(5) In subsection (4) references to development starting have the same meaning as in Chapter 9 (see section 99).

69 Decision notices

(1) In this section "decision notice" means a notice of a decision whether to grant planning permission for development on an application under this Part.

(2) Where the decision is to grant permission, the decision notice must specify plans or other documents in accordance with which the development must be carried out.

(3) The planning permission is to be treated as having been granted subject to the condition that the development must be carried out in accordance with those plans or other documents.

(4) Subsections (2) and (3) do not apply where planning permission is granted for development carried out before the grant of the permission.

(5) Where, after planning permission is granted for development—

(a) a planning authority or the Welsh Ministers approve a reserved matter or give any other consent, agreement or approval required by a condition subject to which the permission was granted, or

(b) a planning authority imposes, removes or varies a condition of the permission under section 100 (power to make non-material change to planning permission),

the planning authority must send a revised decision notice to the persons specified in regulations.

(6) Regulations may specify information that the revised decision notice must contain relating to—

(a) the giving of the consent, agreement or approval, or

(b) the imposition, removal or variation of the condition.

Cases where planning authorities do not deal with applications made to them

70 Power to refuse to consider similar applications

(1) A planning authority may refuse to consider an application for planning permission if the following conditions are met.

(2) The first condition is that, in the 2 years ending with the day the authority receives the application, the Welsh Ministers have—

(a) refused a similar application for planning permission referred to them under section 72, or

(b) dismissed an appeal against the refusal of a similar application for planning permission or an appeal under section 73(3) relating to a similar application.

(3) The second condition is that the planning authority considers that since the refusal or dismissal there has been no significant change in the development plan for its area, so far as relevant to the application, or in any other relevant considerations.

(4) For the purposes of this section an application is similar to another application if (and only if) the planning authority considers that the development and land to which the applications relate are the same or substantially the same.

71 Power to refuse to consider application made after issue of enforcement notice

A planning authority may refuse to consider an application for planning permission if—

(a) granting the application would involve granting planning permission for matters specified in an enforcement notice as constituting a breach of planning control, and

(b) the enforcement notice was issued before the authority received the application.

72 Reference of application to the Welsh Ministers

(1) This section applies to applications made to planning authorities for—

(a) planning permission,

(b) approval of a reserved matter, or

(c) any approval required under a development order or a local development order.

(2) A planning authority must refer an application to the Welsh Ministers instead of dealing with the application itself if—

(a) the application is of a description specified in regulations, or

(b) the Welsh Ministers direct the authority to refer the application to them for determination.

(3) A direction may relate to—

(a) a particular application, or

(b) applications of a description specified in the direction.

(4) Regulations may—

(a) make provision requiring the Welsh Ministers to give an applicant, within a period specified in the regulations, notice that an application has been referred to them under this section (including provision about the form and content of a notice and how it must be given);

(b) provide that a requirement imposed under section 58 or 63 (notice of application and dealing with application) applies, with or without modifications, in relation to an application referred to the Welsh Ministers under this section.

(5) Sections 64 and 66 to 69 and Schedule 3 apply, with any necessary modifications, in relation to an application referred to the Welsh Ministers under this section as they apply in relation to an application determined by a planning authority.

(6) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of an application referred to the Welsh Ministers under this section.

(7) The decision of the Welsh Ministers on an application is final.

Appeals to the Welsh Ministers

73 Right to appeal against planning authority decision or failure to make decision

(1) This section applies where an application has been made to a planning authority for—

(a) planning permission,

(b) approval of a reserved matter, or

(c) any other consent, agreement or approval required by a condition or limitation subject to which planning permission has been granted.

(2) The applicant may appeal to the Welsh Ministers if the planning authority—

(a) refuses the application, or

(b) grants the application subject to conditions.

(3) The applicant may also appeal to the Welsh Ministers if the planning authority has done none of the following by the end of the determination period—

(a) given notice to the applicant of its decision on the application,

(b) given notice to the applicant that it has exercised its power under section 70 or 71 to refuse to consider the application, or

(c) given notice to the applicant that it has referred the application to the Welsh Ministers under section 72.

(4) In subsection (3) "the determination period" means—

(a) the period specified in regulations, or

(b) a longer period agreed in writing between the applicant and the planning authority.

(5) An appeal under this section may not be made or continued against the refusal of an application for planning permission if—

(a) granting the application would involve granting planning permission for matters specified in an enforcement notice as constituting a breach of planning control, and

(b) on the determination of an appeal against that notice under section 131, planning permission for those matters was not granted under section 133.

(6) An appeal under this section may not be made or continued against a condition subject to which planning permission has been granted if—

(a) an appeal against an enforcement notice has been brought under section 131 on the ground that the condition ought to be removed, and

(b) on the determination of that appeal, the condition was not removed under section 133.

74 Procedure for making appeal

(1) An appeal under section 73 must be made by serving a notice of appeal on the Welsh Ministers.

(2) Regulations may make provision about—

(a) the form of a notice of appeal;

(b) information that must be included with a notice of appeal;

(c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).

(3) The period specified by regulations under subsection (2)(c) must be at least 28 days beginning with the day after—

(a) in the case of an appeal under subsection (2) of section 73, the day the applicant receives notice of the decision;

(b) in the case of an appeal under subsection (3) of that section, the end of the determination period (which has the same meaning as in that subsection).

75 Restriction on varying application after service of notice of appeal

(1) Once notice of an appeal under section 73 has been served, the application to which the appeal relates may not be varied except in circumstances specified in regulations.

(2) Where an application is varied under this section, the Welsh Ministers may direct that further consultation must be carried out in relation to the application.

76 Decision on application after service of notice of appeal

(1) This section applies if a person who has made an application to a planning authority for planning permission appeals to the Welsh Ministers under section 73(3) (failure to give notice of decision).

(2) The Welsh Ministers must not determine the appeal before the end of the period specified in regulations that begins with the day the notice of appeal is served.

(3) The planning authority may give notice of its decision on the application to which the appeal relates at any time before the end of that period.

(4) If the authority gives notice in accordance with subsection (3) that its decision is to refuse the application—

(a) the appeal must be treated as an appeal under section 73(2) against the refusal, and

(b) the Welsh Ministers must give the appellant an opportunity to revise the grounds of the appeal.

(5) If the planning authority gives notice in accordance with subsection (3) that its decision is to grant the application subject to conditions, the Welsh Ministers must give the appellant the opportunity—

(a) to proceed with the appeal as an appeal under section 73(2) against the conditions, and

(b) to revise the grounds of the appeal.

77 Determination of appeal

(1) On an appeal under section 73 the Welsh Ministers may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the planning authority's decision on the application to which the appeal relates (whether or not the appeal relates to that part),

and may deal with the application as if it had been made to them.

(2) Where the appeal was made under section 73(3) (failure to give notice of decision) and the planning authority has not given notice under section 76(3), it is to be assumed for the purposes of subsection (1) that the authority decided to refuse the application.

(3) On an appeal under section 73 the Welsh Ministers may decide whether a requirement imposed under section 56(4) in relation to the application complies with section 56(5), unless they have previously decided that question on an appeal under section 61.

(4) Regulations may provide that a requirement imposed under section 58 or 63 applies, with or without modifications, in relation to an appeal under section 73.

(5) Sections 66 to 68 and Schedule 3 apply, with any necessary modifications, in relation to an appeal under section 73 as they applied in relation to the application to which the appeal relates.

(6) The decision of the Welsh Ministers on an appeal is final.

(7) If at any time before or during the determination of an appeal the Welsh Ministers consider that the appellant is responsible for undue delay in the progress of the appeal—

(a) they may give the appellant notice that the appeal will be dismissed unless, within the period specified in the notice, the appellant takes steps specified in the notice for the expedition of the appeal, and

(b) if the appellant fails to take those steps within that period, they may dismiss the appeal.

(8) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of appeals under section 73 (including provision for them to be determined by inspectors).

CHAPTER 7

APPLICATIONS FOR PLANNING PERMISSION AND RELATED APPROVALS: SPECIAL CASES

Optional applications to the Welsh Ministers

78 Option to make application to the Welsh Ministers

(1) If the following conditions are met, an application for planning permission or for approval of a reserved matter may (if the applicant chooses) be made to the Welsh Ministers instead of to a planning authority.

(2) The first condition is that the planning authority is designated by the Welsh Ministers for the purposes of this section.

(3) The second condition is that—

(a) the development to which the application relates, in the case of an application for planning permission, or

(b) the development for which outline planning permission has been granted, in the case of an application for approval of a reserved matter,

is development of a description specified in regulations.

(4) The third condition, in the case of an application for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted, is that the application is of a description specified in regulations.

79 Designation of planning authority for the purposes of section 78

(1) The power of the Welsh Ministers to designate a planning authority for the purposes of section 78 is exercisable by giving notice in writing to the authority.

(2) The Welsh Ministers may revoke the designation of a planning authority by giving a further notice in writing to the authority.

(3) In deciding whether to make or revoke a designation, the Welsh Ministers must apply only criteria in relation to which the following conditions are met.

(4) The first condition is that the Welsh Ministers have consulted every planning authority about the criteria.

(5) The second condition is that the criteria are set out in a document that the Welsh Ministers have laid before Senedd Cymru.

(6) The third condition is that the 21-day period has ended without Senedd Cymru having resolved during that period not to approve the document.

(7) The fourth condition is that the Welsh Ministers have published the document (whether before, during or after the 21-day period).

(8) In this section "the 21-day period" means the 21 days beginning with the day the document is laid before Senedd Cymru under subsection (5), not counting any time when the Senedd is dissolved or is in recess for more than 4 days.

(9) The Welsh Ministers must publish a copy of a notice given to a planning authority under this section.

80 Option to make application to the Welsh Ministers: connected applications

(1) This section applies where an application for planning permission or for approval of a reserved matter ("the principal application") is made to the Welsh Ministers under section 78.

(2) A connected application that would otherwise have to be made to a planning authority may (if the applicant chooses) instead be made to the Welsh Ministers, but only if it is made on the same day as the principal application.

(3) "Connected application" means an application under the Welsh planning Acts that—

(a) is of a description specified in regulations, and

(b) is considered by the person making it to be connected to the principal application.

(4) Subsection (5) applies if an application is made to the Welsh Ministers on the basis that it is a connected application but the Welsh Ministers consider—

(a) that the application is not connected to the principal application, or

(b) that, although the application is connected to the principal application, the decision on the application should not be made by the Welsh Ministers.

(5) The Welsh Ministers must refer the application to the planning authority to which it would otherwise have been made.

(6) An application that has been referred to a planning authority under subsection (5) is to be—

(a) treated as having been made to that authority (instead of to the Welsh Ministers) on the day it was referred, and

(b) determined by the authority accordingly.

(7) Regulations may make provision about the referral of applications under subsection (5) (including provision about what counts as the referral of an application for the purposes of subsection (6)).

81 Powers to impose requirements in relation to applications to the Welsh Ministers

(1) The Welsh Ministers may direct a planning authority to do things in relation to an application made to the Welsh Ministers under section 78 or 80 that would otherwise have been made to the authority.

(2) A direction may relate to—

(a) a particular application,

(b) applications of a description specified in the direction, or

(c) applications generally.

(3) Regulations may provide that an enactment that applies to an application to a planning authority under the Welsh planning Acts—

(a) is to apply, with or without modifications, or

(b) is not to apply,

to an application of that kind when it is made to the Welsh Ministers under section 78 or 80.

82 Procedure for dealing with planning applications made to the Welsh Ministers

(1) Regulations may make provision about how the Welsh Ministers are to deal with—

(a) applications for planning permission or approval of a reserved matter that are made to them under section 78 or 80, or

(b) applications for any other consent, agreement or approval required by a condition or limitation subject to which planning permission was granted, that are made to them under section 80.

(2) That provision may include provision about—

(a) publicity, notification or consultation to be carried out in relation to applications;

(b) the variation of applications;

(c) the notice to be given of how an application has been dealt with.

(3) If an application for planning permission or for approval of a reserved matter—

(a) falls within the terms of a request that a community council has made to a planning authority under section 65(1) (notifying community councils of applications), and

(b) is made to the Welsh Ministers instead of the planning authority under section 78 or 80,

the Welsh Ministers (instead of the planning authority) must notify the community council of the application in accordance with section 65(4).

(4) The planning authority must comply with any request made by the Welsh Ministers for the purposes of this section to give them information about requests received by the authority under section 65(1).

83 Pre-application services and determination of applications: functions of inspectors

(1) Functions of the Welsh Ministers under regulations made under section 53 (pre-application services) are to be exercised by an inspector in relation to an application that a person proposes to make to the Welsh Ministers under section 78 or 80.

(2) An application made to the Welsh Ministers under section 78 or 80 is to be determined by an inspector.

(3) But the Welsh Ministers may direct—

(a) that functions in relation to an application proposed to be made under section 78 or 80 are to be exercised by them instead of by an inspector;

(b) that an application made under either of those sections is to be determined by them instead of by an inspector.

(4) Where an inspector determines an application, the inspector's decision is to be treated as the decision of the Welsh Ministers.

(5) The decision of the Welsh Ministers on an application is final.

(6) Schedule 4 makes further provision about the exercise of functions by inspectors in connection with applications made or proposed to be made under section 78 or 80.

(7) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of applications made to the Welsh Ministers under sections 78 and 80.

The Crown

84 Applications by the Crown

(1) Regulations may provide that any provision made by or under this Act is not to apply, or is to apply with modifications, to an application mentioned in subsection (2) that is made by or on behalf of the Crown.

(2) The applications referred to in subsection (1) are applications for—

(a) planning permission, or

(b) approval of a reserved matter.

85 Applications relating to urgent Crown development

(1) This section applies to—

(a) an application for planning permission for the development of Crown land that is made by the appropriate Crown authority;

(b) an application for planning permission for the development of any other land that is made by or on behalf of the Crown, the Duchy of Lancaster or the Duchy of Cornwall.

(2) An application to which this section applies may be made to the Welsh Ministers under this section if the applicant certifies—

(a) that the development to which the application relates is of national importance, and

(b) that it is necessary that the development is carried out as a matter of urgency.

(3) Before making the application, the applicant must publish in one or more newspapers circulating in the locality of the proposed development a notice—

(a) describing the proposed development, and

(b) stating that it proposes to make the application to the Welsh Ministers under this section.

(4) Where an application is made to the Welsh Ministers under this section—

(a) the applicant must give the Welsh Ministers a statement of its grounds for making the application;

(b) the Welsh Ministers may require the applicant to give them any further information they consider necessary to enable them to determine the application.

(5) As soon as practicable after receiving a document or other material by virtue of subsection (4), the Welsh Ministers must make a copy of the document or other material available for public inspection in the locality of the proposed development.

(6) The Welsh Ministers must, in accordance with any requirements imposed by regulations, publish notice of the application and of the fact that documents and other material are available for inspection.

(7) The Welsh Ministers must consult the following persons about the application—

(a) the planning authority in whose area the proposed development is to be carried out,

(b) any corporate joint committee in whose area the proposed development is to be carried out, and

(c) any other person that may be specified in regulations.

(8) Regulations may provide that a requirement imposed under section 58 or 63 applies, with or without modifications, in relation to an application made to the Welsh Ministers under this section.

(9) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of applications made under this section.

(10) Subsection (5) does not apply to the extent that a document or other material is subject to a direction under section 370 (restriction of access to evidence on national security grounds).

(11) Sections 66 to 69 and Schedule 3 apply, with any necessary modifications, in relation to an application made under this section as they apply in relation to an application for planning permission made to a planning authority.

(12) The decision of the Welsh Ministers on an application is final.

Combination of applications

86 Combination of applications for planning permission with other applications

(1) Regulations may provide for the combination in a single application of—

(a) an application for planning permission for development, and

(b) any other application that an enactment specified in the regulations requires to be made to a planning authority or other local authority in respect of the same development.

(2) The regulations may make provision about—

(a) the form and content of a combined application;

(b) how such an application must be made;

(c) the authority to which it must be made.

(3) Before making regulations under this section the Welsh Ministers must consult the local authorities or associations of local authorities that they consider appropriate.

(4) Regulations under this section may make different provision for areas where different enactments apply.

(5) Where an application required by an enactment specified in regulations under this section is made in accordance with the regulations, it need not comply with any different provision made by or under that enactment about the form and content of an application or how it must be made.

(6) Subsection (5) does not—

(a) prevent an application being made in accordance with the enactment in question, or

(b) limit any power of a local authority under that enactment to require further information about the matters to which the application relates.

(7) A planning authority must not consider a combined application made to it by virtue of regulations under this section if any requirement imposed by the regulations has not been complied with.

(8) In this section references to making an application (other than an application for planning permission) include giving a notice or submitting any other document.

CHAPTER 8

PLANNING PERMISSION FOR DEVELOPMENT WITH GOVERNMENT AUTHORISATION

87 Authorisation for development by local authorities and statutory undertakers

(1) This section applies where the authorisation of a government department is required by virtue of an enactment for development that is to be carried out in Wales by a local authority or a statutory undertaker.

(2) On granting the authorisation, the government department may give a direction granting planning permission for the development, subject to conditions specified in the direction.

(3) For the purposes of this section a government department grants an authorisation for development if it—

(a) grants any consent, authority or approval for the development under an enactment;

(b) confirms a compulsory purchase order authorising the acquisition of land for the purpose of the development;

(c) consents to the appropriation of land for the purpose of the development or to the acquisition of land by agreement for that purpose;

(d) authorises—

(i) the borrowing of money for the purpose of the development, or

(ii) the application for that purpose of money that would not otherwise be applicable for that purpose;

(e) gives an undertaking to pay a grant in respect of the development.

(4) In subsection (1) the reference to a statutory undertaker does not include an electricity licensee.

(5) See also—

(a) section 5(1) of the Pipe-lines Act 1962 (c. 58), which provides that the Secretary of State may direct that planning permission is granted for development in accordance with a pipe-line construction authorisation under section 1 of that Act or a notice requiring the removal of works under section 4 of that Act;

(b) section 4(6) of the Gas Act 1965 (c. 36), which provides that certain development shown as approved in a storage authorisation order under that section, or carried out in accordance with such an order, is taken to be authorised by the Secretary of State for the purposes of this section.

88 Consent for electricity generating stations and electric lines

(1) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989 (c. 29) (consent for generating station or electric line), the Welsh Ministers or the Secretary of State may give a direction granting planning permission, subject to conditions specified in the direction, for—

(a) so much of the operations or change in use to which the consent relates as constitutes development of land in Wales;

(b) any development of land in Wales that is ancillary to the operations or change in use to which the consent relates.

(2) On varying a consent under section 36 or 37 of the Electricity Act 1989, the Welsh Ministers or the Secretary of State may give one or more of the following directions (instead of, or as well as, a direction under subsection (1))—

(a) a direction varying an existing planning permission granted by a direction under subsection (1);

(b) a direction varying conditions subject to which such a planning permission was granted;

(c) a direction that a consent, agreement or approval given in respect of a condition subject to which such a planning permission was granted is to be treated as given in respect of a condition subject to which a new or varied planning permission is granted.

(3) In subsection (1) the reference to ancillary development, in the case of a consent relating to the extension of a generating station, does not include development that is not directly related to the generation of electricity by that station.

(4) In this section "electric line", "extension" and "generating station" have the same meanings as in Part 1 of the Electricity Act 1989 (see sections 36(9) and 64(1) of that Act).

89 Orders under the Transport and Works Act 1992

(1) This section applies where the Welsh Ministers or the Secretary of State make an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders relating to construction or operation of railways, tramways, inland waterways etc.) that includes provision for development in Wales.

(2) On making the order, the Welsh Ministers or the Secretary of State may give a direction granting planning permission for that development, subject to conditions specified in the direction.

90 Application of this Act to planning permission granted under this Chapter

(1) The planning permission that may be granted by a direction under this Chapter is any planning permission that could be granted on an application under this Part.

(2) Where planning permission is granted by a direction under this Chapter, this Act (except Chapters 3 and 4 of Part 14) applies in relation to the permission as if it had been granted by the Welsh Ministers on an application referred to them under section 72.

(3) Accordingly—

(a) Schedule 3 applies, with any necessary modifications, in relation to a planning permission granted by a direction under this Chapter as it applies in relation to a planning permission granted by a planning authority;

(b) section 69 applies to a direction under this Chapter as if it were a decision notice.

(4) See also Chapter 9 for provision requiring planning permission to be granted subject to conditions relating to the duration and implementation of the permission.

CHAPTER 9

EFFECT, DURATION AND IMPLEMENTATION OF PLANNING PERMISSION

Effect of planning permission

91 Benefit of planning permission

Planning permission to develop land has effect for the benefit of the land and of all persons for the time being interested in it; but this is subject to the terms of the permission.

92 Permission to erect a building: purposes for which building may be used

(1) Planning permission for the erection of a building may specify the purposes for which the building may be used.

(2) If no purposes are specified, the planning permission is to be read as including permission to use the building for the purpose for which it is designed.

Duration of planning permission

93 Condition about period within which development must start

(1) Planning permission must be granted subject to the condition that the development to which it relates must start before the end of a period specified in the condition that begins with the day the permission is granted.

(2) If planning permission is granted without the condition required by subsection (1), it is to be treated as having been granted subject to the condition that the development must start before the end of 5 years beginning with the day the permission was granted.

(3) But if—

(a) the planning permission granted without the condition required by subsection (1) is planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted, and

(b) the previous permission was subject to a condition specifying a period before the end of which development was required to start,

the planning permission is to be treated as having been granted subject to the condition that the development to which it relates must start before the end of that period.

(4) This section does not apply to—

(a) planning permission granted by a development order or a local development order;

(b) outline planning permission (but see section 94);

(c) planning permission for development carried out before the grant of the permission;

(d) planning permission granted for a limited period;

(e) a minerals permission that is subject to a condition that minerals development must start before the end of a specified period after—

(i) the completion of other development consisting of mining operations already being carried out by the applicant for the permission, or

(ii) the cessation of depositing of mineral waste already being carried out by the applicant.

(5) The fact that planning permission is subject to a condition by virtue of this section does not prevent the condition being the subject of an application under section 68 or an appeal under section 73.

94 Conditions of outline planning permission

(1) Outline planning permission must be granted subject to the conditions that—

(a) an application for approval of each reserved matter must be made before the end of a period specified in the condition that begins with the day the permission is granted, and

(b) the development must start before—

(i) the end of a period specified in the condition that begins with the day the permission is granted, or

(ii) if later, the end of a period specified in the condition that begins with the day the reserved matters are finally approved (or, if they are finally approved on different days, with the last of those days).

(2) A condition imposed under subsection (1)(a) may specify different periods for different parts of the development; and if it does so, the condition required by subsection (1)(b) must be framed by reference to those parts instead of the development as a whole.

(3) If outline planning permission is granted without the condition required by subsection (1)(a), it is to be treated as having been granted subject to the condition that an application for approval of each reserved matter must be made before the end of 3 years beginning with the day the permission was granted.

(4) But if—

(a) the outline planning permission granted without the condition required by subsection (1)(a) is planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted, and

(b) the previous permission was subject to a condition specifying a period before the end of which an application for approval of each reserved matter was required to be made,

the outline planning permission is to be treated as having been granted subject to the condition that an application for approval of each reserved matter must be made before the end of that period.

(5) If outline planning permission is granted without the condition required by subsection (1)(b), it is to be treated as having been granted subject to the condition that the development must start before—

(a) the end of 5 years beginning with the day the permission was granted, or

(b) if later, the end of 2 years beginning with the day the reserved matters are finally approved (or, if they are finally approved on different days, with the last of those days).

(6) But if—

(a) the outline planning permission granted without the condition required by subsection (1)(b) is planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted, and

(b) the previous permission was subject to a condition specifying a period before the end of which development was required to start,

the outline planning permission is to be treated as having been granted subject to the condition that the development to which it relates must start before the end of that period.

(7) The fact that outline planning permission is subject to a condition by virtue of this section does not prevent the condition being the subject of an application under section 68 or an appeal under section 73.

(8) For the purposes of this section, a reserved matter is finally approved—

(a) when an application for approval is granted, or

(b) in a case where an application for approval is made to a planning authority and the Welsh Ministers grant the approval on an appeal against the authority's decision or an appeal under section 73(3) relating to the application, when the appeal is determined.

95 Breach of condition about period within which development must start etc.

(1) Where planning permission is subject to a condition that the development to which it relates must start before the end of a specified period (whether by virtue of section 93 or 94 or otherwise), development that starts after the end of that period is not development authorised by the permission.

(2) Where outline planning permission is subject to a condition that an application for approval of each reserved matter must be made before the end of a specified period, an application made after the end of that period is not an application made in accordance with the terms of the permission.

96 Duration of minerals permission

Schedule 5 provides for every minerals permission to be subject to a condition limiting the duration of the permission.

Implementation of planning permission

97 Notice of starting and carrying out development

(1) In this section "relevant planning permission" means planning permission of a description specified in regulations.

(2) Before a person starts any development to which a relevant planning permission relates, the person must give notice to the planning authority in whose area the development is to be carried out.

(3) Regulations may specify the form and content of the notice.

(4) At all times when a person is carrying out development to which a relevant planning permission relates, the person must display at or near the place where the development is being carried out a notice that it is being carried out in accordance with the relevant planning permission.

(5) Regulations may specify—

(a) the form and content of the notice;

(b) how it must be displayed.

(6) A notice of a decision to grant a relevant planning permission, or other instrument granting a relevant planning permission, must refer to the duties imposed by and under subsections (2) to (5).

(7) A relevant planning permission is to be treated as having been granted subject to the condition that those duties must be complied with.

Termination of planning permission where development has not been completed

98 Power to make termination order

(1) This section applies where—

(a) planning permission has been granted for the development of land otherwise than by a development order or a local development order,

(b) the permission is subject to a condition that the development must start before the end of a specified period,

(c) the development has started within that period, and

(d) the period has ended without the development having been completed.

(2) The planning authority in whose area the land is situated may make a termination order if it considers that the development will not be completed within a reasonable period.

(3) The Welsh Ministers may make a termination order if they consider that the development will not be completed within a reasonable period.

(4) A termination order is an order that the planning permission will cease to have effect at the end of a further period specified in the order.

(5) The period specified in the order must be at least 12 months beginning with the day after the day the order takes effect.

(6) In Schedule 6—

(a) Part 1 makes provision about the procedure that must be followed before a termination order made by a planning authority takes effect;

(b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make a termination order.

(7) Where a termination order takes effect, the planning permission to which the order relates ceases to have effect at the end of the period specified in the order.

(8) A termination order does not affect planning permission for development carried out before the end of the period specified in the order.

(9) A termination order amending or revoking an earlier termination order may be made at any time before the end of the period specified in the earlier order.

(10) Schedule 6 does not apply to a termination order made only for the purpose of revoking an earlier order, but on making such an order the planning authority or the Welsh Ministers must immediately serve notice of the revocation on every person who was served with notice under that Schedule in relation to the earlier order.

Interpretation

99 Time when development starts

(1) For the purposes of this Chapter, development is to be taken to start—

(a) in the case of development consisting of mining operations, when the mining operations first start to be carried out;

(b) in any other case, when either of the following first occurs—

(i) a relevant operation forming part of the development starts to be carried out, or

(ii) a relevant change in use forming part of the development is made.

(2) "Relevant operation" means—

(a) any work of construction in the course of erecting a building;

(b) any work of demolition of a building;

(c) digging a trench that is to contain foundations for a building;

(d) laying an underground main or pipe to the foundations of a building, or to a trench that is to contain foundations for a building;

(e) any operation in the course of laying out or constructing a road.

(3) "Relevant change in use" means any material change in the use of land that constitutes development other than—

(a) development for which planning permission is granted by a general development order or a local development order and which is carried out to comply with a condition or limitation subject to which the permission is granted, and

(b) development of a description specified in regulations.

(4) "General development order" means a development order made in relation to all land in Wales (subject to any exceptions specified in the order).

CHAPTER 10

CHANGES TO PLANNING PERMISSION

Non-material changes to planning permission

100 Power of planning authority to make non-material change to planning permission

(1) This section applies where planning permission for the development of land in the area of a planning authority has been granted otherwise than by a development order or a local development order.

(2) The planning authority may, on an application made by a person who has an interest in the land, make a change to the planning permission.

(3) The authority may make the change to the permission only if it is satisfied that the change is not material.

(4) In deciding whether the change is material, the authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(5) The power to change a planning permission under this section includes power—

(a) to impose new conditions;

(b) to vary or remove existing conditions.

(6) Where a person has an interest in some, but not all, of the land to which a planning permission relates, an application under this section may be made by the person only in respect of as much of the permission as affects the land in which the person has an interest.

(7) For the purposes of this section a person has an interest in land only if the person is—

(a) an owner of the freehold estate,

(b) a tenant under a lease granted or extended for a fixed term that has at least 2 years left to run,

(c) the mortgagee of an interest or estate in the land, or

(d) a party to an estate contract within the meaning given by section 2(4) of the Land Charges Act 1972 (c. 61).

101 Further provision about applications for non-material changes

(1) Regulations may make provision about—

(a) the form and content of an application for a change to a planning permission under section 100;

(b) how an application must be made.

(2) A planning authority must not consider an application made to it under section 100 if any requirement imposed under subsection (1) has not been complied with.

(3) Regulations may make provision about how planning authorities are to deal with applications under section 100, including—

(a) provision imposing requirements for publicity and consultation in relation to applications;

(b) provision requiring that an authority must not determine an application before the end of a period specified in the regulations;

(c) provision about when steps specified in the regulations must be taken.

(4) See also section 69(5)(b) and (6) (revised decision notice where planning authority imposes, removes or varies condition of planning permission under section 100).

(5) Where a planning authority consults a person who exercises functions for the purposes of any enactment and the conditions in subsection (6) are met, the person must give a substantive response to the consultation.

(6) The conditions are that—

(a) the consultation relates to an application for a change to a planning permission made to the authority under section 100,

(b) the permission was granted on an application made to the authority under this Part, and

(c) regulations under section 63 required the authority to consult the person before determining the application for the permission.

(7) The substantive response must be given before the end of—

(a) a period specified in regulations, or

(b) any other period agreed in writing between the person consulted and the planning authority.

(8) Regulations may make provision—

(a) about the requirements of a substantive response;

(b) requiring a person to make a report to the Welsh Ministers about the person's compliance with subsections (5) and (7) (including provision about the form and content of the report and when it must be made).

Modification and revocation of planning permission

102 Power to make order modifying or revoking planning permission

(1) Where planning permission for the development of land in the area of a planning authority has been granted otherwise than by a development order or a local development order, the planning authority or the Welsh Ministers may by order modify or revoke the permission to any extent.

(2) In deciding whether to make an order under this section, a planning authority or the Welsh Ministers must—

(a) have regard to the development plan for the area and any other relevant considerations, and

(b) make the decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(3) An order modifying or revoking planning permission for the carrying out of operations may be made at any time before the operations are completed, but does not affect permission for operations carried out before the order takes effect.

(4) An order modifying or revoking planning permission for a material change in the use of land may be made at any time before the change takes place.

(5) In Schedule 7—

(a) Part 1 makes provision about the procedures that must be followed before an order made by a planning authority under this section takes effect (either with or without confirmation by the Welsh Ministers);

(b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make an order under this section;

(c) Part 3 makes provision about conditions that may be imposed by an order under this section that modifies or revokes planning permission for development that consists of mining operations or includes the depositing of waste.

Reviews of planning permission for minerals development

103 Giving effect to minerals permissions relating to dormant sites

(1) A minerals permission to which this section applies authorises minerals development only where the conditions to which the permission is subject are determined in accordance with Schedule 8.

(2) This section applies to—

(a) a pre-1948 minerals permission that—

(i) was registered under paragraph 1 of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), and

(ii) relates to land on which no minerals development was carried out to any substantial extent in the 2 years ending with the relevant day;

(b) a post-1948 minerals permission that relates to a site shown as being a dormant site in a list prepared under paragraph 3 of Schedule 13 to the Environment Act 1995 (c. 25).

(3) But this section does not apply to a minerals permission where the conditions to which it is subject have been determined under—

(a) Schedule 2 to the Planning and Compensation Act 1991, or

(b) Schedule 13 to the Environment Act 1995.

(4) In subsection (2)(a) "the relevant day" means—

(a) where the pre-1948 minerals permission relates to Crown land, 7 June 2006;

(b) where the permission relates to any other land, 1 May 1991.

(5) In subsection (2)(b) references to a post-1948 minerals permission relating to a site are to a post-1948 minerals permission relating to any of the land included in the site.

(6) In this Act—

"post-1948 minerals permission" ("*caniatâd mwynau ôl-1948*") means any minerals permission other than a pre-1948 minerals permission;

"pre-1948 minerals permission" ("*caniatâd mwynau cyn-1948*") means a minerals permission that was deemed to be granted under Part 3 of the Town and Country Planning Act 1947 (c. 51) by virtue of section 77 of that Act (development authorised under interim development orders made during the period beginning with 22 July 1943 and ending with 30 June 1948).

104 Periodic review of minerals permissions

(1) Schedule 9 provides for the periodic review of minerals permissions.

(2) Regulations may make provision, in relation to planning permission for minerals development granted by a development order, that is similar to any provision made by Schedule 9.

CHAPTER 11

COMPENSATION AND PURCHASE OF INTERESTS IN LAND

Compensation for changes to planning permission

105 Compensation for refusal or conditional grant of planning permission previously granted by order

(1) This section applies where—

(a) planning permission granted by a development order or a local development order has been withdrawn (whether by a direction under the order, or by the amendment, revision or revocation of the order), and

(b) on an application under this Part, planning permission for development that was permitted by the order is refused or is granted subject to different conditions from those that were imposed by the order.

(2) Any person interested in the land to which the planning decision relates is entitled, on making a claim to the planning authority in whose area the land is situated, to be paid compensation by the authority for—

(a) any expenditure incurred by the person in carrying out works that become abortive because of the planning decision;

(b) any other loss or damage suffered by the person that is directly attributable to the decision.

(3) A claim for compensation under this section must be made in writing within 12 months beginning with the day the planning decision is made.

(4) Where—

(a) planning permission granted by a development order for development of a description specified in regulations has been withdrawn by a direction under the order, or

(b) planning permission granted by a local development order has been withdrawn by a direction under the order,

this section applies only if the application mentioned in subsection (1)(b) is made before the end of 12 months beginning with the day the direction took effect.

(5) Where planning permission granted by a development order or a local development order has been withdrawn by the amendment, revision or revocation of the order, this section applies only if the application mentioned in subsection (1)(b) is made before the end of 12 months beginning with the day the amendment, revision or revocation took effect.

(6) Where—

(a) planning permission granted by a development order for development of a description specified in regulations has been withdrawn in the way specified in regulations, or

(b) planning permission granted by a local development order has been withdrawn by a direction under the order or by the revision or revocation of the order,

this section does not apply if the conditions in subsection (7) are met.

(7) The conditions are that—

(a) notice of the withdrawal of the permission has been published in the way specified in regulations,

(b) the notice was published not less than 12 months, and not more than the period specified in regulations, before the withdrawal took effect, and

(c) either—

(i) the development authorised by the order had not started before the notice was published, or

(ii) the order includes provision under section 46 permitting the development to be completed after the permission is withdrawn.

(8) This section does not apply in relation to planning permission for the development of operational land of a statutory undertaker (for which see sections 319 and 321).

(9) Regulations may provide that this section does not apply where planning permission granted by a development order or a local development order for the demolition of buildings, or of buildings of a description specified in the regulations, is withdrawn by a direction under the order.

106 Compensation where planning permission is modified or revoked

(1) This section applies where planning permission for the development of land in the area of a planning authority is modified or revoked by an order under section 102.

(2) Any person interested in the land is entitled, on making a claim to the planning authority, to be paid compensation by the authority for—

(a) any expenditure incurred by the person in carrying out works that become abortive because of the modification or revocation of the planning permission;

(b) any other loss or damage suffered by the person that is directly attributable to the modification or revocation.

(3) A claim for compensation under this section must be made in writing within 12 months beginning with the day the modification or revocation takes effect.

(4) This section does not apply in relation to planning permission for the development of operational land of a statutory undertaker (for which see sections 319 and 321).

107 Compensation for changes to planning permission: supplementary provision

(1) This section applies for the determination of compensation under sections 105 and 106.

(2) For the purposes of those sections, expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.

(3) Subject to that, no compensation is payable under those sections in respect of—

(a) works carried out before the grant of the planning permission that is withdrawn, modified or revoked, or

(b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the permission was granted.

108 Apportionment and recovery of compensation for depreciation

Schedule 10 provides for the apportionment and recovery of compensation for depreciation of the value of an interest in land that becomes payable under section 105 or 106.

109 Compensation for changes to planning permission for minerals development

In Schedule 11—

(a) Part 1 limits compensation under sections 105 and 106 where the planning permission that is withdrawn, modified or revoked is planning permission for minerals development;

(b) Part 2 provides for compensation to be payable where working rights are restricted on a review of the minerals permissions relating to a mining site under Schedule 9;

(c) Part 3 makes provision about the interpretation of the Schedule.

Right to require purchase of interest in land

110 Service of purchase notice where planning permission is refused, revoked or made conditional

(1) This section applies where—

(a) on an application under this Part, a decision is made to refuse planning permission for the development of any land or to grant permission subject to conditions, or

(b) an order under section 102 revokes planning permission for the development of any land or modifies it by imposing conditions.

(2) If an owner of the land to which the decision or order relates claims that the conditions in subsection (3) are met, the owner may serve on the planning authority in whose area the land is situated a notice requiring the authority to purchase the owner's interest in the land (a "purchase notice").

(3) The conditions are—

(a) that the land is unusable in its existing state (see paragraph 1 of Schedule 12),

(b) in a case where planning permission has been granted subject to conditions or modified by the imposition of conditions, that the land cannot be made usable by carrying out the development to which the permission relates in accordance with the conditions, and

(c) in any case, that the land cannot be made usable by carrying out any other development for which planning permission has been granted or for which the planning authority or the Welsh Ministers have undertaken to grant planning permission.

(4) For the purposes of the references in subsections (1)(a) and (3)(b) to planning permission being granted subject to conditions, any condition to which planning permission is subject by virtue of section 93 or 94 (periods for starting development and applying for approval of reserved matters) or Schedule 5 (duration of minerals permission) must be ignored.

(5) A person may not serve a purchase notice under this section in respect of land that is unusable only because of a discontinuance order (but see section 213).

(6) Where a repairs notice has been served on an owner of a listed building under section 138 of the Historic Environment Act, the owner is not entitled to serve a purchase notice in the circumstances mentioned in subsection (1)(a) in respect of the building—

(a) before the end of 3 months beginning with the day the repairs notice is served, or

(b) if during that period the compulsory acquisition of the building is started under section 137 of the Historic Environment Act (compulsory acquisition of listed building for preservation), unless the compulsory acquisition is discontinued.

(7) For the purposes of subsection (6)—

(a) a compulsory acquisition is started—

(i) by a planning authority when it serves the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67);

(ii) by the Welsh Ministers when they serve the notice required by paragraph 3 of Schedule 1 to that Act;

(b) a compulsory acquisition is discontinued—

(i) in the case of an acquisition by a planning authority, when the compulsory purchase order is withdrawn or the Welsh Ministers decide not to confirm it or (having been confirmed conditionally) it expires by virtue of section 13BA(2)(b) of the Acquisition of Land Act 1981;

(ii) in the case of an acquisition by the Welsh Ministers, when they decide not to make the compulsory purchase order or the order (having been made conditionally) expires by virtue of paragraph 4AA(2) of Schedule 1 to that Act.

(8) Schedule 12 makes further provision about purchase notices (including further provision about the circumstances in which purchase notices may be served, and provision about the action to be taken following service of a purchase notice).

CHAPTER 12

REGISTER

111 Register of local development orders, planning applications etc.

(1) A planning authority must keep a register containing information specified in regulations relating to—

(a) local development orders made by the authority;

(b) applications for planning permission made to the authority or the Welsh Ministers in relation to land in the authority's area;

(c) applications for approval of reserved matters made in relation to land in the authority's area;

(d) applications for non-material changes to planning permission made to the authority under section 100;

(e) applications made to the authority under Schedules 8 and 9 (applications to determine conditions of minerals permissions or postpone review dates);

(f) applications for certificates of lawfulness made to the authority under sections 156 and 157;

(g) decisions of the Welsh Ministers to exercise the powers conferred by section 133 (grant of planning permission or removal of conditions on determination of appeal against enforcement notice) in relation to land in the authority's area;

(h) certificates of lawfulness issued by the Welsh Ministers by virtue of section 134(2) (issue of certificate on determination of appeal against enforcement notice) in relation to land in the authority's area.

(2) The information specified in relation to applications mentioned in subsection (1)(b) to (f) must include information about how they have been dealt with.

(3) The regulations may—

(a) require the register to be kept in two or more parts;

(b) require a specified part of the register to contain copies of applications and of other documents or materials submitted with them;

(c) provide for the entry relating to an application (and everything relating to it) to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of.

(4) Provision made under subsection (3)(c) does not prevent the regulations requiring a different entry relating to the application to be included in another part of the register.

(5) The register must be kept in the way specified in the regulations.

(6) The register must be available for public inspection at all reasonable times.

PART 4

ENFORCEMENT

Introductory

112 Expressions used in connection with enforcement

(1) In this Act references to a breach of planning control are to—

(a) carrying out development of land in Wales without planning permission where permission is required (see section 43), or

(b) failing to comply with a condition subject to which planning permission has been granted for development of land in Wales.

(2) In this Act references to taking enforcement action are to—

(a) issuing an enforcement warning notice (see section 119),

(b) serving a breach of condition notice (see section 125), or

(c) issuing an enforcement notice (see sections 128 and 144).

(3) In this Part—

(a) references to a condition of planning permission (except in section 131(4)) include a limitation;

(b) references to use of land do not include use for carrying out operations on the land, except that references to discontinuing a use of land in sections 128(6)(a)(ii) and 143(2) include discontinuing a use for carrying out mining operations.

113 Time limits for taking enforcement action

(1) Where there has been a breach of planning control of a description set out in the first column of the Table, no enforcement action may be taken in respect of the breach after the end of the period specified in the corresponding entry in the second column.

TABLE 1

Description of breach of planning control	Period for taking enforcement action
Carrying out operations on land without planning permission	4 years beginning with the day the operations were substantially completed
Making a change in the use of a building to use as a dwelling or (if the building was previously used as one or more dwellings) to use as a different number of dwellings	4 years beginning with the day the breach took place
Any other breach of planning control	10 years beginning with the day the breach took place

(2) Subsection (1) does not prevent—

(a) a breach of condition notice being served in respect of a breach of planning control at any time when an enforcement notice has effect in respect of the breach;

(b) enforcement action being taken in respect of a breach of planning control during the 4 years beginning with the day any other enforcement action (or purported enforcement action) was taken in respect of the breach.

Investigatory powers

114 Power of planning authority to serve enforcement investigation notice

(1) This section applies where a planning authority considers that there may have been a breach of planning control in respect of any land in its area.

(2) The authority may serve an enforcement investigation notice on any person who—

(a) is an owner or occupier of the land or has any other interest in it, or

(b) is carrying out operations on the land or using it for any purpose.

(3) An enforcement investigation notice must—

(a) specify the matters that the planning authority considers may constitute a breach of planning control, and

(b) require the person on whom it is served ("the recipient") to give the authority information specified in the notice, so far as the recipient is able to do so.

(4) The information that may be specified in the notice is information about—

(a) any operations being carried out on the land, any use of the land and any other activities being carried out on it, and

(b) any matter relating to the conditions subject to which planning permission has been granted in respect of the land.

(5) The notice may, for example, require the recipient to do any of the following (so far as the recipient is able to do so)—

(a) to state whether or not the land is being used for a purpose specified in the notice, or whether operations or activities specified in the notice are being or have been carried out on the land;

(b) to state when any use of the land, or any operations or activities on it, started;

(c) to give the name and postal address of any person known to the recipient to use or have used the land for any purpose, or to be carrying out or have carried out any operations or activities on the land;

(d) to give information the recipient holds about planning permission for any use of the land or operations on it, or about any reason for planning permission not being required for the use or operations;

(e) to state the nature of the recipient's interest (if any) in the land and the name and postal address of any other person known to the recipient to have an interest in it.

(6) An enforcement investigation notice may specify a time and place at which the planning authority will consider—

(a) any offer the recipient wishes to make to—

(i) apply for planning permission,

(ii) refrain from carrying out operations or activities, or

(iii) carry out remedial works, and

(b) any representations the recipient wishes to make about the notice.

(7) If it does so, the authority must give the recipient an opportunity to make an offer or representations in person at the time and place specified.

(8) An enforcement investigation notice must inform the recipient—

(a) of the likely consequences of failing to respond to the notice and, in particular, that enforcement action may be taken, and

(b) of the effect of sections 124(6) and 152(7) (which exclude certain rights to compensation where loss or damage could have been avoided by complying with an enforcement investigation notice).

(9) The recipient of an enforcement investigation notice must comply with the requirements of the notice by giving information in writing to the planning authority.

(10) The service of an enforcement investigation notice does not affect any other power exercisable in respect of a breach of planning control.

115 Offence of failing to comply with enforcement investigation notice

(1) A person on whom an enforcement investigation notice has been served commits an offence if, at any time after the end of 21 days beginning with the day the notice was served, the person has not complied with a requirement of the notice.

(2) A person may be charged with an offence under subsection (1) by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same enforcement investigation notice by reference to different periods.

(3) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person had a reasonable excuse for failing to comply with the requirement.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person commits an offence if, in purported compliance with a requirement of an enforcement investigation notice, the person—

(a) provides information that the person knows to be false or misleading in a material respect, or

(b) recklessly provides information that is false or misleading in a material respect.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine.

116 Powers to enter land for enforcement purposes

(1) A person authorised in writing by a planning authority may enter any land to—

(a) assess whether there is or has been a breach of planning control on that land or any other land;

(b) determine whether the authority should exercise any of its powers under this Part;

(c) determine how any of those powers should be exercised;

(d) assess whether there has been compliance with a requirement imposed as a result of any of those powers being exercised.

(2) A person authorised in writing by the Welsh Ministers may enter any land to determine whether an enforcement notice or stop notice should be issued.

(3) The Welsh Ministers must not authorise a person to enter land without consulting the planning authority in whose area the land to which the enforcement notice or stop notice would relate is situated.

(4) A power to enter land under this section may be exercised only—

(a) at a reasonable time, and

(b) if there are reasonable grounds for entering the land for the purpose in question.

(5) A person authorised to enter land under this section may not demand admission as of right to a building used as a dwelling unless at least 24 hours' notice of the intended entry has been given to every occupier of the building.

(6) A person authorised to enter land under this section—

(a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land,

(b) may take on to the land any other persons that are necessary, and

(c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.

117 Warrant to enter land

(1) This section applies if a justice of the peace is satisfied on sworn information in writing—

(a) that there are reasonable grounds for entering land for a purpose mentioned in section 116, and

(b) that—

(i) admission to the land has been refused or a refusal is reasonably expected, or

(ii) the case is one of urgency.

(2) The justice of the peace may issue a warrant conferring a power to enter the land on any person authorised in writing by a planning authority or (as the case may be) the Welsh Ministers.

(3) For the purposes of subsection (1)(b)(i) admission to land is to be treated as having been refused if no reply is received to a request for admission within a reasonable period.

(4) A warrant under this section confers a power to enter land—

(a) on one occasion only, and

(b) only at a reasonable time, unless the case is one of urgency.

(5) A person authorised to enter land under this section—

(a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land,

(b) may take on to the land any other persons that are necessary, and

(c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.

(6) A warrant under this section ceases to have effect at the end of 1 month beginning with the day it is issued.

118 Supplementary provision about powers of entry

(1) This section applies where a person has a power to enter land conferred by section 116 or by a warrant under section 117.

(2) A person who intentionally obstructs a person exercising the power of entry commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If damage is caused to land or other property in the exercise of the power of entry, a person suffering the damage may recover compensation from the planning authority that authorised the entry or (as the case may be) the Welsh Ministers.

(5) A person commits an offence if the person discloses information which the person obtained in the exercise of the power of entry, and which relates to a manufacturing process or trade secret, for a purpose other than that for which the person was authorised to enter the land.

(6) A person guilty of an offence under subsection (5) is liable—

(a) on summary conviction, to a fine;

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.

Enforcement warning notices

119 Power of planning authority to issue enforcement warning notice

(1) A planning authority may issue an enforcement warning notice if it considers—

(a) that there has been a breach of planning control in respect of any land in its area, and

(b) that there is a reasonable prospect that planning permission would be granted if an application for permission were made in respect of the development concerned.

(2) In considering whether there is a reasonable prospect that planning permission would be granted, a planning authority must—

(a) have regard to the development plan for its area and any other relevant considerations, and

(b) make its decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(3) An enforcement warning notice must—

(a) specify the matters that the authority considers to constitute the breach of planning control, and

(b) state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken.

(4) The authority must serve a copy of the notice on—

(a) every owner and occupier of the land to which it relates, and

(b) any other person who has an interest in the land, if the authority considers that the person's interest would be materially affected by taking further enforcement action.

(5) A planning authority may not issue more than one enforcement warning notice in respect of the same breach of planning control.

(6) The issue of an enforcement warning notice does not limit any other power exercisable in respect of a breach of planning control.

Temporary stop notices

120 Power of planning authority to issue temporary stop notice

(1) A planning authority may issue a temporary stop notice if it considers—

(a) that there has been a breach of planning control in respect of any land in its area, and

(b) that the activity that constitutes the breach (or any part of that activity) ought to be stopped immediately.

(2) A temporary stop notice must—

(a) specify the activity that the authority considers to constitute the breach of planning control,

(b) prohibit the carrying out of the activity that constitutes the breach (or of so much of the activity as is specified in the notice),

(c) set out the authority's reasons for issuing the notice, and

(d) state the effect of section 123 (offence of breaching temporary stop notice).

(3) The planning authority must display a copy of the temporary stop notice on the land to which it relates; and the copy must specify the date on which it is first displayed.

(4) But if it is not reasonably practicable to display a copy of the notice on the land, the authority may instead display a copy in a prominent place as near to the land as is reasonably practicable.

(5) The authority may serve a copy of the notice on any person the authority considers—

(a) to be carrying out the activity that the notice prohibits or causing or permitting the activity to be carried out,

(b) to be an occupier of the land to which the notice relates, or

(c) to have an interest in the land.

121 Restrictions on power to issue temporary stop notice

(1) A temporary stop notice may not prohibit—

(a) the use of a building as a dwelling, or

(b) the carrying out of an activity of a description, or in circumstances, specified in regulations.

(2) A temporary stop notice may not prohibit the carrying out of an activity that has been carried out (whether or not continuously) for at least 4 years before the day a copy of the notice is first displayed in accordance with section 120.

(3) For the purposes of subsection (2) any period during which the activity was authorised by planning permission must be ignored.

(4) Subsection (2) does not prevent a temporary stop notice prohibiting—

(a) the carrying out of operations on land or of any activity incidental to them, or

(b) the depositing of waste on land.

122 Duration etc. of temporary stop notice

(1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 120.

(2) A temporary stop notice ceases to have effect—

(a) at the end of 28 days beginning with the day the copy of it is first displayed in accordance with section 120, or

(b) if it specifies a shorter period beginning with that day, at the end of that period.

(3) But if the planning authority withdraws the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.

(4) A planning authority may not issue a second or subsequent temporary stop notice in relation to the same activity unless the authority has, since issuing the previous notice, taken enforcement action in relation to the activity.

(5) In subsection (4) the reference to taking enforcement action includes obtaining an injunction under section 153.

123 Offence of breaching temporary stop notice

(1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out an activity prohibited by the notice or causes or permits such an activity to be carried out.

(2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice by reference to different periods.

(3) In proceedings against a person for an offence under this section, it is a defence for the person to prove that—

(a) a copy of the temporary stop notice was not served on the person, and

(b) the person did not know, and could not reasonably have been expected to know, of the existence of the notice.

(4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

(5) In determining the amount of the fine, the court must in particular have regard to any financial benefit that has accrued or appears likely to accrue to the person in consequence of the offence.

124 Compensation for loss or damage caused by temporary stop notice

(1) This section applies where—

(a) an activity specified in a temporary stop notice is, at the time the notice takes effect, authorised by planning permission granted before the day the notice takes effect,

(b) a certificate of lawfulness is issued under section 156 (whether by a planning authority on an application under that section or by the Welsh Ministers on an appeal under section 131 or 160) in respect of an activity specified in a temporary stop notice, or

(c) a planning authority withdraws a temporary stop notice after it has taken effect.

(2) This section does not apply by virtue of subsection (1)(c) where—

(a) an activity specified in the temporary stop notice is authorised by planning permission granted on or after the day the notice takes effect, and

(b) the planning authority withdraws the notice after the grant of that permission.

(3) Any person who has an interest in the land to which the notice relates at the time the notice takes effect is entitled, on making a claim to the planning authority, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the effect of the notice.

(4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.

(5) No compensation is payable under this section in respect of the prohibition of an activity which, at any time when the temporary stop notice has effect, constitutes or contributes to a breach of planning control.

(6) No compensation is payable under this section for loss or damage that the claimant could have avoided by—

(a) providing information that the claimant was required to provide by—

(i) an enforcement investigation notice,

(ii) an information notice served by the planning authority (see section 383), or

(iii) a notice served by the planning authority under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), or

(b) co-operating with the planning authority in any other way when responding to such a notice.

(7) A claim for compensation under this section must be made in writing within 12 months beginning—

(a) in a case falling within subsection (1)(a) or (b) but not within subsection (1)(c), with the day the temporary stop notice takes effect;

(b) in a case falling within subsection (1)(c), with the day the notice is withdrawn.

Breach of condition notices

125 Power of planning authority to serve breach of condition notice

(1) This section applies where—

(a) planning permission for the development of any land in Wales has been granted subject to conditions, and

(b) a condition of the permission is not complied with.

(2) The planning authority in whose area the land is situated may serve a breach of condition notice on—

(a) any person who is carrying out or has carried out the development, or

(b) any other person who has control of the land.

(3) For the purposes of subsection (2)(a), carrying out development includes causing or permitting another person to carry it out.

(4) A breach of condition notice must—

(a) require the person on whom it is served to secure compliance with the conditions of the planning permission that are specified in the notice, and

(b) specify the steps the planning authority considers ought to be taken, or the activities the authority considers ought to be stopped, to secure compliance with those conditions.

(5) The only conditions of the planning permission that may be specified in a notice served by virtue of subsection (2)(b) are conditions regulating the use of the land.

(6) A breach of condition notice must specify the period within which compliance with the conditions specified in it must be secured.

(7) The period must be at least 28 days beginning with the day the notice is served.

(8) The planning authority may extend the period by serving a further notice on the person on whom the breach of condition notice was served.

(9) Where a planning authority has served a breach of condition notice on a person, it may withdraw the notice by serving a further notice on the person.

(10) The withdrawal of a breach of condition notice does not prevent the planning authority serving another breach of condition notice.

126 Offence of failing to comply with breach of condition notice

(1) A person on whom a breach of condition notice has been served is guilty of an offence if, at any time after the end of the period allowed for compliance with the notice—

(a) any condition specified in the notice is not complied with, and

(b) any step specified in the notice has not been taken or any activity specified in the notice has not been stopped.

(2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same breach of condition notice by reference to different periods.

(3) In proceedings against a person for an offence under this section, it is a defence for the person to prove—

(a) that the person took all reasonable steps to secure compliance with the conditions specified in the notice, or

(b) where the notice was served on the person by virtue of section 125(2)(b), that the person no longer had control of the land at the time of the alleged offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) In subsection (1) the reference to the period allowed for compliance with the breach of condition notice is to—

(a) the period specified in the notice under section 125(6), or

(b) that period as extended under section 125(8).

127 Effect of grant of planning permission or removal of condition on breach of condition notice

(1) This section applies where a planning authority has served a breach of condition notice.

(2) If planning permission is granted for development that was carried out before the grant of the permission, the notice ceases to have effect so far as it is inconsistent with the permission.

(3) If a condition of planning permission that is specified in the notice is removed (whether or not it is replaced with another condition), the notice ceases to have effect so far as it requires any person to secure compliance with that condition.

(4) The fact that a breach of condition notice wholly or partly ceases to have effect by virtue of this section does not affect the liability of any person for an offence in respect of a previous failure to secure compliance with a condition specified in the notice.

Enforcement notices

128 Power of planning authority to issue enforcement notice

(1) A planning authority may issue an enforcement notice if it considers that there has been a breach of planning control in respect of any land in its area.

(2) In considering whether to issue an enforcement notice, a planning authority must—

(a) have regard to the development plan for its area and any other relevant considerations, and

(b) make its decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(3) An enforcement notice must specify—

(a) the matters the authority considers to constitute the breach of planning control, and

(b) the paragraph of section 112(1) within which the authority considers the breach to fall.

(4) A notice complies with subsection (3)(a) if it enables each person on whom a copy of it is served to know what those matters are.

(5) An enforcement notice must specify the steps the planning authority requires to be taken, or the activities it requires to be stopped, to achieve (wholly or partly) either or both of the purposes set out in subsection (6).

(6) The purposes are—

(a) remedying the breach by doing one or more of the following—

(i) making development comply with the terms (including conditions) of any planning permission granted in respect of the land,

(ii) discontinuing a use of the land, or

(iii) restoring the land to its condition before the breach took place;

(b) remedying any injury to amenity caused by the breach.

(7) An enforcement notice may, for example, require—

(a) buildings or works to be altered or removed,

(b) operations to be carried out, or

(c) the contour of a deposit of waste to be modified by altering any of the gradients of its sides.

(8) An enforcement notice may require an activity to be stopped wholly or partly.

(9) Where an enforcement notice is issued in respect of the demolition of a building, the notice may require the erection of a replacement building that is as similar as possible to the demolished building.

(10) But the replacement building—

(a) must comply with any requirement imposed by an enactment that applies to the erection of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any provision of regulations made for the purposes of this subsection (which may include provision modifying paragraphs (a) and (b)).

129 Service, taking effect etc. of enforcement notice

(1) An enforcement notice must specify—

(a) the date on which it is to take effect, and

(b) the period within which the steps specified in the notice must be taken or the activities specified in it must be stopped.

(2) The notice takes effect at the beginning of the day specified under subsection (1)(a); but where an appeal is made against the notice under section 131, this is subject to sections 131(7)(a) and 378(6).

(3) An enforcement notice may specify different periods for taking different steps or stopping different activities.

(4) Where a planning authority issues an enforcement notice, it must serve a copy of the notice on—

(a) every owner and occupier of the land to which the notice relates, and

(b) any other person who has an interest in the land, if the authority considers that the person's interest is materially affected by the notice.

(5) Each copy of the notice must be served—

(a) before the end of 28 days after the day the notice is issued, and

(b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

(6) Regulations may—

(a) specify additional matters that must be specified in an enforcement notice;

(b) require a planning authority to include with every copy of an enforcement notice that it serves under this section an explanatory note giving information specified in the regulations about the right of appeal under section 131.

130 Variation and withdrawal of enforcement notice

(1) Where a planning authority has issued an enforcement notice, it may—

(a) withdraw the notice;

(b) waive or relax any requirement of the notice, and in particular extend the period within which the notice requires any step to be taken or any activity to be stopped.

(2) The authority may exercise the powers in subsection (1) whether or not the notice has taken effect.

(3) The withdrawal of an enforcement notice does not prevent the planning authority issuing another enforcement notice.

(4) Subsection (5) applies where the planning authority had served copies of the enforcement notice under section 129(4) before exercising the powers in subsection (1).

(5) Immediately after exercising any of those powers, the authority must give notice that it has done so to—

(a) every person who was served with a copy of the enforcement notice, and

(b) any other person who would be served with a copy of the notice if it were reissued.

Appeals against enforcement notices

131 Right to appeal against enforcement notice

(1) The following persons may appeal to the Welsh Ministers against an enforcement notice (whether or not a copy of the notice has been served on them)—

(a) any person who has an interest in the land to which the notice relates;

(b) any person who by virtue of a licence—

(i) occupies the land on the day the notice is issued, and

(ii) continues to occupy it when the appeal is made.

(2) An appeal may be made on one or more of the following grounds—

(a) that, in relation to the matters specified in the enforcement notice as constituting a breach of planning control, planning permission ought to be granted or a condition of planning permission ought to be removed;

(b) that the matters specified in the notice as constituting a breach of planning control have not occurred;

(c) that those matters (if they have occurred) do not constitute a breach of planning control;

(d) that if those matters do constitute a breach of planning control, no enforcement action could be taken in respect of the breach on the day the notice was issued;

(e) that a copy of the notice was not served on a person as required by section 129;

(f) that the steps the notice requires to be taken for either of the purposes set out in section 128(6), or the activities it requires to be stopped for either of those purposes, exceed what is necessary for the purpose in question;

(g) that the period within which the notice requires any step to be taken or any activity to be stopped is unreasonably short.

(3) An appeal against an enforcement notice may not be made on the ground that planning permission ought to be granted for a matter specified in the notice if—

(a) the enforcement notice was issued after a decision to refuse planning permission for development was upheld on an appeal under section 73, and

(b) granting planning permission for that development would have involved granting planning permission for the matter concerned.

(4) An appeal may not be made on the ground that a condition of planning permission ought to be removed if the enforcement notice was issued after a decision to grant planning permission subject to the condition was upheld on an appeal under section 73.

(5) In subsections (3) and (4) references to a decision that was upheld on an appeal include a decision in respect of which the Welsh Ministers dismissed an appeal under section 77(7) (undue delay by appellant).

(6) An appeal under this section must be made by—

(a) serving a notice of appeal on the Welsh Ministers before the date specified in the enforcement notice as the date on which it is to take effect,

(b) sending a notice of appeal to the Welsh Ministers in a properly addressed and pre-paid letter posted to them at a time when, in the ordinary course of post, it would be delivered to them before that date, or

(c) sending a notice of appeal to the Welsh Ministers using electronic communications at a time when, in the ordinary course of transmission, it would be delivered to them before that date.

(7) Where an appeal is made—

(a) the enforcement notice has no effect until the appeal is finally determined or withdrawn; but this is subject to any order under section 378(6);

(b) neither the appellant nor any other person is entitled, in any other proceedings started after the making of the appeal, to claim that the enforcement notice was not served on the appellant in accordance with section 129.

(8) An appellant must submit to the Welsh Ministers a statement in writing containing information required by regulations.

(9) The appellant must submit the statement either—

(a) with the notice of appeal, or

(b) within the period specified in regulations.

(10) Where an appeal is made on more than one ground, if the appellant fails to give information required under subsection (8) in relation to a ground within the period specified under subsection (9)(b), the Welsh Ministers may determine the appeal without considering that ground.

132 Determination of appeal: general

(1) On an appeal against an enforcement notice the Welsh Ministers may—

(a) correct any defect, error or misdescription in the notice, or

(b) vary the terms of the notice,

if they are satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.

(2) Where the Welsh Ministers determine an appeal—

(a) if they allow the appeal, they may quash the enforcement notice;

(b) they must give any directions necessary to give effect to their determination.

(3) Where it would otherwise be a ground for determining to allow an appeal that a copy of the enforcement notice was not served on a person as required by section 129, the Welsh Ministers may ignore that fact if neither the appellant nor that person has been substantially prejudiced by the failure.

(4) The Welsh Ministers may—

(a) dismiss an appeal if the appellant fails to comply with section 131(9);

(b) allow an appeal and quash the enforcement notice if the planning authority fails, within the period specified in regulations made under section 367, to comply with a requirement of the regulations to—

(i) submit a statement of the representations the authority proposes to make on the appeal that includes the matters specified in the regulations, or

(ii) send the Welsh Ministers a copy of the enforcement notice and a list of the persons on whom copies of it were served.

(5) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of appeals against enforcement notices (including provision for them to be determined by inspectors).

133 Grant of planning permission etc. on determination of appeal

(1) On the determination of an appeal against an enforcement notice, the Welsh Ministers may—

(a) grant planning permission for the matters specified in the enforcement notice as constituting a breach of planning control;

(b) remove any condition subject to which planning permission was granted.

(2) Subsection (1)(a) applies only if the grounds on which the appeal is made include the ground mentioned in section 131(2)(a).

(3) In considering whether to grant planning permission under this section, the Welsh Ministers must—

(a) have regard to the development plan for the area in which the land to which the enforcement notice relates is situated and any other relevant considerations, and

(b) make their decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(4) The Welsh Ministers may grant planning permission under this section—

(a) for all the matters specified in the enforcement notice as constituting a breach of planning control or any one or more of those matters, and

(b) in relation to the whole of the land to which the notice relates or any part of that land.

(5) The planning permission that may be granted under this section is any planning permission that could be granted on an application under Part 3.

(6) If the Welsh Ministers remove a condition of planning permission under this section, they may replace it with any other condition, whether more or less onerous.

(7) Schedule 3 (conditions relating to mining operations and depositing of waste) applies, with any necessary modifications, in relation to a planning permission granted by the Welsh Ministers under this section as it applies in relation to a planning permission granted by a planning authority.

(8) See also Chapter 9 of Part 3 for provision requiring planning permission to be granted subject to conditions relating to the duration and implementation of the permission.

(9) The decision of the Welsh Ministers in relation to a grant of planning permission or the removal of a condition of planning permission under this section is final.

134 Issue of certificate of lawfulness on determination of appeal

(1) On the determination of an appeal against an enforcement notice, the Welsh Ministers may determine whether on the day the appeal was made—

(a) an existing use of the land to which the enforcement notice relates was lawful,

(b) operations that had been carried out on the land were lawful, or

(c) any other matter constituting a failure to comply with a condition of planning permission for the development of the land was lawful.

(2) If the Welsh Ministers determine that any of those things were lawful on that day, they may issue a certificate of lawfulness under section 156.

(3) Sections 156(4) and 159(1), (2), (4) and (5) (content and effect of certificate) apply to a certificate of lawfulness issued by virtue of this section, but as if—

(a) the reference in section 159(1)(c) to the planning authority were a reference to the Welsh Ministers;

(b) references to the application for the certificate were references to the appeal against the enforcement notice.

(4) Section 163(2) to (4) (revocation of certificate) apply to a certificate of lawfulness issued by virtue of this section, but as if the reference in section 163(2) to an appeal under section 160 were a reference to an appeal under section 131.

(5) A person commits an offence if the person does any of the following for the purpose of bringing about a particular decision under this section on an appeal against an enforcement notice (whether the appeal is made by that person or by any other person)—

(a) knowingly or recklessly makes a statement that is false or misleading in a material respect,

(b) with intent to deceive, uses a document that is false or misleading in a material respect, or

(c) with intent to deceive, withholds relevant information.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction, or on conviction on indictment, to a fine.

(7) In relation to a determination under subsection (1), the decision of the Welsh Ministers is final.

Compliance with enforcement notices

135 Order to permit steps required by enforcement notice

(1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit the owner to take steps required by an enforcement notice.

(2) The court may make such an order if it is satisfied that the other person is preventing the owner from taking steps required by the enforcement notice.

136 Power to enter land and take steps required by enforcement notice

(1) If the period within which an enforcement notice requires any step to be taken has ended and the step has not been taken, the planning authority that issued the notice may at any reasonable time enter the land to which the notice relates and take the step.

(2) A person who intentionally obstructs a person exercising a power under subsection (1) commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

137 Recovery of costs of compliance with enforcement notice

(1) Where a planning authority exercises the powers under section 136(1) to enter land and take a step required by an enforcement notice, the authority may recover from a person who is then an owner of the land the costs it reasonably incurs in doing so.

(2) If a planning authority seeks to recover costs under subsection (1) from an owner of land who—

(a) is entitled to receive the rack rent of the land merely as agent or trustee for another person ("the principal"), and

(b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,

the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.

(3) If subsection (2) prevents a planning authority recovering the whole of its costs from an agent or trustee, it may recover them from the principal, or partly from the principal and partly from the agent or trustee.

(4) Where a copy of an enforcement notice has been served in respect of a breach of planning control—

(a) costs that an owner or occupier of the land incurs for the purpose of complying with the notice, and

(b) amounts that an owner of land pays under subsection (1) in respect of costs incurred by the planning authority in taking steps required by the notice,

are to be treated as incurred or paid for the use and at the request of the person who committed the breach of planning control.

(5) The costs recoverable by a planning authority under subsection (1) are, until recovered, a charge on the land to which the enforcement notice relates.

(6) The charge takes effect as a local land charge at the beginning of the day after the day the authority completes the steps to which the costs relate.

(7) Subsection (8) applies where—

(a) a planning authority removes materials from land in the course of taking steps required by an enforcement notice, and

(b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.

(8) The planning authority—

(a) may sell the materials, and

(b) if it does so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by it from the person.

138 Offences of failing to comply with enforcement notice

(1) If, at any time after the end of the period within which an enforcement notice requires any step to be taken or any activity to be stopped, the step has not been taken or the activity is being carried out, a person who is at that time an owner of the land to which the notice relates is guilty of an offence.

(2) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person did everything the person could be expected to do to secure that the steps specified in the notice were taken or the activities specified in the notice were stopped.

(3) Subsection (4) applies to a person, other than an owner, who has—

(a) control of the land to which an enforcement notice relates, or

(b) an interest in the land.

(4) The person commits an offence if, at any time after the end of the period within which the notice requires any activity to be stopped, the person carries out the activity or causes or permits the activity to be carried out.

(5) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same enforcement notice by reference to different periods.

(6) In proceedings against a person for an offence under this section, it is a defence for the person to prove that—

(a) a copy of the enforcement notice was not served on the person,

(b) the notice was not contained in the register kept under section 154, and

(c) the person did not know of the existence of the notice.

(7) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

(8) In determining the amount of the fine, the court must in particular have regard to any financial benefit that has accrued or appears likely to accrue to the person in consequence of the offence.

139 Assurance that person is not at risk of prosecution for offence under section 138

(1) This section applies where a planning authority has issued an enforcement notice.

(2) At the same time as a copy of the enforcement notice is served on a person, or at any time after a copy is served on the person, the planning authority may serve a non-prosecution notice on the person.

(3) The planning authority may also serve a non-prosecution notice on a person who was not served with a copy of the enforcement notice if—

(a) the person would be served with a copy of the enforcement notice if it were reissued, and

(b) the person requests the authority to serve a non-prosecution notice.

(4) A non-prosecution notice is a notice giving the person on whom it is served the assurance that, in the circumstances as they appear to the planning authority, the person either—

(a) is not at risk of being prosecuted for an offence under section 138 in connection with the enforcement notice, or

(b) is not at risk of being prosecuted for such an offence in connection with matters relating to the enforcement notice that are specified in the non-prosecution notice.

(5) If the non-prosecution notice gives the assurance in connection with matters specified under subsection (4)(b), it must explain the respects in which the person is at risk of being prosecuted for an offence under section 138 in connection with the enforcement notice.

(6) A non-prosecution notice must state the effect of subsections (7) and (8).

(7) At any time after a planning authority serves a non-prosecution notice on a person, it may serve a notice on the person withdrawing the assurance, either wholly or partly, from a time specified in the notice.

(8) The time specified in the notice must give the person a reasonable opportunity to take any steps necessary to avoid a risk of prosecution that will cease to be covered by the assurance.

(9) The notice does not withdraw the assurance so far as it relates to prosecution in respect of a failure to comply with the enforcement notice before the specified time.

(10) An assurance given under this section is (so far as not withdrawn) binding on any person with the power to prosecute an offence under section 138.

Further provisions about effect of enforcement notices

140 Grounds for appeal not to be raised in other proceedings

(1) The validity of an enforcement notice may not be questioned, on any of the grounds on which an appeal may be made under section 131, in any proceedings except an appeal under that section.

(2) Subsection (1) does not apply to proceedings for an offence under section 138 against a person who—

(a) has held an interest in the land to which the enforcement notice relates since before the notice was issued,

(b) was not served with a copy of the notice, and

(c) satisfies the court—

(i) that the person did not know, and could not reasonably have been expected to know, of the existence of the notice, and

(ii) that the person's interests have been substantially prejudiced by the failure to serve a copy of the notice.

141 Effect of grant of planning permission on enforcement notice

(1) If—

(a) an enforcement notice has been issued, and

(b) planning permission is granted for development that was carried out before the grant of the permission,

the notice ceases to have effect (or does not take effect) so far as it is inconsistent with the permission.

(2) The fact that an enforcement notice has wholly or partly ceased to have effect by virtue of this section does not affect the liability of any person for an offence in respect of a previous failure to comply with the notice.

142 Deemed planning permission where enforcement notice is complied with

(1) Subsection (2) applies where—

(a) an enforcement notice is issued in respect of a breach of planning control,

(b) the notice could require buildings or works to be removed or an activity to be stopped, but does not do so, and

(c) all the requirements of the notice are complied with.

(2) Planning permission is to be treated as having been granted by virtue of section 49 for—

(a) the erection of the buildings or the construction or carrying out of the works, so far as the notice does not require them to be removed;

(b) the carrying out of the activity, so far as the notice does not require it to be stopped.

(3) Subsection (4) applies where—

(a) an enforcement notice is issued in respect of the demolition of a building,

(b) the notice requires the erection of a replacement building, and

(c) all the requirements of the notice relating to the erection of the replacement building are complied with.

(4) Planning permission is to be treated as having been granted by virtue of section 49 for the erection of the replacement building.

143 Continuing effect of enforcement notice in relation to later development

(1) Compliance with the requirements of an enforcement notice does not cause the notice to cease to have effect.

(2) Accordingly, an enforcement notice that requires a use of land to be discontinued prohibits the resumption of that use, so far as it constitutes a breach of planning control, after it has been discontinued in compliance with the notice.

(3) Subsections (4) to (6) apply if—

(a) buildings or works that have been altered or removed in compliance with an enforcement notice are restored or reinstated, and

(b) the restoration or reinstatement constitutes, or forms part of, a breach of planning control.

(4) The enforcement notice applies to the buildings or works as restored or reinstated (despite any of its terms not being suitable for them) in the same way as it applied to the buildings or works before they were altered or removed.

(5) The planning authority may exercise its powers under section 136(1) as if the steps required by the enforcement notice for the alteration or removal of the buildings or works had not been taken.

(6) At least 28 days before exercising those powers, the authority must give notice of its intention to do so to every owner and occupier of the land to which the enforcement notice relates.

(7) Subsections (8) and (9) apply if—

(a) buildings or works that have been altered or removed in compliance with an enforcement notice are restored or reinstated, and

(b) the restoration or reinstatement constitutes a breach of planning control.

(8) A person who carries out the restoration or reinstatement commits an offence and is liable on summary conviction to a fine.

(9) No person is liable under section 138(1) in respect of a failure to take steps required by the enforcement notice for the alteration or removal of the buildings or works as restored or reinstated.

Enforcement by the Welsh Ministers

144 Power of the Welsh Ministers to issue enforcement notice

(1) The Welsh Ministers may issue an enforcement notice if they consider that there has been a breach of planning control in respect of any land in Wales.

(2) In considering whether to issue an enforcement notice, the Welsh Ministers must—

(a) have regard to the development plan for the area in which the land is situated and any other relevant considerations, and

(b) make their decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(3) Before issuing the notice, the Welsh Ministers must consult the planning authority in whose area the land is situated.

(4) An enforcement notice issued by the Welsh Ministers has the same effect as one issued by the planning authority.

(5) Sections 128(3) to 143 apply in relation to an enforcement notice issued by the Welsh Ministers as if—

(a) except in sections 134(3)(a) and 139(2) to (7), references to the planning authority were references to the Welsh Ministers;

(b) in section 139(2) to (7), references to the planning authority were references to the Counsel General.

Stop notices

145 Power of planning authority to issue stop notice

(1) A planning authority may issue a stop notice if the authority—

(a) issues an enforcement notice requiring an activity to be stopped within a period specified in the notice, and

(b) considers that a relevant activity ought to be stopped before the end of that period.

(2) "Relevant activity" means—

(a) an activity the enforcement notice requires to be stopped;

(b) any activity carried out as part of that activity or associated with it.

(3) A stop notice must—

(a) refer to the enforcement notice,

(b) prohibit the carrying out of the relevant activity on the land to which the enforcement notice relates (or on any part of that land specified in the stop notice), and

(c) specify the date on which it is to take effect.

146 Restrictions on power to issue stop notice

(1) A planning authority may not issue a stop notice after the enforcement notice to which it relates has taken effect.

(2) A stop notice may not prohibit the use of a building as a dwelling.

(3) A stop notice may not prohibit the carrying out of an activity that has been carried out (whether or not continuously) for at least 4 years before the day a copy of the notice is first served under section 147.

(4) For the purposes of subsection (3) any period during which the activity was authorised by planning permission must be ignored.

(5) Subsection (3) does not prevent a stop notice prohibiting—

(a) the carrying out of operations on land or of any activity incidental to them, or

(b) the depositing of waste on land.

147 Service and display of stop notice

(1) Where a planning authority issues a stop notice, it must serve a copy of the notice on any person mentioned in subsection (2) that it considers appropriate.

(2) The persons are any person the authority considers—

(a) to have an interest in the land to which the stop notice relates, or

(b) to be carrying out any activity prohibited by the notice.

(3) The authority may serve a copy of the stop notice at the same time as it serves a copy of the enforcement notice to which it relates or after doing so.

(4) A copy of the enforcement notice must be included with each copy of the stop notice that is served.

(5) Each copy of the stop notice must be served—

(a) no more than 28 days before the date specified in the stop notice as the date on which it is to take effect;

(b) at least 3 days before that date, unless the planning authority—

(i) considers that there are special reasons why the copy of the notice should be served later, and

(ii) serves a statement of those reasons with the copy.

(6) Where a planning authority issues a stop notice, it may display a site notice on the land to which the stop notice relates.

(7) If it is not reasonably practicable to display a site notice on the land, the authority may instead display a site notice in a prominent place as near to the land as is reasonably practicable.

(8) A site notice must—

(a) state that a stop notice has been issued,

(b) specify the date on which the stop notice takes effect,

(c) indicate the requirements of the stop notice, and

(d) state the effect of section 151 (offence of breaching stop notice).

148 Withdrawal of stop notice

(1) Where a planning authority has issued a stop notice, it may at any time withdraw the notice.

(2) Immediately after an authority withdraws a stop notice—

(a) it must serve notice of the withdrawal on every person who has been served with a copy of the stop notice, and

(b) if it has displayed a site notice in respect of the stop notice under section 147(6) or (7), it must display a notice of the withdrawal in place of the site notice.

(3) The withdrawal of a stop notice does not prevent the planning authority issuing another stop notice.

149 Duration and effect of stop notice

(1) A stop notice takes effect at the beginning of the day specified in the notice under section 145(3)(c).

(2) A stop notice has effect until the end of the period within which the enforcement notice to which it relates requires an activity to be stopped.

(3) But the stop notice ceases to have effect before the end of that period if—

(a) the enforcement notice is withdrawn or quashed, or

(b) the stop notice is withdrawn.

(4) If the enforcement notice is varied so that an activity ceases to be a relevant activity (within the meaning given by section 145(2)), the stop notice ceases to have effect so far as it prohibits that activity.

(5) A stop notice is not invalid because a copy of the enforcement notice to which it relates was not served on a person as required by section 129, if it is shown that the planning authority did everything that was reasonably practicable to serve the enforcement notice as required by that section.

150 Power of the Welsh Ministers to issue stop notice

(1) The Welsh Ministers may issue a stop notice if—

(a) an enforcement notice is issued (whether by the Welsh Ministers or a planning authority) requiring an activity to be stopped within a period specified in the notice, and

(b) they consider that a relevant activity (within the meaning given by section 145(2)) ought to be stopped before the end of that period.

(2) Before issuing the stop notice, the Welsh Ministers must consult the planning authority in whose area the land to which it relates is situated.

(3) A stop notice issued by the Welsh Ministers has the same effect as one issued by the planning authority.

(4) Sections 145(2) to 149 apply in relation to a stop notice issued by the Welsh Ministers as if references to the planning authority were references to the Welsh Ministers.

151 Offence of breaching stop notice

(1) A person commits an offence if—

(a) at any time when a stop notice has effect, the person carries out a relevant activity (within the meaning given by section 145(2)) that is prohibited by the notice or causes or permits such an activity to be carried out, and

(b) a planning authority or the Welsh Ministers have—

(i) served a copy of the stop notice on the person, or

(ii) displayed a site notice in respect of the stop notice under section 147(6) or (7).

(2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same stop notice by reference to different periods.

(3) In a case falling within subsection (1)(b)(ii), it is a defence for a person charged with an offence under this section to prove that—

(a) a copy of the stop notice was not served on the person, and

(b) the person did not know, and could not reasonably have been expected to know, of the existence of the notice.

(4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

(5) In determining the amount of the fine, the court must in particular have regard to any financial benefit that has accrued or appears likely to accrue to the person in consequence of the offence.

152 Compensation for loss or damage caused by stop notice

(1) This section applies where, after a copy of a stop notice has been served—

(a) the enforcement notice to which the stop notice relates is quashed,

(b) the enforcement notice is varied so that an activity prohibited by the stop notice ceases to be a relevant activity (within the meaning given by section 145(2)),

(c) the enforcement notice is withdrawn, or

(d) the stop notice is withdrawn.

(2) In subsection (1)—

(a) paragraphs (a) and (b) do not apply if the enforcement notice is quashed or varied on a ground mentioned in section 131(2)(a) (appeal on ground that planning permission ought to be granted or a condition of planning permission ought to be removed);

(b) paragraph (c) does not apply if—

(i) development to which the enforcement notice relates is authorised by planning permission granted on or after the day the enforcement notice is served, and

(ii) the enforcement notice is withdrawn in consequence of the grant of that permission.

(3) Any person who has an interest in or occupies the land to which the stop notice relates at the time a copy of the notice is first served is entitled to be paid compensation for any loss or damage suffered by the person that is directly attributable to—

(a) the prohibition contained in the notice, or

(b) in a case falling within subsection (1)(b), the prohibition by the notice of the activities that cease to be relevant activities.

(4) The loss or damage for which compensation is payable includes any amount payable in respect of a breach of contract caused by taking action necessary to comply with the prohibition.

(5) Compensation under this section is payable—

(a) in a case where a planning authority issued the enforcement notice to which the stop notice relates, by the planning authority;

(b) in a case where the Welsh Ministers issued the enforcement notice, by the Welsh Ministers.

(6) No compensation is payable under this section in respect of the prohibition of an activity which, at any time when the stop notice has effect, constitutes or contributes to a breach of planning control.

(7) No compensation is payable under this section for loss or damage that the claimant could have avoided by—

(a) providing information that the claimant was required to provide by—

(i) an enforcement investigation notice,

(ii) an information notice (see section 383), or

(iii) a notice under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), or

(b) co-operating with the planning authority or the Welsh Ministers in any other way when responding to such a notice.

(8) A claim for compensation under this section must be made in writing to the planning authority or the Welsh Ministers (as the case may be) within 12 months beginning—

(a) in a case falling within subsection (1)(a), (b) or (c), with the day the enforcement notice is quashed, varied or withdrawn;

(b) in a case falling within subsection (1)(d), with the day the stop notice is withdrawn.

Injunctions

153 Injunctions restraining breaches of planning control

(1) A planning authority may apply to the High Court or the county court for an injunction restraining an actual or expected breach of planning control in respect of land in the authority's area.

(2) An authority may make an application whether or not it has exercised or is proposing to exercise any of its other powers under this Part.

(3) The court may grant an injunction on any terms it considers appropriate for the purpose of restraining the breach.

(4) Rules of court may provide for an injunction to be issued against a person whose identity is unknown.

Register

154 Register of enforcement notices, other enforcement action and stop notices

(1) A planning authority must keep a register containing information specified in regulations relating to—

(a) enforcement warning notices issued by the authority,

(b) breach of condition notices served by the authority,

(c) enforcement notices issued by the authority or the Welsh Ministers in relation to land in the authority's area, and

(d) stop notices issued by the authority or the Welsh Ministers in relation to land in the authority's area.

(2) The regulations may provide for the entry relating to a notice (and everything else relating to the notice) to be removed from the register in circumstances specified in the regulations.

(3) The register must be kept in the way specified in the regulations.

(4) The register must be available for public inspection at all reasonable times.

PART 5

CERTIFICATES OF LAWFULNESS

155 Expressions relating to lawfulness

(1) For the purposes of this Act, uses of land and operations carried out on land are lawful if—

(a) no enforcement action may be taken in respect of them, and

(b) they do not constitute a failure to comply with any of the requirements of an enforcement notice that has effect.

(2) For the purposes of subsection (1)(a) it does not matter whether enforcement action may not be taken—

(a) because the uses or operations do not involve development,

(b) because an application for planning permission is not required (for example, because permission has been granted by a development order or a local development order),

(c) because the period for taking enforcement action has ended, or

(d) for any other reason.

(3) For the purposes of this Act, a matter constituting a failure to comply with a condition of planning permission is lawful if—

(a) the period for taking enforcement action in respect of the failure has ended, and

(b) the matter does not constitute a failure to comply with any of the requirements of a breach of condition notice or enforcement notice that has effect.

(4) See Part 4 for provision about the period for taking enforcement action and the times when breach of condition notices and enforcement notices have effect.

(5) In this Part—

(a) references to use of land do not include use for carrying out operations on the land;

(b) references to a condition of planning permission include a limitation;

(c) "certificate of lawfulness" means a certificate issued under section 156 or 157.

156 Certificate of lawfulness of existing use or development

(1) Any person may apply to a planning authority for a certificate confirming that—

(a) an existing use of land in the area of the authority is lawful,

(b) operations that have been carried out on land in its area are lawful, or

(c) any other matter constituting a failure to comply with a condition of planning permission for the development of land in its area is lawful.

(2) The authority must issue a certificate if it is provided with information that satisfies it of the lawfulness, on the day the application was made, of—

(a) the use, operations or other matter described in the application, or

(b) a use, operations or other matter of that description as modified by the authority or of a description substituted by it.

(3) In any other case, the authority must refuse the application.

(4) A certificate issued under this section is conclusive of the lawfulness of the use, operations or other matter to which it relates on the day the application was made.

(5) For further provision about the effect of a certificate issued under this section in respect of a use, see—

(a) section 39(5) of the Mobile Homes (Wales) Act 2013 (anaw 6) (licensing of mobile home sites that are regulated sites);

(b) section 29(4B) of the Caravan Sites and Control of Development Act 1960 (c. 62) (licensing of other caravan sites).

157 Certificate of lawfulness of proposed use or development

(1) Any person may apply to a planning authority for a certificate confirming that—

(a) a proposed use of land in the area of the authority would be lawful, or

(b) operations proposed to be carried out on land in its area would be lawful.

(2) The authority must issue a certificate if it is provided with information that satisfies it that the use or operations described in the application would have been lawful if they had started on the same day as the application was made.

(3) In any other case, the authority must refuse the application.

(4) A certificate issued under this section is conclusive of the lawfulness of the use or operations to which it relates, unless there is a material change in any matter relevant to their lawfulness between the day the application for the certificate is made and the day the use or operations start.

158 Further provision about applications for certificates of lawfulness

(1) An application for a certificate of lawfulness must—

(a) specify the land to which it relates, and

(b) describe the use, operations or other matter to which it relates.

(2) Regulations may make provision about applications for certificates of lawfulness, including provision about—

(a) the form and content of an application;

(b) how an application must be made;

(c) documents or other materials that are to be included with an application.

(3) A planning authority may require that an application to the authority for a certificate of lawfulness must include—

(a) any information that the authority considers necessary;

(b) any evidence in support of anything in or relating to the application that it considers necessary.

(4) A planning authority must not consider an application made to it for a certificate of lawfulness if the application fails to comply with a requirement imposed by or under subsections (1) to (3).

(5) Regulations may make provision about how a planning authority is to deal with an application for a certificate of lawfulness.

(6) In particular, the regulations may require an authority—

(a) to give an applicant, within a period specified in the regulations, notice of how an application has been dealt with, and

(b) to give information to the Welsh Ministers or any other person about applications made to the authority (which may include information about how an application has been dealt with).

(7) Regulations may provide that any provision made by or under this Act is not to apply, or is to apply with modifications, to an application for a certificate under section 157 that is made by or on behalf of the Crown.

159 Further provision about certificates of lawfulness

(1) A certificate of lawfulness must—

(a) specify the land to which it relates,

(b) describe the use, operations or other matter to which it relates,

(c) give the planning authority's reasons for determining the use, operations or other matter to be lawful, and

(d) state the date on which the application for the certificate was made.

(2) A certificate in respect of a use within a class specified in regulations under section 6(6) must also identify the use by reference to that class.

(3) A certificate of lawfulness may be issued—

(a) for the whole of the land specified in the application or any part of that land, and

(b) where the application specifies two or more uses, operations or other matters, for all of them or any one or more of them.

(4) A certificate of lawfulness has effect in relation to a matter constituting a failure to comply with a condition of planning permission only if the matter is described in the certificate.

(5) Regulations may specify the form and content of a certificate of lawfulness.

160 Right to appeal against refusal of application or failure to make decision

(1) A person who has applied to a planning authority for a certificate of lawfulness may appeal to the Welsh Ministers if the authority—

(a) refuses the application in whole or in part, or

(b) does not give notice to the applicant of its decision on the application within the determination period.

(2) In this section "the determination period" means—

(a) the period specified in regulations, or

(b) a longer period agreed in writing between the applicant and the authority.

(3) An appeal must be made by serving a notice of appeal on the Welsh Ministers.

(4) Regulations may make provision about—

(a) the form of a notice of appeal;

(b) information that must be included with a notice of appeal;

(c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).

(5) The period specified by regulations under subsection (4)(c) must be at least 28 days beginning with the day after—

(a) in the case of an appeal under subsection (1)(a), the day the applicant receives notice of the decision, or

(b) in the case of an appeal under subsection (1)(b), the end of the determination period.

(6) In subsection (1)(a) the reference to refusing an application in part includes modifying or substituting the description of a use, operations or other matter under section 156(2)(b).

161 Restriction on varying application after service of notice of appeal

(1) Once notice of an appeal under section 160 has been served, the application to which the appeal relates may not be varied except in circumstances specified in regulations.

(2) Where an application is varied under this section, the Welsh Ministers may direct that further consultation must be carried out in relation to the application.

162 Determination of appeal

(1) On an appeal under section 160 the Welsh Ministers must allow the appeal if and to the extent that they are satisfied—

(a) in the case of an appeal under section 160(1)(a), that the refusal to which the appeal relates was not well-founded;

(b) in the case of an appeal under section 160(1)(b), that if the planning authority had refused the application to which the appeal relates the refusal would not have been well-founded.

(2) In any other case, they must dismiss the appeal.

(3) If the Welsh Ministers allow the appeal to any extent, they must—

(a) in a case where no certificate of lawfulness was issued on the application, issue a certificate under section 156 or 157;

(b) in a case where a certificate was issued on the application, vary the terms of the certificate.

(4) Section 156(4) or 157(4) and section 159 apply to a certificate issued or varied by the Welsh Ministers on an appeal under section 160, but as if the reference in section 159(1)(c) to the planning authority were a reference to the Welsh Ministers.

(5) The decision of the Welsh Ministers on an appeal is final.

(6) Chapter 2 of Part 14 makes provision about the procedure for the consideration of appeals under section 160 (including provision for them to be determined by inspectors).

163 Revocation of certificate of lawfulness

(1) A planning authority may revoke a certificate of lawfulness issued by the authority if, in connection with the application for the certificate—

(a) a statement was made, or a document was used, that was false in a material respect, or

(b) relevant information was withheld.

(2) The Welsh Ministers may revoke a certificate of lawfulness issued or varied by them on an appeal under section 160 if, in connection with the appeal—

(a) a statement was made, or a document was used, that was false in a material respect, or

(b) relevant information was withheld.

(3) Regulations may make provision about the procedure to be followed in connection with the revocation of a certificate of lawfulness.

(4) The regulations may include provision about—

(a) the notice to be given of a proposed revocation;

(b) making and considering representations in relation to a proposed revocation;

(c) the notice to be given of a revocation.

164 Offence of making false statement etc. to influence outcome of application or appeal

(1) A person commits an offence if the person does any of the following for the purpose of bringing about a particular decision on an application for a certificate of lawfulness or an appeal under section 160 (whether the application or appeal is made by that person or by any other person)—

(a) knowingly or recklessly makes a statement that is false or misleading in a material respect,

(b) with intent to deceive, uses a document that is false or misleading in a material respect, or

(c) with intent to deceive, withholds relevant information.

(2) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

PART 6

OBLIGATIONS RELATING TO DEVELOPMENT AND USE OF LAND

CHAPTER 1

PLANNING OBLIGATIONS

165 Planning obligations

(1) Any person interested in land in Wales may, by agreement or otherwise, enter into a planning obligation in relation to the land.

(2) A planning obligation is an obligation, enforceable in accordance with section 166, which—

(a) restricts the development or use of the land in a specified way,

(b) requires specified operations or activities to be carried out on the land,

(c) requires the land to be used in a specified way, or

(d) requires one or more payments to be made to the planning authority in whose area the land is situated.

(3) The reference to development in subsection (2)(a) includes—

(a) in the case of an infrastructure consent obligation, anything that is development for the purposes of the Infrastructure (Wales) Act 2024 (asc 3) (see section 133 of that Act);

(b) in the case of a development consent obligation, anything that is development for the purposes of the Planning Act 2008 (c. 29) (see section 32 of that Act).

(4) A planning obligation—

(a) may be unconditional or subject to conditions, and

(b) may impose a restriction or requirement mentioned in subsection (2)(a) to (c) either indefinitely or for one or more specified periods.

(5) If a planning obligation requires one or more payments to be made, it may—

(a) require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into,

(b) require payment on one or more specified dates or periodically, and

(c) if it requires periodical payments to be made, require them to be made indefinitely or for a specified period.

(6) A planning obligation may only be entered into by an instrument executed as a deed which—

(a) states that the obligation is a planning obligation for the purposes of this section,

(b) if the obligation is an infrastructure consent obligation or a development consent obligation, contains a statement to that effect,

(c) identifies the land to which the obligation relates,

(d) identifies every person entering into the obligation and states what each person's interest in the land is, and

(e) specifies the authority by which the obligation is enforceable ("the enforcing authority").

(7) The authority specified as the enforcing authority must be the planning authority in whose area the land to which the obligation relates is situated.

(8) But if the obligation relates to land in the area of a joint planning board, the enforcing authority may instead be the council of the county or county borough in which the land is situated.

(9) If the enforcing authority is not a party to the instrument by which the planning obligation is entered into, the parties to the instrument must ensure that a copy of it is given to the enforcing authority.

(10) In this section "specified" means specified in the instrument by which the planning obligation is entered into.

166 Enforcement of planning obligations

(1) A planning obligation is enforceable by the enforcing authority—

(a) against any person entering into the obligation, and

(b) against any person deriving title from a person entering into the obligation.

(2) But the instrument by which a planning obligation is entered into may provide that a person is not bound by the obligation at any time when the person no longer has an interest in the land to which the obligation relates.

(3) A restriction or requirement imposed by a planning obligation is enforceable by injunction.

(4) If there is a failure to comply with a requirement imposed by a planning obligation to carry out operations on the land to which the obligation relates, the enforcing authority may—

(a) enter the land and carry out the operations, and

(b) recover from any person against whom the obligation is enforceable the costs it reasonably incurs in doing so.

(5) At least 21 days before an authority exercises its power under subsection (4)(a) it must give notice of its intention to do so to each person against whom the planning obligation is enforceable.

(6) A person who intentionally obstructs a person exercising a power under subsection (4)(a) commits an offence.

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) A planning obligation is a local land charge, and for the purposes of the Local Land Charges Act 1975 (c. 76) the enforcing authority is the originating authority as respects the charge.

(9) Regulations may provide for the charging on the land of—

(a) an amount required to be paid under a planning obligation, and

(b) costs recoverable by an authority under subsection (4)(b).

(10) A charge imposed by regulations under subsection (9) has effect despite—

(a) any provision included in the instrument under subsection (2), and

(b) any modification or discharge of the planning obligation under section 167 or 168.

(11) In subsection (1)(b)—

(a) the reference to a person deriving title from a person entering into the planning obligation includes any successor in title of a person entering into the obligation;

(b) the reference to deriving title from a person is a reference to deriving title from the person either directly or indirectly.

167 Modification and discharge of planning obligations

(1) A planning obligation may only be modified or discharged—

(a) by agreement between the appropriate authority and every person against whom the obligation is enforceable, or

(b) in accordance with this section and section 168.

(2) An agreement within subsection (1)(a) may only be entered into by an instrument executed as a deed.

(3) Any person against whom a planning obligation is enforceable may, at any time after the end of the relevant period, apply to the appropriate authority for the obligation—

(a) to have effect subject to modifications specified in the application, or

(b) to be discharged.

(4) In subsection (3) "the relevant period" means—

(a) the period specified in regulations, or

(b) if no period is specified, 5 years beginning with the day the obligation is entered into.

(5) An application for the modification of a planning obligation may not specify a modification imposing a restriction or requirement on any other person against whom the obligation is enforceable.

(6) Where an application is made for the modification or discharge of a planning obligation, the appropriate authority may determine—

(a) that the planning obligation is to continue to have effect without modification,

(b) if the obligation no longer serves a useful purpose, that it is to be discharged, or

(c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it is to have effect subject to those modifications.

(7) The appropriate authority must give notice of its determination to the applicant within the period specified in regulations.

(8) Where the appropriate authority determines that the planning obligation is to have effect subject to modifications specified in the application, the obligation as modified is enforceable as if it had been entered into on the day notice of the determination was given to the applicant.

(9) Regulations may make provision about applications for the modification or discharge of planning obligations, including provision about—

(a) the form and content of an application;

(b) the publication of a notice of an application;

(c) the procedure for considering representations made in relation to an application;

(d) the notice to be given to an applicant of a determination.

(10) Section 84 of the Law of Property Act 1925 (c. 20) (power of Upper Tribunal to discharge or modify restriction on use of land) does not apply to a planning obligation.

(11) In this section "the appropriate authority" means—

(a) the Welsh Ministers, in the case of an infrastructure consent obligation;

(b) the Secretary of State, in the case of a development consent obligation;

(c) the enforcing authority, in the case of any other planning obligation.

(12) An enforcing authority must not consider an application made to it under subsection (3) if the application fails to comply with a requirement imposed by or under this section.

168 Appeals relating to applications to modify or discharge planning obligations

(1) A person who has made an application to an enforcing authority under section 167(3) may appeal to the Welsh Ministers if the authority—

(a) determines that the planning obligation is to continue to have effect without modification, or

(b) does not give notice of its determination in accordance with section 167(7).

(2) For the purposes of an appeal under subsection (1)(b), it is to be assumed that the enforcing authority has determined that the planning obligation is to continue to have effect without modification.

(3) An appeal under this section must be made by serving a notice of appeal on the Welsh Ministers.

(4) Regulations may make provision about—

(a) the form of a notice of appeal;

(b) information that must be included with a notice of appeal;

(c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).

(5) Subsections (6) to (8) of section 167 apply in relation to the determination of an appeal under this section by the Welsh Ministers as they apply in relation to the determination of an application under that section by the appropriate authority.

(6) The decision of the Welsh Ministers on an appeal is final.

(7) Chapter 2 of Part 14 makes provision about the procedure for the consideration of appeals under this section (including provision for them to be determined by inspectors).

169 Legal challenges relating to applications made to the Welsh Ministers or Secretary of State

(1) This section applies where an application has been made to the Welsh Ministers or the Secretary of State under section 167(3).

(2) A court may entertain proceedings for questioning a determination by the Welsh Ministers or the Secretary of State that the planning obligation is to continue to have effect without modification only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed before the end of 6 weeks beginning with the day after the day notice of the determination is given under section 167(7).

(3) A court may entertain proceedings for questioning a failure by the Welsh Ministers or the Secretary of State to give notice in accordance with section 167(7) only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed before the end of 6 weeks beginning with the day after the day the period specified under section 167(7) ends.

170 Interpretation of this Chapter

In this Chapter—

"development consent obligation" ("*rhwymedigaeth cydsyniad datblygiad*") means a planning obligation entered into in connection with an application (or a proposed application) for an order granting development consent;

"enforcing authority" ("*awdurdod gorfodi*") has the meaning given by section 165(6)(e);

"infrastructure consent obligation" ("*rhwymedigaeth cydsyniad seilwaith*") means a planning obligation entered into in connection with an application (or a proposed application) for an infrastructure consent order.

CHAPTER 2

COMMUNITY INFRASTRUCTURE LEVY

The levy

171 CIL regulations

(1) Regulations may provide for the imposition of a charge to be known as the community infrastructure levy ("CIL").

(2) In making the regulations, the Welsh Ministers must aim to ensure that the overall purpose of CIL is to ensure that costs incurred in supporting development of an area in Wales can be funded wholly or partly by owners of land or developers in a way that does not make the development economically unviable.

(3) In this Act, regulations under this section are referred to as "CIL regulations".

(4) Sections 172 to 204 and Schedule 13 make further provision about what must be contained in CIL regulations and what may, in particular, be contained in them.

172 Charging for development

(1) CIL regulations must provide that a charging authority may charge CIL in respect of chargeable development in its area.

(2) In this Chapter "chargeable development" means—

(a) anything done for the purpose of creating a new building,

(b) anything done to or in respect of an existing building, or

(c) any change in the use of an existing building or part of a building.

(3) CIL regulations may provide for—

(a) works or changes in use of a kind specified in the regulations not to be treated as chargeable development;

(b) the creation of, or anything done to or in respect of, a structure of a kind specified in the regulations to be treated as chargeable development.

(4) A planning authority is the charging authority for its area.

(5) CIL regulations may provide for a county council or county borough council to be the charging authority for any part of its area for which a National Park Authority or a joint planning board is the planning authority.

173 Use of CIL: funding infrastructure

(1) A charging authority that receives CIL must apply it, or cause it to be applied, to supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure; but this is subject to sections 195 to 199.

(2) In this Chapter "infrastructure" includes—

(a) roads and other transport facilities;

(b) flood defences;

(c) schools and other educational facilities;

(d) medical facilities;

(e) sporting and recreational facilities;

(f) open spaces.

(3) CIL regulations may amend subsection (2) to—

(a) add, modify or remove an entry in the list of matters included within the meaning of "infrastructure";

(b) list matters excluded from the meaning of "infrastructure".

Liability for CIL

174 Terms relating to liability

(1) CIL regulations must include provision for determining when a chargeable development is treated as starting for the purposes of this Chapter.

(2) The regulations may, in particular, provide for a chargeable development to be treated as starting when some activity or event specified in the regulations is undertaken or occurs, where the activity or event—

(a) is not a chargeable development, but

(b) has a connection specified in the regulations with a chargeable development.

(3) CIL regulations must define CIL planning permission for the purposes of this Chapter (and it may include planning permission under Part 3 and any other kind of permission or consent, whether general or specific).

175 Assuming liability

(1) A person may assume liability for CIL in respect of a proposed chargeable development in respect of which liability would arise by virtue of this Chapter.

(2) If a person assumes liability before the chargeable development starts, the person becomes liable when the development starts in reliance on CIL planning permission.

(3) A person who assumes liability must do so in accordance with provision of CIL regulations about the procedure for assuming liability.

176 Default liability for CIL

(1) CIL regulations must make provision for an owner of land or a developer to be liable for CIL where—

(a) a chargeable development starts in reliance on CIL planning permission, and

(b) no one has assumed liability in accordance with provision made as mentioned in section 175(3).

(2) CIL regulations may specify other circumstances (such as the insolvency of a person who has assumed liability or the withdrawal of an assumption of liability) in which an owner of land or a developer is to be liable for CIL where a chargeable development starts in reliance on CIL planning permission.

(3) In this section—

(a) "owner", in relation to land, means—

(i) an owner of the freehold estate, or

(ii) a tenant under a lease, the term of which ends more than 7 years after the day CIL planning permission first permits the chargeable development;

(b) "developer" means a person who is wholly or partly responsible for carrying out a chargeable development.

(4) But CIL regulations may provide that a person is, or is not, to be treated as an owner of land or a developer in circumstances specified in the regulations.

177 Time when liability arises

(1) The amount of any liability for CIL is to be calculated by reference to the charging schedule that has effect at the time when CIL planning permission first permits the chargeable development as a result of which CIL becomes payable (but see also section 178(2)).

(2) CIL regulations must include provision for determining the time when CIL planning permission is treated as first permitting chargeable development.

(3) The regulations may, in particular, make provision—

(a) about outline planning permission, and

(b) for permission to be treated as having been given at a particular time in the case of a general permission or consent.

178 Liability in other cases

(1) CIL regulations may provide for liability for CIL to arise in respect of a chargeable development where—

(a) an exemption from liability or reduction in liability applied, and

(b) the description or purpose of the development changes.

(2) CIL regulations may make provision for liability for CIL to arise where a chargeable development that requires CIL planning permission starts without it.

179 Further provision about liability for CIL

(1) CIL regulations may make provision about—

(a) joint liability for CIL (with or without several liability);

(b) liability of partnerships for CIL;

(c) assumption of partial liability for CIL;

(d) apportionment of liability for CIL;

(e) withdrawal of assumption of liability for CIL;

(f) cancellation of assumption of liability for CIL by a charging authority;

(g) transfer of liability for CIL (whether before or after a chargeable development starts and whether or not liability has been assumed).

(2) Where CIL regulations make provision under subsection (1)(c), (e) or (f), they must also include provision under section 176 (default liability of owner or developer).

(3) Where CIL regulations make provision under subsection (1)(d), they may also include provision for referring disputes about apportionment of liability for determination by a person specified in the regulations.

Exemptions and reductions

180 Exemptions and reductions: general

(1) CIL regulations may provide for—

(a) exemptions from liability for CIL;

(b) reductions in liability for CIL.

(2) In particular, the regulations may include provision that requires—

(a) conditions to be met in order for an exemption or reduction to apply, or not to apply;

(b) a charging authority to make arrangements for exemptions and reductions in circumstances specified in the regulations.

181 Charities: exemption from liability

(1) CIL regulations must provide for a relevant charity that would otherwise be liable for CIL in respect of a chargeable development to be exempt from liability if the building or structure in respect of which liability would otherwise arise is to be wholly or mainly used for a charitable purpose of the charity.

(2) In subsection (1)—

"charitable purpose" ("*diben elusennol*") has the meaning given by section 2 of the Charities Act 2011 (c. 25);

"relevant charity" ("*elusen berthnasol*") means an institution that—

(a) is registered in the register of charities kept by the Charity Commission under section 29 of the Charities Act 2011, or

(b) is a charity within the meaning given by section 1(1) of the Charities Act 2011 but is not required to be registered in that register.

(3) The regulations may provide that an exemption does not apply if the conditions specified in the regulations are met.

182 Exemptions and reductions: procedure

(1) CIL regulations may make provision about the procedure to be followed in connection with an exemption from liability for CIL or a reduction in liability for CIL.

(2) In particular, the regulations may include provision—

(a) about the procedure for determining whether any conditions for exemptions or reductions are met;

(b) requiring notification of exemptions and reductions to persons specified in the regulations;

(c) requiring the keeping of records of exemptions and reductions.

Amount of CIL

183 Charging schedule

(1) A charging authority proposing to charge CIL must publish a document (a "charging schedule") setting rates or other criteria by reference to which the amount of CIL chargeable in respect of a chargeable development in its area is to be determined.

(2) Schedule 13 makes provision about the preparation, approval, publication etc. of a charging schedule.

184 Estimate of amount

CIL regulations may require a charging authority to provide, in circumstances specified in the regulations, an estimate of the amount of CIL chargeable in respect of a chargeable development.

185 Appeals relating to calculation of CIL

(1) CIL regulations must provide for a right of appeal on a question of fact in relation to the application of methods for calculating CIL.

(2) The regulations must provide for the appeal to be made to—

(a) a valuation officer appointed under section 61 of the Local Government Finance Act 1988 (c. 41), or

(b) a district valuer within the meaning given by section 622 of the Housing Act 1985 (c. 68).

(3) The regulations may, in particular, make provision about—

(a) the period within which the right of appeal may be exercised,

(b) the procedure on an appeal, and

(c) the payment of fees, and award of costs, in relation to an appeal.

(4) In any proceedings for judicial review of a decision on an appeal, the defendant is the Commissioners for His Majesty's Revenue and Customs and not the person mentioned in subsection (2).

Collection of CIL

186 Collection and payment of CIL

(1) CIL regulations must include provision about the collection of CIL.

(2) The regulations may make provision for payment—

(a) on account, or

(b) by instalments.

(3) The regulations may make provision about repayment (with or without interest) in cases of overpayment.

(4) The regulations may make provision about payment in forms other than money (such as making land available, carrying out works or providing services).

(5) The regulations may permit or require a charging authority or other public authority to collect CIL charged by another authority; and references to a charging authority in section 195(4)(a) and (c), so far as relating to collection, include an authority collecting CIL charged by another authority.

(6) Provision about collection in CIL regulations may include provision corresponding to or applying (with or without modifications) any enactment relating to the collection of local taxes to fund the expenditure of local authorities in Wales (for example, council tax and non-domestic rates).

(7) CIL regulations may make provision about the source of payments in respect of Crown interests and Duchy interests.

Enforcement of CIL

187 Enforcement: general

(1) CIL regulations must include provision about enforcement of CIL.

(2) Provision about enforcement in CIL regulations may include provision—

(a) corresponding to or applying (with or without modifications) any enactment relating to the enforcement of local taxes to fund the expenditure of local authorities in Wales (for example, council tax and non-domestic rates);

(b) requiring the provision of information;

(c) for enforcement of amounts owed (whether by action on a debt, by taking control of goods or in any other way);

(d) conferring jurisdiction on a court to grant injunctive or other relief to enforce a provision of the regulations;

(e) for enforcement in the case of death or insolvency of a person who is liable for CIL.

188 Consequences of failure to comply

(1) Provision about enforcement in CIL regulations must include provision about the consequences of late payment and failure to pay.

(2) Provision about enforcement in CIL regulations may include provision about the consequences of failure to—

(a) assume liability for CIL;

(b) give notice under CIL regulations;

(c) comply with another procedure under CIL regulations.

189 Interest and penalties

(1) Provision about enforcement in CIL regulations may include provision for—

(a) the payment of interest, and

(b) the imposition of a penalty or surcharge.

(2) The regulations may provide that any interest, penalty or surcharge is to be treated for the purposes of sections 173 and 186 to 201 as if it were CIL.

(3) The regulations must ensure that no penalty or surcharge in respect of an amount of CIL exceeds the higher of—

(a) 30% of that amount, and

(b) £20,000.

(4) But the regulations may provide for more than one penalty or surcharge to be imposed in relation to a charge for CIL.

190 Power to stop development

Provision about enforcement in CIL regulations may include provision—

(a) for a decision relating to CIL planning permission to be suspended or cancelled;

(b) enabling a charging authority or other public authority to prohibit development until a person—

(i) assumes liability for CIL, or

(ii) makes a payment of CIL.

191 Powers of entry

(1) Provision about enforcement in CIL regulations may confer a power of entry onto land.

(2) But the regulations may not authorise entry to a dwelling without a warrant issued by a justice of the peace.

192 Offences

(1) Provision about enforcement in CIL regulations may include provision—

(a) creating a criminal offence;

(b) conferring a power to prosecute an offence.

(2) The regulations may not provide for—

(a) imprisonment for a term exceeding the maximum term for summary offences, on conviction for a summary offence,

(b) imprisonment for a term exceeding the applicable limit under section 224(1A)(b) of the Sentencing Code, on summary conviction for an offence triable either way, or

(c) imprisonment for a term exceeding 2 years, on conviction on indictment.

(3) In subsection (2)(a) "the maximum term for summary offences" means—

(a) in relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, 6 months;

(b) in relation to an offence committed after it comes into force, 51 weeks.

193 Registration or notification of liability

(1) Provision about enforcement in CIL regulations may include provision (whether or not in the context of late payment or failure to pay) about registration or notification of actual or potential liability for CIL.

(2) The regulations may include provision—

(a) for the creation of local land charges;

(b) for the registration of local land charges;

(c) for enforcement of local land charges (including, in particular, for enforcement—

(i) against successive owners, and

(ii) by way of sale or other disposal with the consent of a court);

(d) for making entries in statutory registers;

(e) for the cancellation of charges and entries.

Compensation

194 Compensation: loss or damage as a result of enforcement action

(1) This section applies where CIL regulations make provision about enforcement under sections 187 to 193.

(2) The regulations may require a charging authority or other public authority to pay compensation for loss or damage suffered as a result of action taken under the provision.

(3) The regulations must not require compensation to be paid to a person who has failed to satisfy a liability for CIL.

(4) The regulations may specify other circumstances in which compensation is not payable.

(5) The regulations may make provision about—

(a) when and how a claim for compensation is to be made, and

(b) the amounts, or the method of determining the amounts, payable as compensation.

(6) CIL regulations may permit or require a charging authority to use CIL (either generally or subject to limits set by or determined in accordance with the regulations) to pay compensation that is payable under the regulations.

(7) A dispute about compensation may be referred to and determined by the Upper Tribunal.

(8) Section 4 of the Land Compensation Act 1961 (c. 33) (costs) applies to the determination of a question referred under subsection (7) as it applies to the determination of a question referred under section 1 of that Act, but as if references to the acquiring authority were references to the charging authority or other public authority from whom compensation is claimed.

Use of CIL payments

195 Funding by CIL

(1) CIL regulations may specify—

(a) the works, installations and other facilities whose provision, improvement or replacement may be, must be, or may not be, funded by CIL;

(b) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may be, must be, or may not be, funded by CIL;

(c) criteria for determining the areas that may benefit from funding by CIL;

(d) what is to be, or is not to be, treated as funding.

(2) Provision about funding in CIL regulations may, in particular—

(a) permit CIL to be used to reimburse costs already incurred;

(b) permit CIL to be reserved for costs that may be incurred in the future;

(c) permit CIL to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative costs in connection with infrastructure or in connection with CIL;

(d) include provision for the giving of loans, guarantees or indemnities;

(e) make provision about the application of CIL where anything to which it was to be applied no longer requires funding.

(3) In subsection (2)(c) the reference to administrative costs in connection with CIL includes enforcement costs.

(4) The regulations may—

(a) require a charging authority to account separately, and in accordance with the regulations, for CIL received or due;

(b) require a charging authority to monitor the use made and to be made of CIL in its area;

(c) require a charging authority to report on actual or expected charging, collection and application of CIL;

(d) permit a charging authority to cause money to be applied in respect of things done outside its area;

(e) permit a charging authority or other person to spend money;

(f) permit a charging authority to pass money to another person (and in paragraphs (a) to (e) references to a charging authority include a person to whom a charging authority passes money in reliance on provision made under this paragraph).

196 CIL funding: lists

CIL regulations may—

(a) require charging authorities to prepare and publish a list of what is to be, or may be, wholly or partly funded by CIL;

(b) include provision about the procedure to be followed in preparing a list (which may include provision for the appointment of an independent person);

(c) include provision about the circumstances in which a charging authority may and may not apply CIL to anything not included on the list.

197 Duty to pass CIL to other persons

(1) CIL regulations may require a charging authority to pass CIL received by it in respect of a chargeable development in a relevant area to another person.

(2) The regulations must contain provision to secure that CIL passed to a person in discharge of a duty imposed under subsection (1) in the form of money is used to support development of the relevant area, or of any part of that area, by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure, or

(b) anything else that is concerned with addressing demands that development places on the area.

(3) A "relevant area" is an area specified in the regulations and it may be the whole or part of—

(a) a charging authority's area, or

(b) the combined area of two or more charging authorities.

(4) CIL regulations may make provision about the persons to whom CIL may be, must be, or may not be, passed in discharge of a duty imposed under subsection (1).

(5) A duty imposed under subsection (1) may relate to—

(a) all CIL received in respect of the relevant area, or

(b) the part of that CIL specified in, or determined under, the regulations.

(6) This section does not limit section 195(4)(f).

198 Duty to pass on CIL: further provision

(1) CIL regulations may make provision about the timing of payments made in discharge of a duty imposed under section 197(1).

(2) Provision about funding in CIL regulations may—

(a) specify things within section 197(2)(b) that may be, must be, or may not be, funded by CIL passed to a person in discharge of a duty imposed under section 197(1);

(b) permit CIL to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative costs in connection with anything within section 197(2)(b).

(3) CIL regulations may, in relation to CIL passed to a person in discharge of a duty imposed under section 197(1), make provision about—

(a) accounting for the CIL;

(b) monitoring its use;

(c) reporting on its use;

(d) responsibilities of charging authorities for things done by the person in connection with the CIL;

(e) recovery of the CIL and any income or profits accruing in respect of it or from its application, in cases where—

(i) anything to be funded by it has not been provided, or

(ii) it has been misapplied,

including recovery of sums or other assets representing it or any such income or profits;

(f) use of anything recovered in cases where anything to be funded by the CIL has not been provided or the CIL has been misapplied.

199 Use of CIL in area to which duty to pass on CIL does not apply

(1) Subsection (2) applies where—

(a) CIL regulations impose a duty on a charging authority to pass CIL to a person in respect of a relevant area, and

(b) there is also part of the charging authority's area to which the duty to pass on CIL does not apply ("the uncovered area").

(2) The regulations may provide that the charging authority may apply CIL received in respect of a chargeable development in the uncovered area, or cause it to be applied, to—

(a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or

(b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area.

(3) Provision under subsection (2) may relate to the whole or part of the uncovered area.

(4) Provision under subsection (2) may relate—

(a) to all CIL received in respect of the area to which the provision relates, or

(b) the part of that CIL specified in, or determined under, the regulations.

(5) Provision about funding in CIL regulations may—

(a) specify things within subsection (2)(b) that may be, must be, or may not be, funded by CIL to which provision under subsection (2) relates;

(b) permit CIL to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative costs in connection with anything within subsection (2)(b).

Reviews and appeals

200 Reviews and appeals

(1) CIL regulations may include provision about reviews and appeals in connection with CIL.

(2) In particular, the regulations may make provision about—

(a) the period within which a right of review or right of appeal may be exercised,

(b) the procedure for reviews and appeals, and

(c) the payment of fees and award of costs.

Procedure

201 Power to make further provision about procedures

(1) CIL regulations may include provision about procedures to be followed in connection with CIL.

(2) Provision about procedure in CIL regulations may, in particular, include provision about—

(a) consultation;

(b) the publication or other treatment of reports;

(c) timing and methods of publication;

(d) making documents available for inspection;

(e) providing copies of documents (with or without charge);

(f) the form and content of documents;

(g) giving notice;

(h) serving notices or other documents;

(i) examinations to be held in public in the course of setting or revising rates or other criteria or of preparing lists;

(j) the terms and conditions of appointment of independent persons;

(k) remuneration and costs of independent persons (which may be required to be paid by the Welsh Ministers or by a charging authority);

(l) other costs in connection with examinations;

(m) reimbursement of costs incurred by the Welsh Ministers (including provision for enforcement);

(n) apportionment of costs;

(o) combining procedures in connection with CIL with procedures for another purpose of a charging authority (including a purpose of that authority in another capacity);

(p) procedures to be followed in connection with actual or potential liability for CIL.

(3) The regulations may make provision about the procedures to be followed by a charging authority—

(a) proposing to begin charging CIL;

(b) in relation to charging CIL;

(c) proposing to stop charging CIL.

Guidance

202 Guidance

A charging authority or other public authority (including an examiner appointed under paragraph 6 of Schedule 13) must have regard to any guidance given by the Welsh Ministers about any matter connected with CIL.

Relationship with other powers

203 Relationship with other powers

(1) CIL regulations may include provision about the matters in subsection (2) but only for a purpose set out in subsection (4).

(2) The matters are—

(a) how powers under the following provisions are to be used, or are not to be used—

(i) sections 165 and 166 (planning obligations and their enforcement), and

(ii) section 278 of the Highways Act (agreements relating to execution of works);

(b) the exercise of any other power relating to planning or development.

(3) The Welsh Ministers may not give guidance about how a power relating to planning or development is to be exercised in connection with CIL except for a purpose set out in subsection (4); and if they give such guidance, charging authorities and other public authorities must have regard to it.

(4) The purposes are—

(a) complementing the main purpose of CIL regulations;

(b) enhancing the effectiveness, or increasing the use, of CIL regulations;

(c) preventing agreements, undertakings or other transactions from being used to—

(i) undermine or circumvent CIL regulations;

(ii) achieve a purpose that the Welsh Ministers think would be better achieved through the application of CIL regulations;

(d) preventing or restricting the imposition of burdens, the making of agreements or the giving of undertakings, in addition to CIL.

(5) CIL regulations may provide that guidance or directions may not be given—

(a) in relation to matters specified in the regulations;

(b) in cases or circumstances specified in the regulations;

(c) for a purpose specified in the regulations;

(d) to an extent specified in the regulations.

General

204 CIL regulations: general

CIL regulations may—

(a) make different provision for different areas;

(b) apply an enactment, with or without modifications;

(c) provide (or enable a charging schedule to provide) for exceptions;

(d) confer (or enable a charging schedule to confer) a discretionary power on the Welsh Ministers, a local authority or another person specified in the regulations.

205 Interpretation of this Chapter

In this Chapter—

"chargeable development" ("*datblygiad ardolladwy*") has the meaning given by section 172(2);

"charging authority" ("*awdurdod codi tâl*") has the meaning given by section 172(4) and (5);

"charging schedule" ("*cofrestr codi tâl*") has the meaning given by section 183(1);

"CIL" ("*ASC*") has the meaning given by section 171(1);

"CIL planning permission" ("*caniatâd cynllunio ASC*") has the meaning given by section 174(3);

"examiner" ("*archwilydd*") means a person appointed under paragraph 6(3) of Schedule 13;

"infrastructure" ("*seilwaith*") has the meaning given by section 173(2).

PART 7

OTHER POWERS RELATING TO USE OR CONDITION OF LAND

CHAPTER 1

POWERS TO REQUIRE DISCONTINUANCE OF USE OF LAND ETC.

Discontinuance orders

206 Power to make discontinuance order

(1) A planning authority may make a discontinuance order in relation to any land in its area.

(2) The Welsh Ministers may make a discontinuance order in relation to any land in Wales.

(3) A discontinuance order may only be made if the planning authority considers or (as the case may be) the Welsh Ministers consider that it is appropriate to do so in the interests of the proper planning of the area in which the land is situated (including the interests of amenity).

(4) In considering whether it is appropriate to make an order, the planning authority or the Welsh Ministers—

(a) must have regard to the development plan for the area and any other relevant considerations, and

(b) must make the decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(5) A discontinuance order is an order—

(a) requiring a use of the land to which the order relates to be discontinued,

(b) imposing conditions specified in the order on the continuance of a use of the land,

(c) requiring steps specified in the order to be taken for the alteration or removal of buildings or works on the land, or

(d) requiring steps specified in the order to be taken for the alteration or removal of plant or machinery used for carrying out mining operations or depositing waste on the land.

(6) In subsection (5)(a) and (b) references to use of land do not include use for carrying out operations on the land other than mining operations.

(7) Where—

(a) the requirements of a discontinuance order will involve the displacement of persons from premises in which they live, and

(b) there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms,

the planning authority in whose area the premises are situated must secure the provision for those persons, before they are displaced, of residential accommodation that is suitable to their reasonable requirements.

(8) In Schedule 14—

(a) Part 1 makes provision about the procedure that must be followed before a discontinuance order made by a planning authority takes effect;

(b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make a discontinuance order;

(c) Part 3 makes further provision about conditions that may be imposed by a discontinuance order in relation to land used for carrying out mining operations or depositing waste.

207 Planning permission granted by discontinuance order

(1) A discontinuance order may grant planning permission for development of the land to which it relates, subject to conditions specified in the order.

(2) The planning permission that may be granted by a discontinuance order is any planning permission that could be granted on an application under Part 3.

(3) Subsection (4) applies where a discontinuance order grants planning permission for development carried out before—

(a) in the case of an order made by a planning authority, the day the order is submitted to the Welsh Ministers under paragraph 1 of Schedule 14;

(b) in the case of an order made by the Welsh Ministers, the day the Welsh Ministers serve notice of the proposed order under paragraph 2(2) of Schedule 14.

(4) The permission may be granted to have effect—

(a) from the beginning of the day the development was carried out, or

(b) if it was carried out in accordance with planning permission granted for a limited period, from the end of that period.

(5) Schedule 3 (conditions relating to mining operations and depositing of waste) applies, with any necessary modifications, in relation to a planning permission granted by a discontinuance order made by the Welsh Ministers as it applies in relation to a planning permission granted by a planning authority.

(6) Where a discontinuance order grants planning permission, section 69 (decision notices) applies as if the order were a decision notice.

(7) See also—

(a) Chapter 9 of Part 3 for provision requiring planning permission to be granted subject to conditions relating to the duration and implementation of the permission;

(b) section 233 for provision requiring a planning authority to impose appropriate conditions relating to the preservation or planting of trees.

Prohibition orders and protection orders

208 Power to make prohibition order or protection order

In Schedule 15—

(a) Part 1 makes provision for the making of prohibition orders where land has been used for carrying out mining operations or depositing mineral waste but the operations or depositing have permanently ceased;

(b) Part 2 makes provision for the making of protection orders where land has been used for carrying out mining operations or depositing mineral waste but the operations or depositing have been temporarily suspended.

Enforcement of orders

209 Powers to enter land, take steps required by order and recover costs

(1) This section applies where—

(a) a discontinuance order imposes a requirement under section 206(5)(c) or (d) to take steps for the alteration or removal of any buildings or works or any plant or machinery;

(b) a prohibition order imposes a requirement under paragraph 1(6)(a) or (b) of Schedule 15 to take steps for—

(i) the alteration or removal of plant or machinery, or

(ii) the removal or alleviation of any injury to amenity;

(c) a protection order imposes a requirement under paragraph 5(5) of Schedule 15 to take steps for the protection of the environment.

(2) If a step required by the order has not been taken within the period specified in the order, or within a longer period allowed by the planning authority, the planning authority may at any reasonable time enter the land to which the order relates and take the step.

(3) Where the planning authority exercises the powers conferred by subsection (2), it may recover from a person who is then an owner of the land the costs it reasonably incurs in doing so.

(4) Subsection (5) applies where—

(a) the planning authority removes materials from land in the course of taking steps required by the order, and

(b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.

(5) The planning authority—

(a) may sell the materials, and

(b) if it does so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by it from the person.

(6) In this section "the planning authority" means the planning authority in whose area the land to which the order relates is situated.

210 Offence of failing to comply with order

(1) A person commits an offence if, in breach of planning control, the person—

(a) uses land, or causes or permits land to be used—

(i) for a purpose for which a discontinuance order has required its use to be discontinued under section 206(5)(a), or

(ii) in breach of a condition imposed by a discontinuance order under section 206(5)(b),

(b) resumes, or causes or permits to be resumed, a use of land the resumption of which is prohibited by a prohibition order under paragraph 1(5) of Schedule 15, or

(c) fails to comply, or causes or permits a failure to comply, with a requirement imposed by a prohibition order under paragraph 1(6) or (7) of that Schedule.

(2) A person commits an offence if the person fails to comply, or causes or permits a failure to comply, with a requirement to take steps for the protection of the environment imposed by a protection order under paragraph 5(5) of Schedule 15.

(3) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

(4) It is a defence for a person charged with an offence under this section ("the defendant") to prove that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) Subsection (6) applies in any case where the defence provided by subsection (4) involves an allegation that the commission of the offence was due to—

(a) the act or default of another person, or

(b) reliance on information provided by another person.

(6) The defendant may not rely on the defence without the permission of the court unless, at least 7 clear days before the day of the hearing, the defendant has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in the defendant's possession.

Compensation and purchase of interests in land

211 Compensation for damage caused by discontinuance order

(1) This section applies where a discontinuance order is made in relation to land in the area of a planning authority.

(2) Any person is entitled, on making a claim to the planning authority, to be paid compensation by the authority for any damage suffered by the person in consequence of the order—

(a) by depreciation of the value of an interest to which the person is entitled in the land, or

(b) by being disturbed in the enjoyment of the land.

(3) Any person who carries out works in compliance with the order is entitled, on making a claim to the planning authority, to be paid compensation by the authority for any expenditure reasonably incurred by the person in respect of the works.

(4) A claim for compensation under this section must be made in writing within 12 months beginning with the day the order takes effect.

(5) Compensation payable under this section must be reduced by the value to the claimant of any timber, apparatus or other materials removed for the purpose of complying with the order.

(6) No compensation is payable under this section if—

(a) a person who has an interest in the land to which a discontinuance order relates serves a purchase notice under section 213 in consequence of the order, and

(b) the person's interest is acquired in accordance with Schedule 12.

212 Compensation for effects of orders relating to minerals

In Schedule 16—

(a) Part 1 limits compensation under section 211 where a discontinuance order relates to a use of land for carrying out mining operations or depositing mineral waste;

(b) Part 2 provides for compensation to be payable where a prohibition order or protection order is made.

213 Service of purchase notice following making of discontinuance order

(1) This section applies where a discontinuance order is made in relation to any land.

(2) If a person who has an interest in the land to which the order relates claims that the conditions in subsection (3) are met, the person may serve on the planning authority in whose area the land is situated a notice requiring the authority to purchase the person's interest (a "purchase notice").

(3) The conditions are—

(a) that because of the discontinuance order the land is unusable in its existing state (see paragraph 1 of Schedule 12), and

(b) that the land cannot be made usable by carrying out any development for which planning permission has been granted (whether by the order or otherwise) or for which the planning authority or the Welsh Ministers have undertaken to grant planning permission.

(4) Schedule 12 makes further provision about purchase notices (including further provision about the circumstances in which purchase notices may be served, and provision about the action to be taken following service of a purchase notice).

CHAPTER 2

LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

Maintenance of land notices

214 Power of planning authority to issue maintenance of land notice

(1) A planning authority may issue a maintenance of land notice if it considers that the condition of any land in its area is adversely affecting the amenity of part of its area or of an adjoining area.

(2) But an authority may not issue a notice if it considers that the condition of the land results in the ordinary course of events from operations or use that do not constitute a breach of planning control or a failure to comply with a planning obligation, discontinuance order, prohibition order or protection order.

(3) A maintenance of land notice must—

(a) require steps specified in the notice to be taken to remedy the condition of the land to which it relates,

(b) specify the date on which it is to take effect, and

(c) specify the period within which the steps specified in it must be taken.

(4) The notice takes effect at the beginning of the day specified under subsection (3)(b); but where an appeal is made against the notice under section 215, this is subject to subsection (4)(a) of that section and section 379(4).

(5) Where a planning authority issues a maintenance of land notice, it must serve a copy of the notice on every owner and occupier of the land to which the notice relates.

(6) Each copy of the notice must be served—

(a) before the end of 28 days after the day the notice is issued, and

(b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

(7) Regulations may require a planning authority to include with every copy of a maintenance of land notice served under this section an explanatory note giving information specified in the regulations about the right of appeal under section 215.

Appeals against maintenance of land notices

215 Right to appeal against maintenance of land notice

(1) A person on whom a copy of a maintenance of land notice is served, or any other person who has an interest in the land to which the notice relates, may appeal to the Welsh Ministers against the notice.

(2) An appeal may be made on one or more of the following grounds—

(a) that the condition of the land does not adversely affect the amenity of any part of the area of the planning authority that issued the notice, or of any adjoining area;

(b) that the condition of the land results in the ordinary course of events from operations or use that do not constitute a breach of planning control or a failure to comply with a planning obligation, discontinuance order, prohibition order or protection order;

(c) that the steps required by the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the planning authority's area, or of any adjoining area;

(d) that the period within which the notice requires any step to be taken is unreasonably short.

(3) An appeal under this section must be made by serving a notice of appeal on the Welsh Ministers before the date specified in the maintenance of land notice as the date on which it is to take effect.

(4) Where an appeal is made—

(a) the maintenance of land notice has no effect until the appeal is finally determined or withdrawn (see also section 379(4) where proceedings are brought under that section in relation to the notice);

(b) neither the appellant nor any other person is entitled, in any other proceedings started after the making of the appeal, to claim that a copy of the notice was not served on the appellant in accordance with section 214.

(5) Regulations may make provision about—

(a) steps to be taken in connection with making an appeal (including the form and content of a notice of appeal and persons to whom copies of the notice are to be provided);

(b) further information that is to be provided to the Welsh Ministers in connection with an appeal.

216 Determination of appeal

(1) On an appeal against a maintenance of land notice the Welsh Ministers may—

(a) correct any defect, error or misdescription in the notice, or

(b) vary the terms of the notice,

if they are satisfied that the correction or variation will not cause injustice to the appellant or to the planning authority that issued the notice.

(2) Where the Welsh Ministers determine an appeal—

(a) if they allow the appeal, they may quash the maintenance of land notice;

(b) they must give any directions necessary to give effect to their determination.

(3) Chapter 2 of Part 14 makes provision about the procedure for the consideration of appeals against maintenance of land notices (including provision for them to be determined by inspectors).

217 Grounds for appeal not to be raised in other proceedings

(1) This section applies where a copy of a maintenance of land notice has been served on every owner and occupier of the land to which the notice relates in accordance with section 214(5).

(2) The validity of the notice may not be questioned, on either of the grounds specified in subsection (2)(a) and (b) of section 215, in any proceedings except an appeal under that section.

Enforcement of maintenance of land notices

218 Order to permit steps required by maintenance of land notice

(1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit the owner to take steps required by a maintenance of land notice.

(2) The court may make such an order if it is satisfied that the other person is preventing the owner from taking steps required by the maintenance of land notice.

219 Powers to enter land, take steps required by maintenance of land notice and recover costs

(1) If the period within which a maintenance of land notice requires any step to be taken, or a longer period allowed by the planning authority that issued the notice, has ended and the step has not been taken, the planning authority may—

(a) at any reasonable time enter the land to which the notice relates and take the step, and

(b) recover from a person who is then an owner of the land the costs it reasonably incurs in doing so.

(2) If a planning authority seeks to recover costs under subsection (1)(b) from an owner of land who—

(a) is entitled to receive the rack rent of the land merely as agent or trustee for another person (the "principal"), and

(b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,

the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.

(3) If subsection (2) prevents a planning authority recovering the whole of its costs from an agent or trustee, it may recover them from the principal, or partly from the principal and partly from the agent or trustee.

(4) Where a copy of a maintenance of land notice has been served—

(a) costs that an owner or occupier of the land incurs for the purpose of complying with the notice, and

(b) amounts that an owner of the land pays under subsection (1)(b) in respect of costs incurred by the planning authority in taking steps required by the notice,

are to be treated as incurred or paid for the use and at the request of any person who caused or permitted the land to be in the condition in which it was when the notice was issued.

(5) The costs recoverable by a planning authority under subsection (1) are, until recovered, a charge on the land to which the maintenance of land notice relates.

(6) The charge takes effect as a local land charge at the beginning of the day after the day the authority completes the steps to which the costs relate.

(7) Subsection (8) applies where—

(a) a planning authority removes materials from land in the course of taking steps required by a maintenance of land notice, and

(b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.

(8) The planning authority—

(a) may sell the materials, and

(b) if it does so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by it from the person.

220 Offence of failing to comply with maintenance of land notice

(1) A person on whom a copy of a maintenance of land notice has been served is guilty of an offence if any step required by the notice has not been taken by the end of the period allowed for compliance with the notice.

(2) Subsection (3) applies where proceedings under subsection (1) are brought against a person who has, before the end of the period allowed for compliance with a maintenance of land notice, ceased to be an owner or occupier of the land to which the notice relates.

(3) If the person lays an information to that effect and gives the prosecutor at least 3 clear days' notice of the person's intention, the person is entitled to have the subsequent owner or occupier brought before the court in the proceedings.

(4) Subsections (5) and (6) apply where proceedings are brought against a person (the "original defendant") for an offence under subsection (1), and a subsequent owner or occupier is made a party to the proceedings under subsection (3).

(5) Where—

(a) it is proved that any steps required by the maintenance of land notice have not been taken by the end of the period allowed for compliance with the notice, and

(b) the original defendant proves that any failure to take those steps was due, in whole or in part, to the failure of the subsequent owner or occupier,

the subsequent owner or occupier may be convicted of the offence under subsection (1).

(6) It is a defence for the original defendant to prove—

(a) that any failure to take steps required by the maintenance of land notice was due, in whole or in part, to the failure of the subsequent owner or occupier, and

(b) that the original defendant took all reasonable steps to ensure compliance with the notice.

(7) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) If a person convicted of an offence under subsection (1) does not, as soon as practicable after the conviction, do everything in the person's power to secure compliance with the maintenance of land notice, the person is guilty of a further offence.

(9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding one tenth of level 3 on the standard scale for each day on which the failure to take any steps required by the notice continues.

(10) For the purposes of this section the period allowed for compliance with a maintenance of land notice is—

(a) the period specified in the notice as the period within which the steps specified in it must be taken, or

(b) a longer period allowed by the planning authority that issued the notice.

(11) In this section "subsequent owner or occupier" means—

(a) where proceedings have been brought against a person as an owner of land, a person who became an owner of the land on that person ceasing to be an owner;

(b) where proceedings have been brought against a person as an occupier of land—

(i) a person who became an occupier of the land on that person ceasing to be an occupier, or

(ii) if there was no occupier of the land on that person ceasing to be an occupier, a person on whom a copy of the maintenance of land notice was served as an owner of the land.

PART 8

CONTROL OF ADVERTISEMENTS

Control of advertisements regulations

221 Control of advertisements regulations

(1) Regulations ("control of advertisements regulations") must make such provision restricting or regulating the use of land in Wales for the display of advertisements as the Welsh Ministers consider appropriate in the interests of amenity or public safety.

(2) The regulations may, for example, make provision about—

(a) the dimensions, appearance and position of advertisements that may be displayed;

(b) the land on or from which advertisements may be displayed;

(c) how advertisements may be attached to the land.

(3) Sections 222 to 228 give further examples of the types of provision that may be made by control of advertisements regulations.

(4) The provision that may be made by control of advertisements regulations includes provision applying to—

(a) advertisements that are being displayed at the time when the regulations come into force, or

(b) the use for the display of advertisements of land that is being used for that purpose at that time.

(5) In this Act—

(a) "advertisement" means—

(i) any word, letter, model, sign, placard, board, notice, awning, blind, symbol or representation, whether illuminated or not, in the nature of, and used to any extent for the purposes of, announcement, publicity or direction,

(ii) any hoarding or similar structure used, designed or adapted for use for any of those purposes, or

(iii) anything else principally used, or designed or adapted principally for use, for any of those purposes,

but does not include anything used wholly as a memorial or a railway signal, and

(b) references to the display of advertisements are to be interpreted accordingly.

222 Consent for the display of advertisements

(1) Control of advertisements regulations may provide that advertisements, or advertisements of a description specified in the regulations, may only be displayed on or from land with consent.

(2) The regulations may, in particular, make provision—

(a) about who may give consent;

(b) about the procedure to be followed in connection with obtaining consent;

(c) for the giving of consent subject to conditions.

(3) The provision that may be made under subsection (2)(b) includes provision about applications for consent, including provision about—

(a) the form and content of an application;

(b) how an application must be made;

(c) documents or other materials that are to be included with an application;

(d) the consequences of an application failing to comply with a requirement imposed by the regulations.

(4) Provision about applications for consent may also—

(a) make provision about publicity, notification or consultation to be carried out in relation to an application or proposed application;

(b) make provision about circumstances in which a person may decline to determine an application;

(c) where the regulations provide for applications to be made to planning authorities, enable the Welsh Ministers to direct a planning authority to refer an application to them for determination instead of dealing with the application itself.

(5) The conditions for which the regulations may make provision under subsection (2)(c) include—

(a) conditions regulating the use of any land for the display of advertisements;

(b) conditions requiring approvals to be obtained from any person;

(c) conditions limiting the duration of consent;

(d) conditions requiring the removal of any advertisement, or the discontinuance of a use of land, at the end of a period specified in the regulations;

(e) conditions requiring works to be carried out on any land (including restoration works).

223 Restricting the display of advertisements where express consent is not ordinarily required

(1) Control of advertisements regulations that require consent for the display of advertisements may provide that if conditions and limitations specified in the regulations are complied with—

(a) consent is to be treated as having been given for the display of advertisements of a description specified in the regulations, or

(b) advertisements of a description specified in the regulations may be displayed without consent.

(2) Where the regulations make such provision, they may also—

(a) enable the Welsh Ministers to direct that consent is required for the display of an advertisement despite the provision;

(b) enable the Welsh Ministers or a planning authority to require the discontinuance of the display of an advertisement despite the provision.

224 Appeals

(1) Control of advertisements regulations that require consent for the display of advertisements may make provision for and in connection with appeals to the Welsh Ministers.

(2) The regulations may, in particular, provide for appeals—

(a) against refusal of consent;

(b) where there is a failure to determine an application for consent;

(c) against conditions subject to which consent is given;

(d) against a decision to require the discontinuance of the display of an advertisement in accordance with provision made under section 223(2)(b).

(3) Provision in connection with appeals may include—

(a) provision imposing time limits (which may include provision enabling them to be extended);

(b) provision in connection with the procedure to be followed on an appeal;

(c) provision imposing duties, or conferring powers, on a person deciding an appeal.

225 Changing or revoking consent

(1) Control of advertisements regulations that require consent for the display of advertisements may make provision for consent to be changed or revoked.

(2) Provision about changing or revoking consent may include provision about—

(a) the circumstances in which consent may be changed or revoked;

(b) the procedure to be followed in connection with changing or revoking consent;

(c) the effect of changing or revoking consent.

226 Compensation

(1) Control of advertisements regulations that require consent for the display of advertisements may make provision for the payment of compensation.

(2) The regulations may, in particular, provide for an entitlement to compensation where—

(a) consent is refused or given subject to conditions;

(b) the display of an advertisement is required to be discontinued in accordance with provision made under section 223(2)(b);

(c) consent is changed or revoked.

(3) The regulations may provide for an entitlement to compensation—

(a) to apply only in, or to apply except in, cases specified in the regulations;

(b) to be subject to conditions, including conditions about time limits.

(4) The regulations may make provision about—

(a) who is to pay compensation;

(b) who is entitled to compensation;

(c) what compensation is to be paid for;

(d) the amount or calculation of compensation.

(5) The regulations may make provision about the procedure to be followed in connection with claiming compensation.

(6) The regulations may make provision for the determination of disputes about compensation, including provision for and in connection with the referral of disputes to, and their determination by, the Upper Tribunal.

227 Control of advertisements regulations: supplementary

(1) Control of advertisements regulations may make provision for the keeping of, and public access to, registers containing information relating to applications for consent for the display of advertisements (including information about how they have been dealt with).

(2) Control of advertisements regulations may enable the Welsh Ministers to direct a planning authority to give them information for the purposes of the exercise of any of their functions under the regulations.

228 Power to make different provision for different areas, including areas of special control

(1) Control of advertisements regulations may make different provision for different areas.

(2) The regulations may, in particular, make different provision for areas designated as areas of special control by orders made or approved by the Welsh Ministers in accordance with the regulations.

(3) That provision may include provision prohibiting—

(a) the display of all advertisements in an area of special control, or

(b) the display of all advertisements in such an area except advertisements of a description specified in the regulations.

(4) The regulations must provide that the Welsh Ministers may not make or approve an order designating an area as an area of special control unless it is—

(a) a rural area, or

(b) an area that the Welsh Ministers consider requires special protection on the grounds of amenity.

(5) Regulations making provision under subsection (2) must make provision about the procedure to be followed before the Welsh Ministers make or approve an order designating an area as an area of special control, including provision about—

(a) the publication, in a way specified in the regulations, of notice of the intention to make or approve the order;

(b) the consideration of representations;

(c) the holding of inquiries or other hearings.

Deemed planning permission for display of advertisements

229 Deemed planning permission for advertisements displayed in accordance with regulations

Where the display of an advertisement—

(a) involves development of land, and

(b) complies with control of advertisements regulations,

planning permission is to be treated as having been granted for the development.

Enforcement of regulations

230 Offence of displaying advertisement in breach of regulations

(1) If an advertisement is displayed in breach of control of advertisements regulations, a person to whom this section applies is guilty of an offence.

(2) This section applies to a person if—

(a) the person carries out or maintains the display of the advertisement,

(b) the person is an owner or occupier of the land on or from which the advertisement is displayed, or

(c) the advertisement gives publicity to the person's goods, services or other concerns.

(3) A person convicted of an offence under subsection (1) is guilty of a further offence if—

(a) this section continues to apply to the person, and

(b) the advertisement continues to be displayed in breach of control of advertisements regulations.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding the amount specified in regulations.

(5) The amount specified in regulations must not be greater than—

(a) in relation to an offence under subsection (1), level 4 on the standard scale;

(b) in relation to an offence under subsection (3), one tenth of level 4 on the standard scale for each day on which the offence continues.

(6) Subsection (7) applies to a person who—

(a) falls within subsection (2)(b) or (c), and

(b) does not fall within subsection (2)(a).

(7) In proceedings for an offence under this section, it is a defence for the person to prove that—

(a) the advertisement was displayed without the person's knowledge, or

(b) the person took all reasonable steps to prevent its display or to secure its removal.

(8) See also sections 43 and 47 of the Anti-social Behaviour Act 2003 (c. 38), which make provision about the giving of fixed penalty notices in relation to offences under this section.

231 Power to remove or obliterate placard and poster

(1) A planning authority may remove or obliterate any placard or poster displayed in its area if it considers that—

(a) the placard or poster is being displayed in breach of control of advertisements regulations, and

(b) it is appropriate in the interests of amenity or public safety to remove or obliterate it.

(2) But subsection (1) does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.

(3) Subsection (4) applies where a placard or poster—

(a) identifies the person who displayed it or caused it to be displayed, or

(b) does not identify the person who displayed it or caused it to be displayed, but gives publicity to the goods, services or other concerns of a person that it identifies.

(4) The planning authority may not exercise its power under subsection (1) unless—

(a) it has served notice on the person identified by the placard or poster that it—

(i) considers the placard or poster to be displayed in breach of control of advertisements regulations, and

(ii) intends to remove or obliterate the placard or poster at the end of the period specified in the notice, and

(b) the period has ended.

(5) The period specified in the notice must be at least 2 days beginning with the day after the day the notice is served.

(6) For the purposes of this section, a placard or poster is not to be treated as identifying a person if—

(a) it does not give the address of the person, and

(b) the planning authority does not know the address and is unable to find it out after reasonable inquiry.

(7) A planning authority may recover the costs it reasonably incurs in exercising its power under subsection (1) from a person on whom it has served a notice under subsection (4), but only if the notice stated that the authority intended to recover those costs from the person.

232 Compensation for damage caused in removing or obliterating placard or poster

(1) If damage is caused to land or other property in the exercise of the power under section 231(1), a person suffering the damage may recover compensation from the planning authority that exercised the power.

(2) No compensation is payable under this section to the person who displayed the placard or poster, or caused the display of the placard or poster, in relation to which the planning authority was exercising its power under section 231(1).

PART 9

PRESERVATION OF TREES AND WOODLANDS

CHAPTER 1

TREE PRESERVATION ORDERS AND WOODLAND PRESERVATION ORDERS ETC.

General duty of planning authorities

233 Planning permission to include provision for preservation and planting of trees

Where a planning authority grants planning permission for any development—

(a) it must, where appropriate, grant the permission subject to conditions that make adequate provision for the preservation or planting of trees, and

(b) it must make the tree preservation orders and woodland preservation orders it considers necessary in connection with the grant of permission, whether or not for giving effect to conditions to which the permission is subject.

Tree preservation orders and woodland preservation orders

234 Power of planning authority to make tree preservation order

(1) A planning authority may make a tree preservation order if it considers that it is appropriate in the interests of amenity to make provision for the preservation of trees in its area.

(2) A tree preservation order is an order for the preservation of the individual trees, groups of trees or areas of trees specified in the order.

(3) A tree preservation order may be made so as to apply to—

(a) trees that are in existence when the order is made, and

(b) trees that are required to be planted by a condition imposed on a grant of planning permission in accordance with section 233(a), from the time the trees are planted.

(4) See also—

(a) section 241(5), which provides that if regulations provide for a prohibition not to apply to things done with consent, the regulations may also provide that a tree preservation order applies to trees planted in accordance with a condition of a consent,

(b) section 245(5), which provides that a tree preservation order applies to replacement trees planted in accordance with section 245.

235 Power of planning authority to make woodland preservation order

(1) A planning authority may make a woodland preservation order if it considers that it is appropriate in the interests of amenity to make provision for the preservation of woodlands in its area.

(2) A woodland preservation order is an order for the preservation of the woodlands specified in the order.

(3) A woodland preservation order applies to all the trees in the woodlands to which the order relates, whether or not they were in existence when the order was made.

(4) See also—

(a) section 241(5), which provides that if regulations provide for a prohibition not to apply to things done with consent, the regulations may also provide that a woodland preservation order applies to trees planted in accordance with a condition of a consent,

(b) section 246(6), which provides that a woodland preservation order applies to replacement trees planted in accordance with section 246.

236 Power of the Welsh Ministers to make tree preservation orders and woodland preservation orders

(1) The Welsh Ministers may make a tree preservation order if they consider that it is appropriate in the interests of amenity to make provision for the preservation of any trees in Wales.

(2) The Welsh Ministers may make a woodland preservation order if they consider that it is appropriate in the interests of amenity to make provision for the preservation of any woodlands in Wales.

(3) The Welsh Ministers may by order vary or revoke a tree preservation order or woodland preservation order made by a planning authority if they consider that it is appropriate to do so in the interests of amenity.

(4) Before making an order under this section, the Welsh Ministers must consult the planning authority in whose area the trees or woodlands to which the order relates are situated.

Tree preservation regulations

237 Tree preservation regulations: general

(1) Regulations ("tree preservation regulations") may make provision about tree preservation orders and woodland preservation orders.

(2) Sections 238 to 243 make further provision about what may, in particular, be contained in the regulations.

(3) In this section and in those sections, references to tree preservation orders and woodland preservation orders include orders under section 236(3).

238 Interests of amenity: factors to be taken into account

Tree preservation regulations may specify factors that must be taken into account in determining whether it is appropriate in the interests of amenity—

(a) to make provision for the preservation of trees or woodlands under section 234(1), 235(1) or 236(1) or (2), or

(b) to make an order under section 236(3).

239 Making, varying or revoking tree preservation orders and woodland preservation orders

(1) Tree preservation regulations may make provision about—

(a) the form and content of tree preservation orders and woodland preservation orders;

(b) the procedure to be followed in connection with making, varying or revoking orders;

(c) when orders take effect;

(d) publishing orders and making them available for public inspection.

(2) If the regulations provide for orders not to take effect unless confirmed, the regulations may make provision—

(a) about who is to confirm orders;

(b) about the procedure for confirming orders;

(c) for orders to take effect provisionally until confirmed.

240 Activities that may be prohibited

(1) Tree preservation regulations may prohibit any or all of the following in relation to trees in respect of which a tree preservation order or woodland preservation order is in force—

(a) cutting down trees;

(b) topping trees;

(c) lopping trees;

(d) uprooting trees;

(e) intentionally or recklessly damaging trees;

(f) intentionally or recklessly destroying trees;

(g) causing or permitting the carrying out of any of the activities in paragraphs (a) to (f).

(2) The regulations may impose prohibitions subject to exceptions.

(3) They may, in particular, provide for a prohibition not to apply to things done with consent.

241 Consent for prohibited activities and appeals

(1) This section applies if tree preservation regulations impose a prohibition that does not apply to things done with consent.

(2) The regulations may make provision—

(a) about who may give consent;

(b) about the procedure to be followed in connection with obtaining consent;

(c) for the giving of consent subject to conditions.

(3) The conditions for which the regulations may provide include—

(a) conditions requiring approvals to be obtained from the person giving the consent;

(b) conditions limiting the duration of the consent;

(c) conditions about planting trees.

(4) Conditions about planting trees may include—

(a) conditions requiring trees to be planted;

(b) conditions about the planting of those trees, including conditions about how, where or when they are to be planted;

(c) conditions requiring things to be done, or installed, for the protection of those trees.

(5) The regulations may provide for the tree preservation order or woodland preservation order in relation to which consent is being given—

(a) to apply to trees planted in accordance with a condition mentioned in subsection (4)(a);

(b) not to apply to the trees if the person imposing the condition specifies that it is not to apply.

(6) The provision that may be made under subsection (2)(b) includes provision about applications for consent, including provision about—

(a) the form and content of an application;

(b) how an application must be made;

(c) documents or other materials that are to be included with an application;

(d) the consequences of an application failing to comply with a requirement imposed by the regulations.

(7) The regulations may make provision for, and in connection with, appeals—

(a) against refusal of consent;

(b) where there is a failure to decide an application for consent;

(c) against conditions subject to which consent is given;

(d) against refusal of an approval required by a condition;

(e) where there is a failure to decide an application for an approval.

(8) Provision in connection with appeals may include—

(a) provision imposing time limits (which may include provision enabling them to be extended);

(b) provision for further appeals;

(c) provision in connection with the procedure to be followed on an appeal (or further appeal);

(d) provision about who is to decide an appeal (or further appeal);

(e) provision imposing duties, or conferring powers, on a person deciding an appeal (or further appeal).

242 Compensation

(1) Tree preservation regulations may make provision for the payment of compensation—

(a) where any consent required under the regulations is refused;

(b) where consent is given subject to conditions;

(c) where any approval required by a condition is refused.

(2) The regulations may provide for an entitlement to compensation—

(a) to apply only in, or to apply except in, cases specified in the regulations;

(b) to be subject to conditions, including conditions about time limits.

(3) The regulations may make provision about—

(a) who is to pay compensation;

(b) who is entitled to compensation;

(c) what compensation is to be paid for;

(d) the amount or calculation of compensation.

(4) The regulations may make provision about the procedure to be followed in connection with claiming compensation.

(5) The regulations may make provision for the determination of disputes about compensation, including provision for and in connection with the referral of disputes to, and their determination by, the Upper Tribunal.

243 Registers of information relating to tree preservation orders and woodland preservation orders

Tree preservation regulations may make provision for the keeping of, and public access to, registers containing information relating to tree preservation orders and woodland preservation orders.

244 Tree preservation regulations: restriction relating to felling licences under the Forestry Act 1967

Tree preservation regulations have effect subject to section 15 of the Forestry Act 1967 (c. 10) (applications for licences to fell trees to which a tree preservation order or woodland preservation order applies).

Replacement of trees

245 Replacement of trees: tree preservation orders

(1) This section applies where any tree in respect of which a tree preservation order is in force—

(a) is removed, uprooted or destroyed—

(i) in breach of tree preservation regulations, or

(ii) in other circumstances specified in the regulations, or

(b) dies in circumstances specified in the regulations.

(2) The owner or owners of the land on which the tree was situated must ensure that a replacement tree of an appropriate size and species is planted as soon as reasonably practicable.

(3) The replacement tree must be planted at or near the place where the original tree was situated.

(4) The requirement in subsection (2) does not apply where, on an application by an owner of the land, the planning authority in whose area the land is situated dispenses with the requirement.

(5) The relevant tree preservation order has effect in relation to any tree planted in accordance with this section as it had effect in relation to the original tree.

(6) References in this section to an owner of the land are references to a person who is from time to time an owner of the land.

(7) The requirement imposed by subsection (2) may only be enforced by a tree replacement notice under section 252.

246 Replacement of trees: woodland preservation orders

(1) This section applies where any trees in respect of which a woodland preservation order is in force are removed, uprooted or destroyed in breach of tree preservation regulations.

(2) The owner or owners of the land on which the trees were situated must ensure that replacement trees of appropriate size and species are planted as soon as reasonably practicable.

(3) The number of trees planted must be—

(a) the same as the number of trees removed, uprooted or destroyed, or

(b) where that number is not known, the best estimate that can reasonably be made of the number of trees removed, uprooted or destroyed.

(4) The replacement trees must be planted—

(a) at or near the places where the original trees were situated, or

(b) in another place designated by the planning authority in whose area the land is situated that is—

(i) on or near the land on which the original trees were situated, or

(ii) on other land agreed between the planning authority and the owner of that other land.

(5) The requirement in subsection (2) does not apply where, on an application by an owner of the land, the planning authority in whose area the land is situated dispenses with the requirement.

(6) The relevant woodland preservation order has effect in relation to any trees planted in accordance with this section as it had effect in relation to the original trees.

(7) References in this section to an owner of the land are references to a person who is from time to time an owner of the land.

(8) The requirement imposed by subsection (2) may only be enforced by a tree replacement notice under section 252.

CHAPTER 2

TREES IN CONSERVATION AREAS

247 Preservation of trees in conservation areas

(1) A person must not carry out any of the following activities, or cause or permit any of the activities to be carried out, in relation to a tree to which this section applies—

(a) cutting down the tree;

(b) topping the tree;

(c) lopping the tree;

(d) uprooting the tree;

(e) intentionally or recklessly damaging the tree;

(f) intentionally or recklessly destroying the tree.

(2) This section applies to a tree in a conservation area in respect of which no tree preservation order or woodland preservation order is in force.

(3) Subsection (1) does not prohibit an activity—

(a) so far as the activity is authorised by an infrastructure consent order or an order granting development consent, or

(b) if conditions 1 to 4 are met.

(4) Condition 1 is that notice of an intention to carry out the activity has been served on the planning authority in whose area the tree is situated.

(5) Condition 2 is that the notice includes enough information to enable the tree to be identified.

(6) Condition 3 is that the activity is carried out with the consent of the planning authority or after the end of 6 weeks beginning with the day the notice is served.

(7) Condition 4 is that the activity is carried out before the end of 2 years beginning with the day the notice is served.

(8) Regulations may specify cases where subsection (1) does not apply.

(9) They may, in particular, provide that it does not apply to—

(a) specified activities or descriptions of activities;

(b) activities carried out in specified circumstances;

(c) activities carried out subject to specified conditions;

(d) trees in specified conservation areas;

(e) trees of a specified size or species;

(f) trees belonging to specified persons or descriptions of persons.

(10) In this Chapter "conservation area" means an area designated under section 158 of the Historic Environment Act.

248 Replacement of trees in conservation areas

(1) This section applies where a tree to which section 247(1) applies—

(a) is removed, uprooted or destroyed—

(i) in breach of section 247(1), or

(ii) in other circumstances specified in regulations, or

(b) dies in circumstances specified in regulations.

(2) The owner or owners of the land on which the tree was situated must ensure that a replacement tree of an appropriate size and species is planted as soon as reasonably practicable.

(3) The replacement tree must be planted at or near the place where the original tree was situated.

(4) The requirement in subsection (2) does not apply where, on an application by an owner of the land, the planning authority in whose area the land is situated dispenses with the requirement.

(5) References in this section to an owner of the land are references to a person who is from time to time an owner of the land.

(6) The requirement imposed by subsection (2) may only be enforced by a tree replacement notice under section 252.

249 Register of notices of intention to carry out works

(1) A planning authority must keep a register containing such information relating to notices it receives under section 247(4) (notice of intention to carry out activity in relation to a tree in a conservation area) as is specified in regulations.

(2) The register must be kept in the way specified in regulations.

(3) The register must be available for public inspection free of charge at all reasonable times.

CHAPTER 3

ENFORCEMENT

Enforcement of prohibition on works

250 Offences of breaching tree preservation provisions

(1) A person commits an offence if, in breach of tree preservation regulations or section 247(1), the person—

(a) cuts down or uproots a tree,

(b) intentionally or recklessly destroys a tree,

(c) intentionally or recklessly tops, lops or damages a tree in a way that is likely to destroy it, or

(d) causes or permits the carrying out of any of the activities in paragraphs (a) to (c).

(2) A person guilty of an offence under subsection (1) is liable on summary conviction, or on conviction on indictment, to a fine.

(3) In determining the amount of the fine to be imposed on a person convicted of an offence under subsection (1), the court must in particular have regard to any financial benefit that has accrued or appears likely to accrue to the person in consequence of the offence.

(4) A person commits an offence if the person breaches tree preservation regulations or section 247(1) otherwise than as mentioned in subsection (1).

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

251 Injunction restraining breach of tree preservation provisions

(1) A planning authority may apply to the High Court or the county court for an injunction restraining an actual or expected offence under section 250 in respect of land in the authority's area.

(2) An authority may make an application whether or not it has exercised or is proposing to exercise any of its other powers under this Part.

(3) The court may grant an injunction on any terms it considers appropriate for the purpose of restraining the offence.

(4) Rules of court may provide for an injunction to be issued against a person whose identity is unknown.

Enforcement of requirement to replace trees

252 Power of planning authority to issue tree replacement notice

(1) A planning authority may issue a tree replacement notice if it considers that a requirement to plant replacement trees on land in its area has not been complied with.

(2) A tree replacement notice must—

(a) require a tree or trees of the size and species specified in the notice to be planted,

(b) specify the date on which it is to take effect, and

(c) specify the period within which the tree or trees must be planted.

(3) A tree replacement notice may not be issued after the end of 4 years beginning with the date of the alleged failure to comply.

(4) Where a planning authority issues a tree replacement notice, it must serve a copy of the notice on every owner of the land in relation to which the requirement to plant replacement trees applies.

(5) Each copy of the notice must be served—

(a) before the end of 28 days after the day the notice is issued, and

(b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

(6) Regulations may require a planning authority to include with every copy of a tree replacement notice that it serves under this section an explanatory note giving information specified in the regulations about the right of appeal under section 254.

(7) In this section a reference to a requirement to plant replacement trees is a reference to a requirement to ensure that a replacement tree or replacement trees are planted, imposed by—

(a) any conditions of a consent given under tree preservation regulations,

(b) section 245 or 246 (trees to which tree preservation orders or woodland preservation orders apply), or

(c) section 248 (trees in conservation areas).

253 Variation of tree replacement notice

(1) Where a planning authority has issued a tree replacement notice, it may waive or relax any requirement of the notice.

(2) The authority may exercise the power in subsection (1) whether or not the notice has taken effect.

(3) Subsection (4) applies where the planning authority had served copies of the notice under section 252(4) before exercising the power in subsection (1).

(4) Immediately after exercising the power in subsection (1), the authority must give notice that it has done so to every person who was served with a copy of the tree replacement notice.

254 Right to appeal against tree replacement notice

(1) A person on whom a copy of a tree replacement notice is served may appeal to the Welsh Ministers against the notice.

(2) An appeal may be made on one or more of the following grounds—

(a) that the requirement to plant replacement trees is not applicable or has been complied with;

(b) in a case where the requirement to plant replacement trees was imposed by section 245, 246 or 248, that in all the circumstances of the case the requirement should be dispensed with in relation to any tree or trees;

(c) that the requirements of the notice are unreasonable in respect of—

(i) the period within which the tree or trees must be planted, or

(ii) the size or species of tree or trees that must be planted;

(d) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(e) that the place in which the tree or trees must be planted is unsuitable for that purpose.

(3) An appeal under this section must be made by—

(a) serving a notice of appeal on the Welsh Ministers before the date specified in the tree replacement notice as the date on which it is to take effect,

(b) sending a notice of appeal to the Welsh Ministers in a properly addressed and pre-paid letter posted to them at a time when, in the ordinary course of post, it would be delivered to them before that date, or

(c) sending a notice of appeal to the Welsh Ministers using electronic communications at a time when, in the ordinary course of transmission, it would be delivered to them before that date.

(4) The notice of appeal must—

(a) indicate the grounds of the appeal, and

(b) state the facts on which the appeal is based.

(5) Regulations may specify further information that must be submitted with the notice of appeal.

(6) Where an appeal is made—

(a) the tree replacement notice has no effect until the appeal is finally determined or withdrawn (see also section 379(4) where proceedings are brought under that section in relation to the notice);

(b) neither the appellant nor any other person is entitled, in any other proceedings started after the making of the appeal, to claim that a copy of the tree replacement notice was not served on the appellant in accordance with section 252.

(7) In this section references to a requirement to plant replacement trees have the meaning given by section 252(7).

255 Determination of appeal

(1) On an appeal under section 254, the Welsh Ministers may—

(a) correct any defect, error or misdescription in the tree replacement notice to which the appeal relates, or

(b) vary any of its requirements,

if they are satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.

(2) Where the Welsh Ministers determine an appeal—

(a) if they allow the appeal, they may quash the tree replacement notice;

(b) they must give any directions necessary to give effect to their determination.

(3) Chapter 2 of Part 14 makes provision about the procedure for the consideration of appeals against tree replacement notices (including provision for them to be determined by inspectors).

256 Order to permit trees to be planted

(1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit a tree replacement notice to be complied with.

(2) The court may make such an order if it is satisfied that the other person is preventing the owner from complying with the notice.

257 Power to enter land and plant trees

(1) If the period within which a tree replacement notice requires a tree or trees to be planted, or a longer period allowed by the planning authority that issued the notice, has ended and any of the trees have not been planted, the planning authority may at any reasonable time enter the land to which the notice relates and plant the trees.

(2) A person who intentionally obstructs a person exercising a power under subsection (1) commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

258 Recovery of costs of planting trees

(1) Where a planning authority exercises the powers under section 257(1) to enter land and plant trees, the authority may recover from a person who is then an owner of the land the costs it reasonably incurs in doing so.

(2) If a planning authority claims to recover costs under subsection (1) from an owner of land who—

(a) is entitled to receive the rack rent of the land merely as agent or trustee for another person (the "principal"), and

(b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,

the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.

(3) If subsection (2) prevents a planning authority recovering the whole of its costs from an agent or trustee, it may recover them from the principal, or partly from the principal and partly from the agent or trustee.

(4) Where a copy of a tree replacement notice has been served—

(a) costs that an owner of the land incurs for the purpose of complying with the notice, and

(b) amounts that an owner of the land pays under subsection (1) in respect of costs incurred by the planning authority in planting trees,

are to be treated as incurred or paid for the use and at the request of any person, other than an owner of the land, responsible for the removal, uprooting or destruction of the original tree or trees.

(5) The costs recoverable by a planning authority under subsection (1) are, until recovered, a charge on the land to which the tree replacement notice relates.

(6) The charge takes effect as a local land charge at the beginning of the day after the day the authority completes the planting of trees that is required by the notice.

(7) Subsection (8) applies where—

(a) a planning authority removes materials from land in the course of planting trees required to be planted by a tree replacement notice, and

(b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.

(8) The planning authority—

(a) may sell the materials, and

(b) if it does so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by it from the person.

Powers of entry

259 Powers to enter land without warrant

(1) A person authorised in writing by a planning authority may enter any land—

(a) to survey it in connection with making a tree preservation order or a woodland preservation order in relation to the land;

(b) to assess whether an offence under section 250 has been committed on the land;

(c) to determine whether a tree replacement notice should be issued in relation to the land;

(d) in connection with the exercise of any other function conferred on the authority by or under this Part.

(2) A person authorised in writing by the Welsh Ministers may enter any land—

(a) to survey it in connection with making, varying or revoking a tree preservation order or a woodland preservation order in relation to the land;

(b) in connection with the exercise of any other function conferred on the Welsh Ministers by or under this Part.

(3) The Welsh Ministers must not authorise a person to enter land for a purpose mentioned in subsection (2)(a) without consulting the planning authority in whose area the land is situated.

(4) If tree preservation regulations make provision for the payment of compensation in accordance with section 242, an officer of the Valuation Office of His Majesty's Revenue and Customs may enter any land to survey it, or estimate its value, in connection with a claim for compensation.

(5) A power to enter land under this section may be exercised only—

(a) at a reasonable time;

(b) if there are reasonable grounds for entering the land for the purpose in question.

(6) A person authorised to enter land under this section may not demand admission as of right—

(a) by virtue of subsection (1)(a) to (c) or (2)(a) to a building used as a dwelling, or

(b) by virtue of subsection (1)(d), (2)(b) or (4) to any land that is occupied,

unless 24 hours' notice of the intended entry has been given to every occupier of the building or land.

(7) A person authorised to enter land under this section—

(a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land,

(b) may take on to the land any other persons that are necessary,

(c) may take samples from any tree or soil, and

(d) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.

260 Warrant to enter land

(1) This section applies if a justice of the peace is satisfied on sworn information in writing—

(a) that there are reasonable grounds for entering land for a purpose mentioned in section 259(1)(a) to (c) or (2)(a), and

(b) that—

(i) admission to the land has been refused or a refusal is reasonably expected, or

(ii) the case is one of urgency.

(2) The justice of the peace may issue a warrant conferring a power to enter the land on any person authorised in writing by a planning authority or (as the case may be) the Welsh Ministers.

(3) For the purposes of subsection (1)(b)(i) admission to land is to be treated as having been refused if no reply is received to a request for admission within a reasonable period.

(4) A warrant under this section authorises entry to land—

(a) on one occasion only, and

(b) only at a reasonable time, unless the case is one of urgency.

(5) A person authorised to enter land under this section—

(a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land,

(b) may take on to the land any other persons that are necessary,

(c) may take samples from any tree or soil, and

(d) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.

(6) A warrant under this section ceases to have effect at the end of 1 month beginning with the day it is issued.

261 Supplementary provisions about powers of entry

(1) This section applies where a person has a power to enter land conferred by section 259 or by a warrant under section 260.

(2) A person who intentionally obstructs a person exercising the power of entry commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If damage is caused to land or other property in the exercise of the power of entry, a person suffering the damage may recover compensation from the planning authority that authorised the entry or (as the case may be) the Welsh Ministers.

PART 10

ACQUISITION AND APPROPRIATION OF LAND FOR PLANNING PURPOSES ETC.

Powers of relevant local authority to acquire land for planning purposes

262 Acquisition of land by agreement for planning purposes

(1) A relevant local authority may acquire any land by agreement if the first or second condition is met.

(2) The first condition is that the authority considers—

(a) that the acquisition will facilitate development or improvement on, or in relation to, the land, and

(b) that the development or improvement is likely to contribute to improving the economic, social, environmental or cultural well-being of the authority's area.

(3) The second condition is that the land is required for a purpose that it is necessary to achieve in the interests of the proper planning of the authority's area.

(4) Where a relevant local authority has the power to acquire land under subsection (1) (the "primary land"), the land that it may acquire by agreement includes—

(a) any land adjoining the primary land that is required for carrying out works to facilitate the development or use of the primary land;

(b) if the primary land forms part of a common, open space or allotment, any land that is required for giving in exchange for the primary land.

(5) It does not matter who the relevant local authority proposes should carry out any activity, or achieve any purpose, mentioned in subsection (2), (3) or (4)(a) (and, in particular, it need not propose to carry out the activity or achieve the purpose itself).

(6) Where a relevant local authority has the power to acquire land under subsection (1), the land that it may acquire by agreement includes land that is required for giving in exchange for land appropriated under section 264 (appropriation of land forming part of common or allotment).

(7) Part 1 of the Compulsory Purchase Act 1965 (c. 56), except sections 4 to 8, 10 and 31, applies (so far as relevant) to the acquisition of land by agreement under this section.

(8) In this Part "relevant local authority" means—

(a) a county council or county borough council in Wales;

(b) a National Park authority in Wales;

(c) a joint planning board.

263 Compulsory acquisition of land for planning purposes

(1) A relevant local authority may acquire land in its area compulsorily if—

(a) it has the power to acquire the land by agreement under section 262, and

(b) the Welsh Ministers authorise it to acquire the land compulsorily.

(2) The Welsh Ministers must not authorise the acquisition of land under this section unless they are satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.

(3) The Welsh Ministers must not authorise the acquisition of an interest in Crown land under this section unless—

(a) the interest is held otherwise than by or on behalf of the Crown, and

(b) the appropriate Crown authority consents to the acquisition.

(4) Where a joint planning board may be authorised to acquire land under this section, section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (which provides that a local authority may be authorised to acquire new rights over the land) applies to the board as if it were a local authority to which that section applies.

(5) For the application of that section to a National Park authority, see paragraph 1(2) of Schedule 8 to the Environment Act 1995 (c. 25).

(6) Where the Welsh Ministers have the power to authorise a relevant local authority to acquire land under this section, they may instead authorise another local authority to acquire the land.

(7) Before doing so, the Welsh Ministers must consult each relevant local authority in whose area the land is situated.

(8) The Acquisition of Land Act 1981 (c. 67) applies to the acquisition of land under this section.

(9) Where a compulsory purchase order authorising the acquisition of land under this section is submitted to the Welsh Ministers in accordance with Part 2 of that Act, they may disregard an objection to the order if they consider that it amounts in substance to an objection to a policy in the development plan specifically relating to the development or use of that or any other land.

Power of local authority to appropriate land forming part of common or allotment

264 Appropriation of land forming part of common or allotment for another purpose

(1) This section applies where a local authority holds land that is or forms part of a common or allotment (including where the particular land is specifically regulated by an enactment).

(2) The authority may, if authorised by an order made by the authority and confirmed by the Welsh Ministers, appropriate the land for any purpose for which the authority may be authorised to acquire land under any enactment.

(3) Section 19 of the Acquisition of Land Act 1981 (c. 67) (special provision about compulsory purchase orders relating to land forming part of a common, open space or allotment) applies to an order under this section as it applies to a compulsory purchase order under that Act.

(4) Where land appropriated under this section was acquired under an enactment incorporating the Lands Clauses Acts, any works carried out on the land after the appropriation are to be treated, for the purposes of section 68 of the Lands Clauses Consolidation Act 1845 (c. 18) and section 10 of the Compulsory Purchase Act 1965 (c. 56), as having been authorised by the enactment under which the land was acquired.

(5) On an appropriation of land by a local authority under this section—

(a) in a case falling within subsection (6), the authority must make any adjustment in its accounts that the Welsh Ministers direct;

(b) in a case not falling within that subsection, the authority must make any adjustment in its accounts required by section 24(1) of the 1959 Act.

(6) An appropriation of land falls within this subsection if—

(a) the local authority appropriating the land is not an authority to whom Part 2 of the 1959 Act applies,

(b) immediately before the appropriation, the land was held for the purposes of a grant-aided function, or

(c) the land is appropriated for the purposes of a grant-aided function.

(7) In this section—

"the 1959 Act" ("*Deddf 1959*") means the Town and Country Planning Act 1959 (c. 53);

"authority to whom Part 2 of the 1959 Act applies" ("*awdurdod y mae Rhan 2 o Ddeddf 1959 yn gymwys iddo*") has the meaning given by section 22(4) of the 1959 Act;

"grant-aided function" ("*swyddogaeth a gynorthwyir gan grant*") has the meaning given by section 57(1) of the 1959 Act;

"the Lands Clauses Acts" ("*y Deddfau Cymalau Tiroedd*") means the Lands Clauses Consolidation Act 1845, the Lands Clauses Consolidation Acts Amendment Act 1860 (c. 106), and any Acts amending those Acts.

Appropriation, disposal and development of land held by local authority for planning purposes

265 Land to which sections 266 to 268 apply

(1) Sections 266 to 268 apply to land that a local authority—

(a) has acquired or appropriated for planning purposes, and

(b) holds for the purposes for which it was acquired or appropriated.

(2) Sections 122 and 123 of the Local Government Act (appropriation and disposal of land by county councils, county borough councils and National Park authorities) do not apply to land mentioned in subsection (1).

266 Appropriation of land held for planning purposes

(1) A local authority may appropriate land to which this section applies for any purpose for which the authority is or may be authorised in any capacity to acquire land by or under any enactment not contained in this Part or in Chapter 5 of Part 3 of the Historic Environment Act (acquisition of buildings of special architectural or historic interest).

(2) But a local authority may not appropriate land under this section without the consent of the Welsh Ministers if—

(a) the land is or forms part of a common, or previously was or formed part of a common, and

(b) the authority holds or manages the land in accordance with a local Act.

(3) The Welsh Ministers may give consent—

(a) in relation to a particular appropriation or appropriations of a particular description;

(b) either unconditionally or subject to conditions.

(4) Before appropriating land that is or forms part of an open space under this section, a local authority must—

(a) publish a notice of its intention to do so for at least 2 consecutive weeks in a newspaper circulating in its area, and

(b) consider any objections to the proposed appropriation that are made to it.

(5) Subsections (4) to (6) of section 264 apply in relation to an appropriation of land under this section as they apply in relation to an appropriation under that section.

267 Disposal of land held for planning purposes

(1) A local authority may dispose of land to which this section applies to any person, in any way and subject to any conditions that it considers appropriate in order to secure—

(a) the best use of that or any other land, and of—

(i) any buildings that have been, or are to be, erected, or

(ii) any works that have been, or are to be, constructed or carried out,

on that land or any other land (whether by the authority or by any other person), or

(b) the erection of any buildings, or the construction or carrying out of any works, whether on that land or any other land, that the authority considers are needed for the proper planning of its area.

(2) But if the first or second condition is met, a local authority may not dispose of land under this section without the consent of the Welsh Ministers.

(3) The first condition is that—

(a) the land is or forms part of a common, or previously was or formed part of a common, and

(b) the authority holds or manages the land in accordance with a local Act.

(4) The second condition is that—

(a) the disposal is to be for less than the best consideration that can reasonably be obtained, and

(b) the disposal is not—

(i) the grant of a lease for a term of 7 years or less, or

(ii) the assignment of a lease granted for a term that has 7 years or less left to run at the date of the assignment.

(5) Before disposing of land that is or forms part of an open space under this section, a local authority must—

(a) publish a notice of its intention to do so for at least 2 consecutive weeks in a newspaper circulating in its area, and

(b) consider any objections to the proposed disposal that are made to it.

(6) Where land has been acquired or appropriated by a local authority for a purpose mentioned in section 262(2) or (4), the authority and the Welsh Ministers (in relation to the giving of consent) must, so far as practicable, exercise their functions under this section so as to secure an opportunity for relevant occupiers of the land to obtain suitable accommodation on it.

(7) In subsection (6)—

(a) "relevant occupier" means a person who—

(i) was living or carrying on business or other activities on the land,

(ii) wishes to obtain accommodation on the land, and

(iii) is willing to comply with any requirements of the authority relating to the development and use of the land;

(b) "suitable accommodation", in relation to a person who is a relevant occupier, means accommodation that—

(i) is suitable to the person's reasonable requirements, and

(ii) is provided on terms settled having regard to the price at which any of the land was acquired from the person.

268 Development and use of land held for planning purposes

(1) A local authority may—

(a) erect buildings and construct or carry out works on land to which this section applies;

(b) repair, maintain and insure any buildings or works on land to which this section applies and generally deal with the land in a proper course of management.

(2) This section does not—

(a) give a local authority the power to erect a building, or to construct or carry out any works, if a power to do so is, or could be, conferred on the local authority or any other person by or under any enactment other than one mentioned in subsection (3);

(b) authorise any act or omission on the part of a local authority that is actionable by any person.

(3) The enactments are—

(a) this Part;

(b) section 2 or 5 of the Local Authorities (Land) Act 1963 (c. 29) (powers of local authorities to develop land and provide off street parking);

(c) section 14(1) or (4) or 17(3) of the Industrial Development Act 1982 (c. 52) (powers of the Welsh Ministers and the Secretary of State to acquire and develop land in assisted areas);

(d) section 143 of the Historic Environment Act (powers of local authorities and the Welsh Ministers to make arrangements for the management, use or disposal of buildings of special architectural or historic interest etc.).

Removal of restrictions on obtaining possession of dwellings

269 Power of local authority to obtain possession of dwellings let under certain tenancies

(1) This section applies to a dwelling that a local authority—

(a) has acquired or appropriated for planning purposes, and

(b) holds for the purposes for which it was acquired or appropriated.

(2) If the Welsh Ministers certify that possession of the dwelling is immediately required for those purposes, nothing in the Rent Act 1977 (c. 42) or Part 1 of the Housing Act 1988 (c. 50) prevents the authority from obtaining possession of the dwelling.

Joint body to hold land acquired by local authority for planning purposes

270 Power of the Welsh Ministers to establish joint body to hold land acquired for planning purposes

(1) Regulations may—

(a) establish a joint body consisting of representatives of a relevant local authority and of any other local authority, and

(b) transfer to the joint body any land acquired for planning purposes by the relevant local authority.

(2) The Welsh Ministers may not make regulations under this section unless they have consulted the local authorities concerned.

(3) Regulations under this section may make provision about the constitution and functions of the joint body, which may include provision—

(a) for it to be a body corporate;

(b) for it to have any of the powers that the relevant local authority would have under this Part or Chapter 5 of Part 3 of the Historic Environment Act (acquisition of buildings of special architectural or historic interest) in relation to the land transferred to it;

(c) for determining how its costs are to be met.

Acquisition and disposal of land by the Welsh Ministers

271 Compulsory acquisition of land by the Welsh Ministers

(1) The Welsh Ministers may acquire compulsorily any land in Wales—

(a) that is required for the public service, or

(b) that it is proposed to use not only for the public service but also—

(i) for other purposes in the interests of the proper planning of any area in Wales, or

(ii) to secure the best or most economic development or use of the land for other purposes.

(2) The Welsh Ministers may not acquire an interest in Crown land under subsection (1) unless—

(a) the interest is held otherwise than by or on behalf of the Crown, and

(b) the appropriate Crown authority consents to the acquisition.

(3) Where the Welsh Ministers have acquired or propose to acquire any land under subsection (1) ("the primary land"), they may compulsorily acquire other land that they consider ought to be acquired together with the primary land—

(a) in the interests of the proper planning of the area concerned,

(b) to ensure that the primary land (together with that other land) can be used, or developed and used, in what they consider to be the best or most economic way, or

(c) where the primary land, or any land the Welsh Ministers have acquired or propose to acquire under paragraph (a) or (b), forms part of a common, open space or allotment, for the purpose of being given in exchange for that land.

(4) The power to acquire land compulsorily under this section includes the power to acquire new rights over land, unless the land forms part of a common, open space or allotment.

(5) The Acquisition of Land Act 1981 (c. 67) applies to a compulsory acquisition under this section.

(6) Where a draft of a compulsory purchase order authorising the acquisition of land under this section is prepared by the Welsh Ministers in accordance with Schedule 1 to that Act, they may disregard an objection to the draft order if they consider that it amounts in substance to an objection to a policy in the development plan specifically relating to the development or use of that or any other land.

(7) In Part 1 of the Compulsory Purchase Act 1965 (c. 56) as it applies to the acquisition of land under this section, references to the execution of the works include the erection of buildings on the land, or the construction or carrying out of works on it, on behalf of the Welsh Ministers for the purposes for which the land was acquired.

(8) In subsection (1) "the public service" includes the service in the United Kingdom of—

(a) the government of the United Kingdom;

(b) an international organisation (whether or not the United Kingdom is or is to become a member);

(c) an office or agency established by or for the purposes of an international organisation, or established under an international agreement (whether or not the United Kingdom is or is to become a party);

(d) a State other than the United Kingdom.

272 Disposal of land acquired under section 271

(1) The Welsh Ministers may dispose of land they hold that was acquired under section 271.

(2) They may, in particular, dispose of the land in order to secure its use for any purpose for which they hold it.

(3) They may dispose of the land to any person, in any way, and subject to any conditions, that they consider appropriate.

Ending of certain rights on compulsory acquisition of land

273 Ending of rights relating to land acquired compulsorily under this Part

(1) On the completion of a compulsory acquisition of land under section 263 or 271—

(a) all private rights of way over the land are extinguished,

(b) all rights to install, keep or maintain apparatus on the land are extinguished, and

(c) the acquiring authority becomes entitled to any apparatus on the land.

(2) Subsection (1) does not apply to—

(a) any right to which a statutory undertaker is entitled, or any apparatus belonging to a statutory undertaker, for the purpose of carrying on its undertaking (but see sections 314 and 315),

(b) any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network, or any electronic communications apparatus installed for the purposes of such a network (but see sections 314 and 315), or

(c) any right or apparatus specified by the acquiring authority in a direction given before the completion of the acquisition.

(3) Subsection (1) is subject to any agreement (whether made before or after the completion of the acquisition) between the acquiring authority and the person who is entitled to the right or to whom the apparatus belongs.

(4) Any person who suffers loss by the extinguishment of a right or the transfer of apparatus under this section is entitled to be paid compensation by the acquiring authority.

(5) Compensation under this section is to be determined in accordance with the Land Compensation Act 1961 (c. 33).

Removal of restrictions on use of open spaces, burial grounds etc.

274 Meaning of "relevant acquisition" and "relevant appropriation"

(1) For the purposes of sections 275 to 277, a "relevant acquisition" takes place where—

(a) a local authority or the Welsh Ministers—

(i) acquire land under this Part or Part 11 or under Chapter 5 of Part 3 of the Historic Environment Act, or

(ii) acquire land in Wales compulsorily under any other enactment;

(b) an English local authority or a government department other than the Welsh Ministers acquires land in Wales compulsorily under any enactment other than Part 9 or 10 of the Town and Country Planning Act 1990 (c. 8) or Chapter 5 of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

(c) a statutory undertaker acquires land in Wales compulsorily under any enactment.

(2) For the purposes of sections 275 to 277, a "relevant appropriation" takes place where land is appropriated by a local authority for planning purposes.

(3) For the application of sections 275 to 277 to certain other land, see—

(a) section 54 of the Civil Aviation Act 1982 (c. 16) (land acquired by agreement by the Secretary of State, the Civil Aviation Authority or an air traffic licensee);

(b) section 59(6) of the Airports Act 1986 (c. 31) (land acquired by agreement by a relevant airport operator);

(c) paragraph 3 of Schedule 4 to the Communications Act 2003 (c. 21) (land acquired compulsorily by an electronic communications code operator);

(d) paragraph 86A of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (land held by an NHS foundation trust);

(e) section 159(7) of the National Health Service (Wales) Act 2006 (c. 42) (land held by the Welsh Ministers for the purposes of the health service) and paragraph 32 of Schedule 3 to that Act (land held by an NHS trust);

(f) section 211(8) of the National Health Service Act 2006 (c. 41) (land in Wales held by the Secretary of State for the purposes of the health service in England) and paragraph 32 of Schedule 4 to that Act (land in Wales held by an NHS trust in England).

(4) In subsection (1)—

(a) "English local authority" means—

(i) a local authority, within the meaning given by section 336(1) of the Town and Country Planning Act 1990, for an area in England, or

(ii) a National Park authority for a National Park in England;

(b) "statutory undertaker" includes an electricity licensee only if the licensee is entitled to exercise a power conferred by Schedule 3 to the Electricity Act 1989 (c. 29) (compulsory acquisition of land by licensees).

275 Development and use of commons, open spaces and allotments

(1) Where there has been a relevant acquisition or relevant appropriation of land that is or forms part of a common, open space or allotment—

(a) if the land has been acquired by a government department, it may be developed or used by the department in any way for any purpose for which it was acquired;

(b) in any other case, it may be developed or used by any person in any way.

(2) Subsection (1) applies despite anything in—

(a) any enactment relating to commons, open spaces or allotments, or

(b) any enactment specifically regulating the land concerned.

(3) This section does not authorise—

(a) a breach of planning control,

(b) any act or omission that is actionable by any person on any grounds other than contravention of an enactment mentioned in subsection (2), or

(c) any act or omission on the part of a body corporate in contravention of any limitation imposed by law on its capacity by virtue of its constitution.

(4) In relation to land in England, the reference to a breach of planning control in subsection (3)(a) means a breach of planning control within the meaning given by section 171A of the Town and Country Planning Act 1990 (c. 8).

276 Development and use of burial grounds

(1) Where there has been a relevant acquisition or relevant appropriation of land that is or forms part of a burial ground—

(a) if the land has been acquired by a government department, it may be developed or used by the department in any way for any purpose for which it was acquired;

(b) in any other case, it may be developed or used by any person in any way.

(2) Subsection (1) applies despite—

(a) anything in any enactment relating to burial grounds, and

(b) any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.

(3) Subsection (1) does not apply to land that has been used for the burial of the dead until the requirements imposed by regulations in relation to—

(a) the removal and reinterment of human remains, and

(b) the disposal of monuments,

have been complied with.

(4) This section does not authorise—

(a) a breach of planning control,

(b) any act or omission that is actionable by any person on any grounds other than contravention of an enactment, obligation or restriction mentioned in subsection (2), or

(c) any act or omission on the part of a body corporate in contravention of any limitation imposed by law on its capacity by virtue of its constitution.

(5) In relation to land in England, the reference to a breach of planning control in subsection (4)(a) means a breach of planning control within the meaning given by section 171A of the Town and Country Planning Act 1990 (c. 8).

277 Development and use of land connected to religious worship other than burial grounds

(1) Where there has been a relevant acquisition or relevant appropriation of land connected to religious worship—

(a) if the land has been acquired by a government department, it may be developed or used by the department in any way for any purpose for which it was acquired;

(b) in any other case, the land may be developed or used by any person in any way.

(2) In this section "land connected to religious worship" means—

(a) consecrated land, and

(b) other land that at the time of its acquisition or appropriation included—

(i) a church or other building used or previously used for religious worship, or

(ii) the site of such a church or other building,

but does not include land that is or forms part of a burial ground.

(3) Land connected to religious worship may be developed or used in accordance with subsection (1) despite any obligation or restriction relating to the development or use of such land (whether imposed under ecclesiastical law or otherwise).

(4) Any development or use of land authorised by subsection (1) is subject to—

(a) compliance with any requirements imposed by regulations in relation to—

(i) the removal and reinterment of human remains, and

(ii) the disposal of monuments, fixtures and furnishings;

(b) any provision made by regulations prohibiting or restricting the development or use of the land while—

(i) any church or other building used or previously used for religious worship remains on the land, or

(ii) any part of such a church or other building remains on the land.

(5) Regulations that impose a prohibition or restriction under subsection (4)(b) may provide that it does not apply if consent has been obtained in accordance with the regulations.

(6) This section does not authorise—

(a) a breach of planning control,

(b) any act or omission that is actionable by any person on any grounds other than contravention of an obligation or restriction mentioned in subsection (3), or

(c) any act or omission on the part of a body corporate in contravention of any limitation imposed by law on its capacity by virtue of its constitution.

(7) In relation to land in England, the reference to a breach of planning control in subsection (6)(a) means a breach of planning control within the meaning given by section 171A of the Town and Country Planning Act 1990 (c. 8).

278 Further provision about regulations under sections 276 and 277

(1) Regulations under section 277—

(a) must make such provision as the Welsh Ministers consider necessary to ensure that any development or use of land to which the regulations apply is, so far as possible, subject to the same control—

(i) as is imposed by law in relation to any similar development or use authorised either by an enactment other than this Act or by a Church of England Measure, or

(ii) as it would be proper to impose on a disposal of the land otherwise than under an enactment or Church of England Measure;

(b) must impose such requirements in relation to the disposal of the land as the Welsh Ministers consider necessary to ensure that section 277 is complied with in relation to the development or use of the land.

(2) Regulations under section 277 that contain incidental or consequential provision by virtue of section 407(3)(b) may, in particular, include provision about the closing of registers.

(3) Subsections (4) to (8) apply to regulations under sections 276 and 277 about the removal and reinterment of human remains and the disposal of monuments.

(4) The regulations must require the person entitled to the land to publish notice of the person's intention to carry out the removal and reinterment of any human remains or the disposal of any monuments.

(5) The regulations must make provision—

(a) enabling the personal representatives or relatives of a deceased person to carry out—

(i) the removal and reinterment of the remains of the deceased, and

(ii) the disposal of any monument commemorating the deceased, and

(b) requiring the person entitled to the land to meet the expenses of the personal representatives or relatives in doing so (up to the amount, if any, specified in the regulations).

(6) The regulations must require compliance—

(a) in the case of consecrated land, with the reasonable conditions (if any) imposed by the bishop of the diocese in relation to—

(i) how any human remains are to be removed,

(ii) how and where any human remains are to be reinterred, and

(iii) the disposal of any monuments;

(b) in any case, with any directions given by the Welsh Ministers in relation to the removal and reinterment of any human remains.

(7) No faculty is required for—

(a) the removal and reinterment of any human remains in accordance with the regulations, or

(b) the removal or disposal of any monuments in accordance with the regulations,

but this is subject to any provision to the contrary made by the regulations.

(8) Section 25 of the Burial Act 1857 (c. 81) (prohibition of removal of human remains without the licence of the Secretary of State except in certain cases) does not apply to the removal of human remains in accordance with the regulations.

General

279 Interpretation of this Part

(1) In this Part—

(a) a reference to the acquisition of land for planning purposes is to its acquisition under section 262 or 263, or under section 136 of the Historic Environment Act;

(b) a reference to the appropriation of land for planning purposes is to its appropriation for purposes for which land can be (or could have been) acquired under those sections.

(2) In this Part—

"allotment" ("*rhandir*") means an allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act;

"common" ("*tir comin*") includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green;

"monument" ("*heneb*") includes a tombstone or other memorial;

"relevant local authority" ("*awdurdod lleol perthnasol*") has the meaning given by section 262(8).

PART 11

HIGHWAYS

CHAPTER 1

HIGHWAYS AFFECTED BY DEVELOPMENT

Stopping up and diversion of highways: powers of the Welsh Ministers

280 Stopping up or diversion of highway to enable development

(1) The Welsh Ministers may by order authorise the stopping up or diversion of any highway if they are satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission that has been granted under this Act.

(2) An order under this section may authorise the stopping up or diversion of a highway that is temporarily stopped up or diverted under any other enactment.

(3) Part 1 of Schedule 17 makes provision about the procedure to be followed in connection with making orders under this section (including provision for the publication of notice of a proposed order and for the consideration of objections).

281 Stopping up or diversion of highway crossing or entering route of new highway

(1) This section applies where—

(a) planning permission is granted under this Act for the construction or improvement of a highway ("the main highway"), and

(b) another highway crosses or enters the route of the main highway or is, or will be, otherwise affected by the construction or improvement of the main highway.

(2) The Welsh Ministers may by order authorise the stopping up or diversion of the other highway—

(a) in the interests of the safety of users of the main highway, or

(b) to facilitate the movement of traffic on the main highway.

(3) An order under this section may authorise the stopping up or diversion of a highway that is temporarily stopped up or diverted under any other enactment.

(4) Part 1 of Schedule 17 makes provision about the procedure to be followed in connection with making orders under this section (including provision for the publication of notice of a proposed order and for the consideration of objections).

282 Procedure before grant of planning permission

(1) This section applies where—

(a) either of the conditions set out in subsections (4) and (5) (which relate to taking steps to obtain planning permission) is met in relation to any development, and

(b) the Welsh Ministers would, if planning permission had been granted for the development, have the power to make an order under section 280 or 281 to enable the development to be carried out.

(2) The Welsh Ministers may publish notice under Part 1 of Schedule 17 that they propose to make an order under section 280 or 281 (as the case may be), even though planning permission has not been granted for the development.

(3) But nothing in this section or Part 1 of Schedule 17 authorises the Welsh Ministers to make the order until planning permission is granted for the development.

(4) The first condition is that an application has been made for planning permission for the development and any of the following applies—

(a) the application was made by a government department, local authority, statutory undertaker or strategic highways company,

(b) the application has been referred to the Welsh Ministers under section 72,

(c) the applicant has appealed to the Welsh Ministers under section 73, or

(d) the application was made to the Welsh Ministers under section 78 (option to make application to the Welsh Ministers) or section 80 (connected applications).

(5) The second condition is that—

(a) the development is to be carried out by a local authority or statutory undertaker,

(b) by virtue of an enactment the development requires the authorisation of a government department, and

(c) the authority or undertaker has—

(i) made an application to the department for the authorisation, and

(ii) requested a direction under section 87 granting planning permission for the development.

283 Further provision about orders under sections 280 and 281

(1) An order under section 280 or 281 may provide for the creation or improvement of any highway other than the highway that is to be stopped up or diverted under the order.

(2) An order under section 280 may make provision of the kinds mentioned in subsection (4) in relation to a highway that is to be created or improved under the order.

(3) An order under section 281 may make provision of those kinds in relation to—

(a) the main highway;

(b) any other highway that is to be created or improved under the order.

(4) The kinds of provision are—

(a) provision for the highway to be a highway maintainable at the public expense for the purposes of the Highways Act;

(b) provision for the Welsh Ministers, the Secretary of State, a county council, a county borough council or a strategic highways company to be the highway authority for the highway;

(c) if the order provides for the Welsh Ministers, the Secretary of State or a strategic highways company to be the highway authority, provision that the highway is to become a trunk road on a date specified in the order.

(5) An order under section 280 or 281 may contain incidental and consequential provisions, including in particular—

(a) provision authorising the Welsh Ministers or the Secretary of State, or requiring any other person, to pay or contribute towards any costs incurred in or in connection with carrying out any works for which the order provides;

(b) provision for the preservation of any rights of a statutory undertaker in respect of any of its apparatus that is on the highway to which the order relates immediately before the day the order is made.

(6) The powers conferred on the Welsh Ministers by sections 280 and 281 do not limit—

(a) any power to authorise the stopping up or diversion of a highway conferred on them by any other enactment;

(b) the powers to extinguish public rights of way conferred on them by Part 6 of the Acquisition of Land Act 1981 (c. 67) or section 297 of this Act.

284 Orders under section 281: stopping up of private means of access

(1) An order under section 281 may authorise the highway authority for the main highway—

(a) to stop up any private means of access to land that—

(i) adjoins or is adjacent to the route of the main highway, or

(ii) forms the site of any works authorised by the order or by a previous order under section 281;

(b) to provide a new means of access to the land.

(2) An order may authorise the stopping up of a means of access to land only if the Welsh Ministers are satisfied that—

(a) another reasonably convenient means of access to the land is available,

(b) such a means of access to the land will be provided, whether in pursuance of provision made under subsection (1)(b) or otherwise, or

(c) no access to the land is reasonably required.

(3) In determining whether another means of access to the land is or will be reasonably convenient, the Welsh Ministers must have regard to—

(a) the need (if any) for a means of access to different places on the land, and

(b) any roads, paths or other ways on that land or any other land that are or will be capable of providing such a means of access.

(4) Where an order authorises a highway authority to stop up a private means of access, the authority may do so in any way that it considers appropriate.

(5) A person who uses a means of access that has been stopped up in pursuance of provision made under this section commits an offence unless the person is exercising a public right of way.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this section and section 285, references to providing a new means of access to any land include providing a road, path or other way on that land or any other land.

285 Compensation where private means of access is stopped up

(1) This section applies where a highway authority stops up a means of access to land in pursuance of provision made under section 284.

(2) Any person is entitled, on making a claim to the highway authority, to be paid compensation by the authority for any damage suffered by the person in consequence of the stopping up—

(a) by depreciation of the value of an interest to which the person is entitled in the land, or

(b) by being disturbed in the enjoyment of the land.

(3) A claim for compensation under this section must be made in writing within 12 months beginning with the day the order under section 281 comes into force.

(4) In determining the amount of compensation payable under this section, regard must be had to any new means of access to the claimant's land provided by the highway authority.

(5) A person who is entitled to compensation in respect of any matter under this section is not entitled to compensation in respect of the same matter under any other enactment.

Pedestrianisation of highways: powers of the Welsh Ministers

286 Pedestrianisation of highway to improve amenity

(1) This section applies where—

(a) a planning authority by resolution adopts a proposal for improving the amenity of part of its area, and

(b) the proposal involves the public ceasing to have any right of way with vehicles over a highway in the authority's area that is not a trunk road or a principal road.

(2) On an application by the planning authority, the Welsh Ministers may by order extinguish all rights to use vehicles on the highway.

(3) Before making the application, the planning authority must consult the highway authority for the highway (if the highway authority is not the planning authority).

(4) An order under this section may permit the use on the highway of vehicles (whether mechanically propelled or not) in cases specified in the order, despite the extinguishment of any right mentioned in subsection (2).

(5) Before making an order that includes provision under subsection (4), the Welsh Ministers must consult—

(a) the planning authority, and

(b) the highway authority for the highway (if the highway authority is not the planning authority or the Welsh Ministers).

(6) Provision under subsection (4) may be framed by reference to—

(a) particular descriptions of vehicles,

(b) particular persons by whom, or on whose authority, vehicles may be used, or

(c) circumstances in which, or times at which, vehicles may be used for particular purposes.

(7) No statutory provision prohibiting or restricting the use of footpaths, footways or bridleways applies to any use of a vehicle that is permitted by provision under subsection (4).

(8) See Part 7A of the Highways Act (provision of amenities on certain highways) for powers that a county council or county borough council may exercise in relation to a highway where an order under this section is in force.

(9) In this section—

"principal road" ("*prif ffordd*") is to be interpreted in accordance with section 12 of the Highways Act;

"statutory provision" ("*darpariaeth statudol*") means a provision contained in, or having effect under, an enactment.

287 Revocation of order for pedestrianisation of highway

(1) On an application by a planning authority, the Welsh Ministers may by order revoke an order under section 286 that applies to a highway in the authority's area.

(2) Before making the application, the planning authority must consult the highway authority for the highway (if the highway authority is not the planning authority).

(3) If an order under section 286 is revoked, all rights to use vehicles on the highway that were extinguished by the order are reinstated.

(4) An order under this section may require the removal of any obstruction of a highway resulting from the exercise of powers under Part 7A of the Highways Act.

288 Further provision about orders under sections 286 and 287

(1) An order made under section 286 or 287 in relation to a highway may provide for the creation or improvement of any other highway.

(2) If the order provides for the creation or improvement of another highway, it may also—

(a) provide for that highway to be a highway maintainable at the public expense for the purposes of the Highways Act;

(b) provide for the Welsh Ministers, the Secretary of State, a county council, a county borough council or a strategic highways company to be the highway authority for the highway;

(c) if it provides for the Welsh Ministers, the Secretary of State or a strategic highways company to be the highway authority, provide that the highway is to become a trunk road on a date specified in the order.

(3) An order under section 286 or 287 may contain incidental and consequential provisions, including in particular—

(a) provision authorising the Welsh Ministers or the Secretary of State, or requiring any other person, to pay or contribute towards any costs incurred in or in connection with carrying out any works for which the order provides;

(b) provision for the preservation of any rights of a statutory undertaker in respect of any of its apparatus that is on the highway to which the order relates immediately before the day the order is made.

(4) Part 1 of Schedule 17 makes provision about the procedure to be followed in connection with making orders under sections 286 and 287 (including provision for the publication of notice of a proposed order and for the consideration of objections).

(5) The powers conferred on the Welsh Ministers by those sections do not limit—

(a) any power to authorise the stopping up or diversion of a highway conferred on them by any other enactment;

(b) the powers to extinguish public rights of way conferred on them by Part 6 of the Acquisition of Land Act 1981 (c. 67) or section 297 of this Act.

289 Compensation where highway is pedestrianised

(1) This section applies where—

(a) an order under section 286 extinguishes any right to use vehicles on a highway, and

(b) at the time when the order comes into force, a person has an interest in land that has lawful access to the highway.

(2) The person is entitled, on making a claim to the planning authority that applied for the order, to be paid compensation by the authority for—

(a) any depreciation of the value of the person's interest that is directly attributable to the order, and

(b) any other loss or damage suffered by the person that is directly attributable to the order.

(3) A claim for compensation under this section must be made in writing within 12 months beginning with the day the order under section 286 comes into force.

Further powers where orders are made by the Welsh Ministers

290 Compulsory acquisition of land in connection with order

(1) The Welsh Ministers may—

(a) acquire any land compulsorily, or

(b) authorise a local highway authority or strategic highways company to acquire any land compulsorily,

for a purpose mentioned in subsection (2).

(2) The purposes are—

(a) creating or improving a highway in pursuance of provision made by an order under section 280, 281, 286 or 287;

(b) any other purpose for which land is required in connection with such an order.

(3) The Acquisition of Land Act 1981 (c. 67) applies to an acquisition under this section.

(4) Regulations may make provision enabling any proceedings relating to the acquisition of land under this section to be taken concurrently with any proceedings relating to the order.

291 Ending of rights of statutory undertakers and network operators

(1) In relation to a highway that is stopped up or diverted in pursuance of an order under section 280 or 281, sections 314 and 315 and Part 1 of Schedule 18 (ending rights of statutory undertakers and electronic communications code network operators) apply as if—

(a) references to land of which there has been a relevant acquisition were references to the land over which the highway subsisted;

(b) references to the authority that acquired or appropriated the land were references to the person entitled to possession of the land;

(c) references in section 315(3) and paragraph 1(3)(c) of Schedule 18 to a local authority or statutory undertaker included any person (other than a government department) who is entitled to possession of that land.

(2) Subsection (1) does not apply in relation to land forming the site of a highway in respect of which opencast planning permission (within the meaning given by section 51 of the Opencast Coal Act 1958 (c. 69)) has been granted.

292 Electronic communications apparatus affected by order

(1) Subsections (2) and (3) apply where—

(a) a highway is stopped up or diverted in pursuance of an order under section 280 or 281, or any right to use vehicles on a highway is extinguished by an order under section 286, and

(b) immediately before the day the order came into force, there was electronic communications apparatus installed on the highway for the purposes of an electronic communications code network.

(2) The operator of the network has the same powers in relation to the apparatus as if the order had not come into force.

(3) But any person entitled to land over which the highway or right subsisted is entitled to require the apparatus to be altered.

(4) Subsections (5) and (6) apply where—

(a) an order under section 280, 281, 286 or 287 provides for the improvement of a highway for which the Welsh Ministers are not, and the Secretary of State is not, the highway authority, and

(b) immediately before the day the order came into force, there was electronic communications apparatus installed on the highway for the purposes of an electronic communications code network.

(5) The highway authority for the highway is entitled to require the apparatus to be altered.

(6) Subsection (5) does not entitle the highway authority to require any apparatus to be altered for the purpose of major highway works, major bridge works or major transport works within the meaning of Part 3 of the New Roads and Street Works Act 1991 (c. 22).

(7) In this section references to altering apparatus include moving, removing and replacing it.

(8) Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus) applies in relation to any entitlement under this section to require the alteration, moving or replacement of electronic communications apparatus as it applies in relation to an entitlement to require the removal of such apparatus.

Stopping up or diversion of public paths: powers of planning authorities

293 Stopping up or diversion of public path to enable development

(1) A planning authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so to enable development to be carried out in its area in accordance with planning permission that has been granted under this Act.

(2) A planning authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if it is satisfied that—

(a) an application has been made for planning permission to develop land in its area, and

(b) if the permission were granted, it would be necessary to authorise the stopping up or diversion to enable the development to be carried out.

(3) An order under this section may authorise the stopping up or diversion of a footpath, bridleway or restricted byway that is temporarily stopped up or diverted under any other enactment.

(4) An order under this section may—

(a) provide for the creation of an alternative highway, or the improvement of an existing highway, as a replacement for the highway that is to be stopped up or diverted;

(b) authorise or require works to be carried out in relation to any footpath, bridleway or restricted byway that is to be stopped up or diverted, created or improved under the order;

(c) provide for the preservation of any rights of a statutory undertaker in respect of any of its apparatus that is on any such footpath, bridleway or restricted byway immediately before the day the order is made;

(d) require any person to pay or contribute towards the costs of carrying out any works for which the order provides.

294 Confirmation of order made by planning authority

(1) An order made under section 293 does not take effect unless it is—

(a) confirmed by the Welsh Ministers, or

(b) confirmed as an unopposed order by the planning authority that made it.

(2) The Welsh Ministers may not confirm an order under section 293(1) unless they are satisfied of the matters mentioned in that subsection.

(3) The Welsh Ministers or the planning authority may not confirm an order under section 293(2) unless satisfied that—

(a) planning permission has been granted for the development in question, and

(b) it is necessary to authorise the stopping up or diversion to enable the development to be carried out in accordance with the permission.

(4) The date specified in an order as the date on which a footpath, bridleway or restricted byway is to be stopped up or diverted may not be earlier than the day the order is confirmed.

(5) Part 2 of Schedule 17 makes provision about the procedure to be followed in connection with the confirmation of orders under section 293.

295 Electronic communications apparatus affected by order

(1) This section applies where—

(a) a planning authority makes an order under section 293 that authorises the stopping up or diversion of a footpath, bridleway or restricted byway over any land, and

(b) at the time when the authority published the notice required by paragraph 10 of Schedule 17, there was electronic communications apparatus installed on the land for the purposes of an electronic communications code network.

(2) As soon as reasonably practicable after making the order, the planning authority must give notice that it has done so to the operator of the network.

(3) Despite the making of the order, the operator may exercise its power to remove the electronic communications apparatus at any time before the end of the removal period.

(4) If the operator gives notice to the planning authority before the end of the removal period stating its intention to remove the apparatus or any part of it, the operator may exercise its right to remove the apparatus or that part of it after the end of the removal period.

(5) The operator of the network may abandon the electronic communications apparatus or any part of it by giving notice to the authority before the end of the removal period.

(6) The operator is to be treated at the end of the removal period as having abandoned any part of the apparatus that it has not abandoned, removed or given notice of its intention to remove.

(7) Where any electronic communications apparatus is removed or abandoned under this section, the operator may recover from the planning authority the cost of providing any electronic communications apparatus in another place in substitution for—

(a) the apparatus that has been removed or abandoned, and

(b) any other electronic communications apparatus connected with it that becomes useless as a result of the removal or abandonment.

(8) On the abandonment of any electronic communications apparatus under this section—

(a) the planning authority becomes entitled to the apparatus, and

(b) the apparatus is to be treated as no longer being installed for the purposes of an electronic communications code network.

(9) In this section "the removal period" means 3 months beginning with the day after the day the footpath, bridleway or restricted byway is authorised to be stopped up or diverted.

Mineral working: temporary orders

296 Temporary stopping up or diversion for surface working of minerals

(1) Subsection (2) applies where the Welsh Ministers are satisfied—

(a) that it is necessary to make an order under section 280 authorising the stopping up or diversion of a highway to enable minerals to be worked by surface working, and

(b) that the highway can be restored to a condition not substantially less convenient to the public after the minerals have been worked.

(2) The order may provide for the highway to be—

(a) stopped up or diverted for a period specified by or under the order, and

(b) restored at the end of that period.

(3) Subsection (4) applies where a planning authority is satisfied—

(a) that it is necessary to make an order under section 293 authorising the stopping up or diversion of a footpath, bridleway or restricted byway to enable minerals to be worked by surface working, and

(b) that the footpath, bridleway or restricted byway can be restored to a condition not substantially less convenient to the public after the minerals have been worked.

(4) The order may provide for the footpath, bridleway or restricted byway to be—

(a) stopped up or diverted for a period specified by or under the order, and

(b) restored at the end of that period.

(5) An order made by virtue of this section may contain provision—

(a) for a person who would otherwise be subject to any liability in respect of the repair of the original highway during the period specified by or under the order to be subject to a corresponding liability in respect of the repair of any highway provided in pursuance of the order;

(b) for the stopping up at the end of that period of any highway provided in pursuance of the order and for the reconstruction and maintenance of the original highway.

(6) Where an order made by virtue of this section contains provision under section 283(5)(a) or 293(4)(d) requiring payment to be made in respect of any costs, that provision may provide for the payment of a capital sum in respect of the estimated amount of those costs.

CHAPTER 2

ENDING RIGHTS OF WAY OVER LAND HELD FOR PLANNING PURPOSES

Powers of the Welsh Ministers

297 Power of the Welsh Ministers to end right of way over land held for planning purposes

(1) This section applies where a local authority—

(a) has acquired or appropriated any land for planning purposes (within the meaning given by section 279), and

(b) holds the land for the purposes for which it was acquired or appropriated.

(2) The Welsh Ministers may by order extinguish any public right of way over the land if they are satisfied that—

(a) an alternative right of way has been or will be provided, or

(b) an alternative right of way is not required.

(3) Part 1 of Schedule 17 makes provision about the procedure to be followed in connection with making orders under this section (including provision for the publication of notice of a proposed order and for the consideration of objections).

298 Compulsory acquisition of land to provide alternative right of way

(1) The Welsh Ministers may—

(a) acquire any land compulsorily, or

(b) authorise a local highway authority or strategic highways company to acquire any land compulsorily,

for the purpose of providing a public right of way as an alternative to a right of way extinguished by an order under section 297.

(2) The Acquisition of Land Act 1981 (c. 67) applies to an acquisition under this section.

299 Concurrent proceedings relating to orders and acquisitions

Regulations may make provision enabling—

(a) any proceedings relating to an order under section 297 to be taken concurrently with any proceedings relating to the acquisition for planning purposes of the land over which the right of way is to be extinguished;

(b) any proceedings relating to the acquisition of any other land under section 298 to be taken concurrently with either or both of the proceedings referred to in paragraph (a).

Powers of local authorities

300 Power of local authority to end right of way over public path on land held for planning purposes

(1) This section applies where a local authority—

(a) has acquired or appropriated any land for planning purposes (within the meaning given by section 279), and

(b) holds the land for the purposes for which it was acquired or appropriated.

(2) The authority may by order extinguish any public right of way over a footpath, bridleway or restricted byway over the land, if it is satisfied that—

(a) an alternative right of way has been or will be provided, or

(b) an alternative right of way is not required.

(3) An order made under this section does not take effect unless it is—

(a) confirmed by the Welsh Ministers, or

(b) confirmed as an unopposed order by the local authority that made it.

(4) The Welsh Ministers may not confirm an order unless they are satisfied of the matters mentioned in subsection (2)(a) or (b).

(5) The date specified in an order as the date on which a right of way is to be extinguished may not be earlier than the day the order is confirmed.

(6) Part 2 of Schedule 17 makes provision about the procedure to be followed in connection with the confirmation of orders under this section.

Electronic communications apparatus

301 Electronic communications apparatus affected by order

(1) This section applies where—

(a) on the application of a local authority, the Welsh Ministers make an order under section 297 that extinguishes a public right of way over any land, and

(b) at the time when the Welsh Ministers published the notice required by paragraph 2 of Schedule 17, there was electronic communications apparatus installed on the land for the purposes of an electronic communications code network.

(2) This section also applies where—

(a) a local authority makes an order under section 300 that extinguishes a public right of way over any land, and

(b) at the time when the authority published the notice required by paragraph 10 of Schedule 17, there was electronic communications apparatus installed on the land for the purposes of an electronic communications code network.

(3) As soon as reasonably practicable after making the order mentioned in subsection (1) or (2), the person who made the order must give notice that it has done so to the operator of the network.

(4) Despite the making of the order, the operator may exercise its power to remove the electronic communications apparatus at any time before the end of the removal period.

(5) If the operator gives notice to the local authority before the end of the removal period stating its intention to remove the apparatus or any part of it, the operator may exercise its right to remove the apparatus or that part of it after the end of the removal period.

(6) The operator of the network may abandon the electronic communications apparatus or any part of it by giving notice to the authority before the end of the removal period.

(7) The operator is to be treated at the end of the removal period as having abandoned any part of the apparatus that it has not abandoned, removed or given notice of its intention to remove.

(8) Where any electronic communications apparatus is removed or abandoned under this section, the operator may recover from the local authority the cost of providing any electronic communications apparatus in another place in substitution for—

(a) the apparatus that has been removed or abandoned, and

(b) any other electronic communications apparatus connected with it that becomes useless as a result of the removal or abandonment.

(9) On the abandonment of any electronic communications apparatus under this section—

(a) the local authority becomes entitled to the apparatus, and

(b) the apparatus is to be treated as no longer being installed for the purposes of an electronic communications code network.

(10) In this section "the removal period" means 3 months beginning with the day after the day the right of way is extinguished.

CHAPTER 3

GENERAL

302 Interpretation of this Part

(1) In this Part—

"bridleway" ("*llwybr ceffylau*") has the same meaning as in the Highways Act (see section 329(1) and (2) of that Act);

"footpath" ("*llwybr troed*") has the same meaning as in the Highways Act (see section 329(1) and (2) of that Act);

"the main highway" ("*y brif briffordd*") has the meaning given by section 281(1)(a);

"restricted byway" ("*cilffordd gyfyngedig*") has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000 (c. 37) (see section 48(4) and (5) of that Act);

"trunk road" ("*cefnffordd*") has the same meaning as in the Highways Act (see section 329(1) of that Act).

(2) In this Part references to a statutory undertaker—

(a) do not include a universal postal service provider;

(b) except in section 282, include an electricity licensee only if the licensee is entitled to exercise a power conferred by paragraph 1 of Schedule 4 to the Electricity Act 1989 (c. 29) (street works).

(3) In this Part references to apparatus on any highway or land include apparatus in, under, over, along or across the highway or land.

PART 12

STATUTORY UNDERTAKERS ETC.

Interpretation of terms relating to statutory undertakers

303 Meaning of "statutory undertaker" and "statutory undertaking"

(1) In this Act "statutory undertaker" means—

(a) a person authorised by an enactment to carry on—

(i) a railway, light railway, tramway or road transport undertaking,

(ii) a water transport, canal or inland navigation undertaking, or

(iii) a dock, harbour, pier or lighthouse undertaking;

(b) a relevant airport operator;

(c) the Civil Aviation Authority;

(d) an air traffic licensee carrying out activities authorised by the licence;

(e) a universal postal service provider in connection with the provision of a universal postal service;

(f) an electricity licensee;

(g) a gas transporter;

(h) a person authorised by an enactment to carry on an undertaking for the supply of hydraulic power;

(i) a water undertaker or sewerage undertaker;

(j) Natural Resources Wales;

(k) the Environment Agency.

(2) In this Act "statutory undertaking" means the undertaking of a statutory undertaker, but—

(a) references to the statutory undertaking of a relevant airport operator are to an airport to which Part 5 of the Airports Act 1986 (c. 31) applies;

(b) the undertaking of a person who is an air traffic licensee is a statutory undertaking only so far as it is the person's undertaking as a licensee;

(c) the undertaking of a universal postal service provider is a statutory undertaking only so far as it relates to the provision of a universal postal service.

304 Meaning of "operational land": statutory undertakers generally

(1) This section applies to a statutory undertaker other than the Civil Aviation Authority, an air traffic licensee or a universal postal service provider (for which, see sections 305 and 306).

(2) In this Act "operational land", in relation to a statutory undertaker to which this section applies, means land—

(a) that is used for the purpose of carrying on the undertaker's statutory undertaking, or

(b) in which the undertaker holds an interest for that purpose,

but does not include land which, in respect of its nature and situation, is comparable with land in general rather than with land that is used, or in which statutory undertakers hold interests, for the purpose of carrying on statutory undertakings.

(3) Where a statutory undertaker to which this section applies holds an interest in land for the purpose of carrying on its statutory undertaking, the land is not operational land unless at least one of the following conditions is met.

(4) The first condition is that a specific planning permission is in force, or has at any time been in force, for development of the land involving its use for the purpose of carrying on the statutory undertaking (see section 307).

(5) The second condition is that—

(a) the statutory undertaker held the interest in the land immediately before 6 December 1968 (the day section 69 of the Town and Country Planning Act 1968 (c. 72) came into force), and

(b) the land was at that time operational land for the purposes of the Town and Country Planning Act 1962 (c. 38).

(6) The third condition is that—

(a) the statutory undertaker acquired its interest in the land as a result of a transfer from another statutory undertaker under—

(i) Part 2 of the Airports Act 1986 (c. 31) (transfer of local authority airport undertakings to companies),

(ii) Part 2 of the Gas Act 1986 (c. 44) (transfer of undertaking of British Gas Corporation to company),

(iii) the Water Act 1989 (c. 15) or the Water Industry Act 1991 (c. 56) (transfers involving water undertakers, sewerage undertakers etc.), or

(iv) in the case of land held by Canal & River Trust, Part 1 of the Public Bodies Act 2011 (c. 24) (transfer of undertaking of British Waterways Board), and

(b) immediately before the transfer the land was operational land of the other statutory undertaker.

(7) If a question arises under this Act about whether land of a statutory undertaker to which this section applies is operational land, the question is to be determined by the appropriate Minister.

305 Meaning of "operational land": Civil Aviation Authority and air traffic licensees

(1) In this Act "operational land", in relation to the Civil Aviation Authority, means land—

(a) that the Authority uses for the purpose of operating an aerodrome (within the meaning given by section 105(1) of the Civil Aviation Act 1982 (c. 16)) or for any purpose ancillary to the use of the land for that purpose,

(b) that the Authority uses for the purpose of providing facilities for—

(i) the control of air traffic, or

(ii) assisting the navigation of aircraft, or

(c) in which the Authority holds an interest for any of the purposes mentioned in paragraph (a) or (b).

(2) Regulations may amend subsection (1) to add, modify or remove a description of land.

(3) Regulations under subsection (2) may specify a description of land by reference to any circumstances whatsoever.

(4) In this Act "operational land", in relation to an air traffic licensee, means land—

(a) that the licensee, or a company associated with it, uses for the purpose of carrying out activities authorised by the licence, or

(b) in which the licensee, or a company associated with it, holds an interest for that purpose.

(5) If a question arises under this Act about whether land of an air traffic licensee is operational land, the question is to be determined by the Secretary of State.

306 Meaning of "operational land": universal postal service providers

(1) In this Act "operational land", in relation to a universal postal service provider, means land—

(a) that the provider uses for the purpose of operating a sorting office or delivery office in connection with the provision of a universal postal service, or

(b) in which the provider holds an interest for that purpose.

(2) Where a universal postal service provider holds an interest in land for a purpose specified in subsection (1), the land is not operational land unless—

(a) a specific planning permission is in force, or has at any time been in force, for development of the land involving its use for that purpose (see section 307), or

(b) the provider acquired its interest in the land as a result of a transfer from the Post Office under the Postal Services Act 2000 (c. 26) and immediately before the transfer the land was operational land of the Post Office for the purposes of the Town and Country Planning Act 1990 (c. 8).

(3) Regulations may amend subsection (1) to add, modify or remove a description of land.

(4) The regulations may amend subsection (1) so that it specifies any description of land—

(a) that a universal postal service provider, or a company associated with it, uses for any purpose in connection with the provision of a universal postal service, or

(b) in which the provider, or a company associated with it, holds an interest for any such purpose.

(5) Regulations under this section may specify a description of land by reference to any circumstances whatsoever.

307 Meaning of "operational land": supplementary provision

(1) In sections 304 and 306 "specific planning permission" means planning permission—

(a) granted by a development order where the development—

(i) is specifically described in the order, or

(ii) has been specifically approved by Senedd Cymru or the Parliament of the United Kingdom,

(b) granted by a local development order,

(c) granted on an application under this Act,

(d) granted by a direction under section 87 (authorisation of development by government department), or

(e) granted on the determination of an appeal against an enforcement notice under section 133.

(2) In subsection (1)(a)(ii) the reference to development that has been specifically approved by Senedd Cymru or the Parliament of the United Kingdom is a reference to development authorised by—

(a) an Act of Senedd Cymru or an Act of the Parliament of the United Kingdom,

(b) an instrument approved by Senedd Cymru or by both Houses of Parliament, or

(c) an instrument that has come into operation having been subject to special Senedd procedure or special parliamentary procedure,

where the Act or instrument specifically identifies both the nature of the development and the land on which it may be carried out.

308 Meaning of "the appropriate Minister" etc.

(1) In this Act "the appropriate Minister" means—

(a) the Welsh Ministers in relation to—

(i) a person carrying on a railway, light railway, tramway or road transport undertaking;

(ii) a person carrying on a dock, harbour, pier or lighthouse undertaking, other than a harbour undertaking where the harbour is a reserved trust port or a cross-border harbour;

(iii) a relevant airport operator, the Civil Aviation Authority or an air traffic licensee;

(iv) a water undertaker, a sewerage undertaker or Natural Resources Wales;

(b) the Secretary of State for Housing, Communities and Local Government in relation to a person carrying on a water transport, canal or inland navigation undertaking;

(c) the Secretary of State for Transport in relation to a person carrying on a harbour undertaking where the harbour is a reserved trust port or a cross-border harbour;

(d) the Secretary of State for Business and Trade in relation to a universal postal service provider;

(e) the Secretary of State for Energy Security and Net Zero in relation to an electricity licensee, a gas transporter or a person carrying on an undertaking for the supply of hydraulic power;

(f) the Secretary of State in relation to the Environment Agency.

(2) References in this Act to the Welsh Ministers and the appropriate Minister are to be read—

(a) in cases where the Welsh Ministers are not the appropriate Minister, as references to the Welsh Ministers and the appropriate Minister acting jointly;

(b) in cases where the Welsh Ministers are the appropriate Minister, as references to the Welsh Ministers alone.

(3) References in this Act to a government department and the appropriate Minister are to be read—

(a) in cases where the government department is not the appropriate Minister, as references to the government department and the appropriate Minister acting jointly;

(b) in cases where the government department is the appropriate Minister, as references to the government department alone.

(4) If a question arises under this Act about who is or was the appropriate Minister in relation to a statutory undertaker, the question is to be determined by the Treasury.

(5) Subsection (4) does not apply in relation to the Civil Aviation Authority, an air traffic licensee or a universal postal service provider.

(6) In subsection (1)—

"cross-border harbour" ("*harbwr trawsffiniol*") has the meaning given by section 34(5) of the Wales Act 2017 (c. 4);

"reserved trust port" ("*porthladd ymddiriedolaeth a gedwir yn ôl*") has the meaning given by section 32 of the Wales Act 2017.

Development and use of land of statutory undertakers

309 Applications for planning permission by statutory undertakers

(1) Subsection (2) applies where—

(a) a statutory undertaker applies to a planning authority for operational planning permission and the application is referred to the Welsh Ministers under section 72,

(b) a statutory undertaker makes an appeal to the Welsh Ministers against a planning authority's decision on an application for operational planning permission or an appeal under section 73(3) relating to the application, or

(c) a statutory undertaker makes an appeal to the Welsh Ministers under section 131 on the ground that operational planning permission ought to be granted for the matters specified in an enforcement notice or that a condition or limitation of operational planning permission ought to be removed.

(2) The application or appeal must be dealt with by the Welsh Ministers and the appropriate Minister if either the Welsh Ministers or the appropriate Minister give a direction to that effect.

(3) A direction under subsection (2) has effect in relation to an appeal to the Welsh Ministers under section 131 only to the extent that the appeal is made on the ground mentioned in subsection (1)(c).

(4) The Welsh Ministers or (if a direction is given under subsection (2)) the Welsh Ministers and the appropriate Minister are not required to deal with an application relating to development that requires the authorisation of a government department, unless the authorisation has been granted without a direction that planning permission is granted.

(5) This Act applies to an application or appeal dealt with by the Welsh Ministers and the appropriate Minister under this section as if the application or appeal had been dealt with by the Welsh Ministers.

(6) The reference in subsection (4) to the authorisation of a government department is to be read in accordance with section 87.

(7) In this section and in sections 310 and 311, "operational planning permission" means planning permission for the development of—

(a) operational land of a statutory undertaker, or

(b) land in which a statutory undertaker holds or proposes to acquire an interest with a view to using the land for the purpose of carrying on its statutory undertaking, where the development involves using the land for that purpose.

(8) In relation to the Civil Aviation Authority, the reference in subsection (7)(b) to using land for the purpose of carrying on its undertaking is to be read as a reference to using land for a purpose specified in section 305(1).

310 Conditional grant of planning permission

Operational planning permission must not be granted subject to a condition mentioned in section 67(3)(a) (planning permission granted for a limited period) without the agreement of the statutory undertaker to whose land the permission relates.

311 Modification or revocation of planning permission

Section 102 and Schedule 7 (modification or revocation of planning permission) have effect in relation to operational planning permission granted on the application of a statutory undertaker as if—

(a) the reference to the Welsh Ministers in paragraph 1(2)(b) of Schedule 7 were a reference to the Welsh Ministers or the Welsh Ministers and the appropriate Minister, and

(b) all other references to the Welsh Ministers were references to the Welsh Ministers and the appropriate Minister.

312 Discontinuance orders, prohibition orders and protection orders

Sections 206 and 207 and Schedules 14 and 15 (discontinuance orders, prohibition orders and protection orders) have effect in relation to operational land of a statutory undertaker as if—

(a) the reference to the Welsh Ministers in paragraph 4(3) of Schedule 15 were a reference to the Welsh Ministers or the Welsh Ministers and the appropriate Minister, and

(b) all other references to the Welsh Ministers were references to the Welsh Ministers and the appropriate Minister.

313 Display of advertisements on operational land

Sections 309 to 312 do not apply in relation to the display of advertisements on the operational land of a statutory undertaker.

Statutory undertakers and network operators: ending of rights and removal of apparatus

314 Removal notices: ending rights over land etc. of statutory undertakers and network operators

(1) This section applies where there has been a relevant acquisition or relevant appropriation of any land and—

(a) a statutory undertaker is entitled to—

(i) a right of way over the land, or

(ii) a right to install, keep or maintain apparatus on the land,

for the purpose of carrying on its undertaking, or

(b) there is apparatus belonging to a statutory undertaker on the land for the purpose of carrying on its undertaking.

(2) This section also applies where there has been a relevant acquisition or relevant appropriation of any land and—

(a) the operator of an electronic communications code network is entitled to—

(i) a right of way over the land, or

(ii) a right to install, keep or maintain apparatus on the land,

conferred by or in accordance with the electronic communications code, or

(b) there is electronic communications apparatus installed on the land for the purposes of an electronic communications code network.

(3) The authority that acquired or appropriated the land may serve a removal notice on the undertaker or operator.

(4) A removal notice is a notice—

(a) stating that the right to which it relates will be extinguished at the end of the period specified in the notice, or

(b) requiring the apparatus to which it relates to be removed before the end of the period specified in it.

(5) The period specified in the notice must be at least 28 days beginning with the day the notice is served.

(6) The authority that acquired or appropriated the land may only serve a removal notice if it is satisfied that it is necessary for the right to be extinguished or the apparatus to be removed for the purpose of carrying out any development with a view to which the land was acquired or appropriated.

(7) The definitions of "relevant acquisition" and "relevant appropriation" in section 274 apply for the purposes of this section but as if section 274(4)(b) were omitted.

315 Removal notices: withdrawal or taking effect

(1) An undertaker or operator on whom an authority has served a removal notice under section 314(3) may, within 28 days beginning with the day it was served, serve a counter-notice on the authority—

(a) stating that the undertaker or operator objects to all or any of the provisions of the removal notice, and

(b) specifying the grounds of objection.

(2) Where no counter-notice is served—

(a) any right to which the removal notice relates is extinguished at the end of the period specified in the notice, and

(b) if, at the end of the period specified, a requirement of the notice to remove apparatus has not been complied with, the authority may remove the apparatus and dispose of it in any way it considers appropriate.

(3) If a counter-notice is served on a local authority or a statutory undertaker, the authority or undertaker may—

(a) withdraw the removal notice, or

(b) apply to the Welsh Ministers and the appropriate Minister for an order incorporating the provisions of the removal notice, with or without modifications.

(4) If a counter-notice is served on a government department—

(a) the government department may withdraw the removal notice, or

(b) the government department and the appropriate Minister may make an order incorporating the provisions of the removal notice, with or without modifications.

(5) The withdrawal of a notice under subsection (3) or (4) does not prevent the authority that acquired or appropriated the land from serving another removal notice.

(6) Where an order is made under subsection (3) or (4)—

(a) any right to which the order relates is extinguished at the end of the period specified in it, and

(b) if a requirement to remove apparatus has not been complied with at the end of a period specified in it, the authority that acquired or appropriated the land may remove the apparatus and dispose of it in any way it considers appropriate.

(7) Part 1 of Schedule 18 makes further provision in connection with orders under this section.

(8) For the purposes of subsections (3) and (4) and Part 1 of Schedule 18 as they apply in relation to orders about rights or apparatus of operators of electronic communications code networks, the appropriate Minister is the Secretary of State for Science, Innovation and Technology.

(9) In subsection (3) and paragraph 1(3) of Schedule 18, "local authority" includes—

(a) a local authority, within the meaning given by section 336(1) of the Town and Country Planning Act 1990 (c. 8), for an area in England, and

(b) a National Park authority for a National Park in England.

316 Powers of statutory undertakers or network operators to enter land to remove or re-site apparatus

(1) This section applies where—

(a) there has been a relevant acquisition or relevant appropriation of any land,

(b) there is apparatus belonging to a statutory undertaker on the land, and

(c) the undertaker claims that, for technical or other reasons connected with the carrying on of its undertaking, development to be carried out on the land requires apparatus affected by the development to be removed or re-sited.

(2) This section also applies where—

(a) there has been a relevant acquisition or relevant appropriation of any land,

(b) there is electronic communications apparatus installed on the land for the purposes of an electronic communications code network, and

(c) the operator of the network claims that, for technical or other reasons connected with the provision of the network, development to be carried out on the land requires apparatus affected by the development to be removed or re-sited.

(3) The undertaker or operator may serve on the authority that acquired or appropriated the land a notice claiming the rights to enter the land and carry out works specified in the notice for the removal or re-siting of the apparatus (or any part of it specified in the notice).

(4) A notice under subsection (3) must be served before the end of 21 days beginning with the day the development starts.

(5) An authority on whom a notice is served under subsection (3) may, within 28 days beginning with the day it was served, serve on the undertaker or operator a counter-notice—

(a) stating that the authority objects to all or any of the provisions of the notice served under subsection (3), and

(b) specifying the grounds of objection.

(6) Where no counter-notice is served by the end of the period mentioned in subsection (5), the undertaker or operator that served the notice under subsection (3) has the rights claimed in the notice.

(7) Where a counter-notice is served by the end of that period, the undertaker or operator may—

(a) withdraw the notice it served under subsection (3), or

(b) apply to the Welsh Ministers and the appropriate Minister for an order conferring on it the rights claimed in the notice under subsection (3) or such modified rights as the Welsh Ministers and the appropriate Minister consider appropriate.

(8) Where an undertaker or operator has the right to carry out works on land by virtue of subsection (6) or an order under subsection (7), it may instead arrange with the authority that acquired or appropriated the land for the works to be carried out by that authority under its supervision.

(9) For the purposes of subsection (7) as it applies in relation to orders conferring rights on operators of electronic communications code networks, the appropriate Minister is the Secretary of State for Science, Innovation and Technology.

(10) The definitions of "relevant acquisition" and "relevant appropriation" in section 274 apply for the purposes of this section but as if section 274(4)(b) were omitted.

Extending or modifying statutory undertakers' functions

317 Orders to extend or modify statutory undertakers' functions

(1) This section applies where the Welsh Ministers and the appropriate Minister consider—

(a) on a representation made by a statutory undertaker, that the undertaker's functions should be extended or modified to—

(i) secure the provision of services that would not otherwise be provided, or satisfactorily provided, for any purpose for which a local authority or a government department may make a relevant acquisition, or

(ii) facilitate an adjustment to the carrying on of its undertaking, where the adjustment is made necessary by an act or event mentioned in subsection (4), or

(b) on a representation made by a local authority or a government department that a statutory undertaker's functions should be extended or modified to secure the provision of new services, or the extension of existing services, for any purpose for which the authority making the representation may make a relevant acquisition.

(2) The Welsh Ministers and the appropriate Minister may by order provide for such an extension or modification of the undertaker's functions as they consider necessary to secure the provision or extension of the services or to facilitate the adjustment.

(3) An order may be made in accordance with the representation mentioned in subsection (1) or with modifications.

(4) The acts and events referred to in subsection (1)(a)(ii) are—

(a) a decision on an application made by the statutory undertaker for planning permission to develop any land that was used, or in which the undertaker held an interest, for the purpose of carrying on its undertaking;

(b) the modification or revocation of planning permission granted on such an application;

(c) the making of a discontinuance order in relation to any land mentioned in paragraph (a);

(d) a relevant acquisition of any such land;

(e) the extinguishment of a right or the imposition of a requirement by virtue of a notice under section 314 or an order under section 315.

(5) An order under this section—

(a) may confer power on the statutory undertaker—

(i) to acquire (whether compulsorily or by agreement) any land specified in the order, and

(ii) to erect any buildings, or to construct any works, specified in the order;

(b) may apply, in relation to the exercise of such a power, any enactment relating to the acquisition of land or construction of works;

(c) may, if it is made to secure the provision or extension of services, make provision for giving effect to financial arrangements—

(i) that are to be agreed between the statutory undertaker and a local authority or the Welsh Ministers, or

(ii) that, in the absence of agreement, are to be determined in a way, and by a tribunal, specified in the order;

(d) may make incidental or supplementary provision.

(6) Subsection (5) does not limit what may be provided for in an order under this section.

(7) Where—

(a) an order under this section extends or modifies the powers and duties of a statutory undertaker, and

(b) a local authority makes a payment to the undertaker in accordance with financial arrangements to which the order gives effect under subsection (5)(c),

the Welsh Ministers may direct another local authority to contribute an amount that the Welsh Ministers consider reasonable, having regard to any benefit accruing to that other authority as a result of the order.

(8) Part 2 of Schedule 18 makes further provision in connection with orders under this section.

(9) The definition of "relevant acquisition" in section 274 applies for the purposes of this section but as if section 274(4)(b) were omitted.

(10) In subsections (1), (5) and (7) and paragraph 3(1) of Schedule 18, "local authority" includes—

(a) a local authority, within the meaning given by section 336(1) of the Town and Country Planning Act 1990 (c. 8), for an area in England, and

(b) a National Park authority for a National Park in England.

Relieving statutory undertakers of impracticable obligations

318 Orders to relieve statutory undertakers of impracticable obligations

(1) This section applies where the appropriate Minister is satisfied, on a representation made by a statutory undertaker, that it is impracticable for the undertaker to meet an obligation relating to the carrying on of its undertaking because of an act or event mentioned in subsection (4).

(2) The appropriate Minister may by order provide for the undertaker to be relieved of the need to meet the obligation, either absolutely or to the extent specified in the order.

(3) An order may be made in accordance with the representation mentioned in subsection (1) or with modifications.

(4) The acts and events referred to in subsection (1) are—

(a) the compulsory acquisition of any land that was used, or in which a statutory undertaker held an interest, for the purpose of carrying on a statutory undertaking, where the land—

(i) was acquired under Part 10 or Part 11 or under Chapter 5 of Part 3 of the Historic Environment Act, or

(ii) is in Wales and was acquired under any other enactment other than Part 9 or 10 of the Town and Country Planning Act 1990 (c. 8) or Chapter 5 of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

(b) the acts and events specified in paragraphs (a) to (c) and (e) of section 317(4).

(5) Part 3 of Schedule 18 makes further provision in connection with orders under this section.

Compensation

319 Right to compensation for effects of certain planning decisions and orders

(1) A statutory undertaker is entitled to be paid compensation by the planning authority in accordance with section 321—

(a) in respect of a decision made in accordance with section 309 refusing planning permission for the development of the statutory undertaker's operational land or granting it subject to conditions where—

(i) planning permission for the development would have been granted by a development order or a local development order but for a direction given under the order that the permission does not apply to the development, and

(ii) it is not development that has been specifically approved by Senedd Cymru or the Parliament of the United Kingdom (within the meaning given by section 307(2)), or

(b) in respect of an order made under section 102, as it has effect by virtue of section 311, modifying or revoking planning permission granted on the statutory undertaker's application for the development of the undertaker's operational land.

(2) A claim for compensation under subsection (1) must be made in writing within 12 months beginning with the day the planning decision is made or (as the case may be) the modification or revocation takes effect.

(3) Subsection (1) does not apply in respect of a decision or order if—

(a) it relates to land acquired by the statutory undertaker after 7 January 1947, and

(b) the Welsh Ministers and the appropriate Minister include in the decision or order a direction that subsection (1) does not apply to it.

(4) The Welsh Ministers and the appropriate Minister may only give a direction under subsection (3) if they are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other relevant considerations, that it is unreasonable that compensation should be payable in respect of the decision or order in question.

(5) In subsection (1)—

(a) "the planning authority" means the planning authority in whose area the operational land in question is situated;

(b) for the purpose of the reference to granting planning permission subject to conditions, any condition to which planning permission is subject by virtue of section 93 or 94 (periods for starting development and applying for approval of reserved matters) or Schedule 5 (duration of minerals development) must be ignored.

320 Rights to compensation for ending rights over land etc.

(1) Where, by virtue of section 315—

(a) a right to which a statutory undertaker is entitled is extinguished, or

(b) a requirement is imposed on a statutory undertaker,

the undertaker is entitled, on making a claim to the authority that acquired or appropriated the land to which the right or requirement relates, to be paid compensation by the authority in accordance with section 321.

(2) Where, by virtue of section 315—

(a) a right to which an operator of an electronic communications code network is entitled is extinguished, or

(b) a requirement is imposed on such an operator,

the operator is entitled, on making a claim to the authority that acquired or appropriated the land to which the right or requirement relates, to be paid compensation by the authority in accordance with section 321.

(3) Where—

(a) works are carried out for the removal or re-siting of a statutory undertaker's apparatus, and

(b) the undertaker has the right to carry out those works by virtue of section 316 or an order made under that section,

the undertaker is entitled, on making a claim to the authority that acquired or appropriated the land on which the apparatus was situated, to be paid compensation by the authority in accordance with section 321.

321 Assessing compensation

(1) The amount of compensation payable in the cases mentioned in subsection (2) is to be assessed in accordance with this section (but this is subject to section 322).

(2) The cases are those where—

(a) a statutory undertaker is entitled to be paid compensation—

(i) under section 319(1) or 320(1) or (3),

(ii) under section 211 in respect of a discontinuance order made under section 206, or a prohibition order or protection order made under paragraph 1 or 5 of Schedule 15, as those provisions have effect by virtue of section 312, or

(iii) in respect of a compulsory acquisition of the undertaker's land under a compulsory purchase order confirmed or made without the appropriate Minister's certificate, where the land had been acquired by the undertaker for the purpose of its undertaking;

(b) the operator of an electronic communications code network is entitled to be paid compensation under section 320(2).

(3) The amount payable is the aggregate of—

(a) the amount of expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of a business adjustment, where the adjustment is made necessary by the proceeding giving rise to compensation,

(b) the appropriate amount for loss of profits, and

(c) where the compensation is payable under section 320(1) or (2) and is in respect of the imposition of a requirement to remove apparatus, the amount of expenditure reasonably incurred by the statutory undertaker or the operator in complying with the requirement, reduced by the value of the apparatus concerned after its removal.

(4) In subsection (3)(b) "the appropriate amount for loss of profits" means—

(a) where a business adjustment is made, the aggregate of—

(i) the estimated amount of any decrease in net receipts from the carrying on of the undertaking or the provision of the electronic communications code network pending the adjustment, so far as the decrease is directly attributable to the proceeding giving rise to compensation, and

(ii) such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking or the provision of the electronic communications code network in the period after the adjustment has been completed, so far as the decrease is directly attributable to the adjustment;

(b) where no business adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking or the provision of the electronic communications code network that is directly attributable to the proceeding giving rise to compensation.

(5) Where a business adjustment is made, the aggregate amount mentioned in subsection (3) is reduced by an appropriate amount (if any) to offset—

(a) the estimated value of any property belonging to the statutory undertaker or the operator (whether moveable or immoveable) that ceases to be used for the carrying on of the undertaking or the provision of the electronic communications code network because of the adjustment, so far as the value of the property has not been taken into account under subsection (3)(c), and

(b) the estimated amount of any increase in net receipts from the carrying on of the undertaking or the provision of the electronic communications code network in the period after the adjustment has been completed, so far as it has not been taken into account in determining the amount mentioned in subsection (3)(b) and is directly attributable to the adjustment.

(6) Where a business adjustment is made, the aggregate amount mentioned in subsection (3) is also reduced by an appropriate amount (if any), having regard to any increase in the capital value of immoveable property belonging to the statutory undertaker or the operator that is directly attributable to the adjustment, but also taking account of any reduction made under subsection (5)(b).

(7) Where—

(a) compensation is payable under section 320(3), and

(b) the authority that acquired or appropriated the land on which the apparatus was situated carried out the works for the removal or re-siting of the apparatus,

the aggregate amount mentioned in subsection (3) is reduced by the actual cost to the authority of carrying out the works (in addition to any reduction to the aggregate amount in accordance with subsections (5) and (6)).

(8) In this section references to a decrease in net receipts are references—

(a) to the amount by which a balance of receipts over expenditure is decreased,

(b) to the amount by which a balance of expenditure over receipts is increased, or

(c) where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, to the aggregate of the two balances,

and references to an increase in net receipts are to be interpreted accordingly.

(9) In this section—

"the appropriate Minister's certificate" ("*tystysgrif y Gweinidog priodol*") means a certificate mentioned in section 16(2) of or paragraph 3(2) of Schedule 3 to the Acquisition of Land Act 1981 (c. 67) (certificate that operational land may be compulsorily purchased without serious detriment to undertaking; see also section 31 of that Act, which disapplies section 16(2) and paragraph 3(2) in certain cases);

"business adjustment" ("*addasiad busnes*") means any adjustment of—

(a) the carrying on of a statutory undertaking, or

(b) the provision of an electronic communications code network;

"proceeding giving rise to compensation" ("*gweithred sy'n arwain at ddigolledia*d") means—

(a) in relation to compensation payable under section 320(3), the circumstances making it necessary for the apparatus in question to be removed or re-sited;

(b) in relation to compensation payable under any other provision mentioned in this section, the action (namely the decision, order, extinguishment of a right, imposition of a requirement or acquisition) in respect of which compensation is payable (as distinct from any development or project in connection with which the action may have been taken).

322 Statutory undertakers' power to exclude section 321

(1) Where a statutory undertaker is entitled to be paid compensation in respect of a compulsory acquisition that is mentioned in section 321(2)(a)(iii), the undertaker may by notice in writing elect that the compensation is to be assessed in accordance with the enactments (other than rule (5) of the rules set out in section 5 of the Land Compensation Act 1961 (c. 33)) that would apply but for section 321.

(2) If the statutory undertaker so elects, the compensation must be assessed in accordance with those enactments.

(3) A statutory undertaker may elect that compensation is to be assessed in accordance with those enactments either in respect of the whole of the land subject to the compulsory acquisition or in respect of part of the land.

(4) A notice under this section must be given to the acquiring authority within 2 months beginning with the day the notice to treat is served in respect of the interest of the statutory undertaker.

(5) In a case where a notice to treat is treated as having been served by virtue of an enactment, the reference in subsection (4) to the day the notice to treat is served is to be read as a reference to the day the notice is treated as having been served.

PART 13

BLIGHTED LAND

Key terms

323 Key terms

(1) In this Part "blighted land" means land in Wales falling within a paragraph of Part 1 of Schedule 19.

(2) In this Part "blight notice" means a notice under section 324, 346 or 348 requiring the appropriate authority to purchase an interest in the whole or part of a hereditament or agricultural unit consisting of or including blighted land.

(3) In this Part "qualifying interest" means—

(a) an interest in a hereditament or part of a hereditament that meets the first or second condition, or

(b) an interest in an agricultural unit or part of an agricultural unit that is the interest of an owner-occupier of the unit.

(4) The first condition is that the interest is the interest of a resident owner-occupier of the hereditament.

(5) The second condition is that—

(a) the interest is the interest of an owner-occupier of the hereditament, and

(b) the annual value of the hereditament does not exceed an amount specified in regulations.

(6) Parts 2 to 4 of Schedule 19 make provision about the meaning of—

(a) "owner-occupier", "resident owner-occupier" and "annual value",

(b) "the appropriate authority", and

(c) "the appropriate enactment".

Blight notices

324 Notice requiring purchase of blighted land

(1) Where a person claims that the conditions in subsection (3) are met, the person may serve a blight notice under this section on an appropriate authority.

(2) Regulations must specify the form of the blight notice.

(3) The conditions are that—

(a) the whole or part of a hereditament or agricultural unit consists of blighted land,

(b) the person is entitled to a qualifying interest in that hereditament or agricultural unit, and

(c) one of the following applies—

(i) the person has made reasonable endeavours to sell that interest and, because the hereditament, unit or part consisted or was likely to consist of blighted land, has been unable to sell the qualifying interest except at a reduced price,

(ii) the land falls within paragraph 18, 19, 21, 23, 25 or 27 of Schedule 19 and the powers of compulsory acquisition remain exercisable, or

(iii) the land falls within paragraph 24 or 26 of Schedule 19.

(4) In subsection (3)(c)(i) "reduced price" means a price that is substantially lower than that for which the interest might reasonably have been expected to sell if no part of the hereditament or unit consisted, or were likely to consist, of blighted land.

(5) The blight notice must be served in respect of the whole of the person's interest in the hereditament or unit (whether that interest is in the whole or part of the hereditament or unit).

Counter-notices

325 Counter-notice objecting to blight notice

(1) Where a blight notice has been served, the appropriate authority may serve on the claimant a counter-notice under this section objecting to the notice.

(2) Regulations must specify the form of a counter-notice.

(3) A counter-notice must be served before the end of 2 months beginning with the day the blight notice was served.

(4) A counter-notice must specify the grounds on which the appropriate authority objects to the blight notice.

(5) The grounds must be one or more of the grounds specified in section 326 or, if relevant, section 336(3), 347(1) or 349(1).

326 Grounds of objection to a blight notice

(1) Ground 1 is that no part of the hereditament or agricultural unit to which the blight notice relates consists of blighted land.

(2) Ground 2 is that the appropriate authority does not propose, in the exercise of acquiring powers—

(a) to acquire an interest in any part of the hereditament, or in the case of an agricultural unit, any part of the affected area,

(b) in the case of land falling within paragraph 27 of Schedule 19, to take temporary possession of any part of the hereditament or area, or

(c) where the appropriate enactment confers power to acquire rights over land, to acquire an interest in, or to acquire any right over, any part of the hereditament or area.

(3) Ground 3 is that the appropriate authority—

(a) proposes, in the exercise of acquiring powers, to acquire an interest in a part of the hereditament, or, in the case of an agricultural unit, a part of the affected area, specified in the counter-notice, but

(b) does not propose—

(i) to acquire an interest in any other part of that hereditament or area in the exercise of those powers, or

(ii) where the appropriate enactment confers power to acquire rights over land, to acquire an interest in, or to acquire any right over, any other part of that hereditament or area in the exercise of those powers.

(4) Ground 4 is, in the case of land falling within paragraph 1, 2 or 12 but not also within paragraph 13, 14 or 15 of Schedule 19, that the appropriate authority does not propose during the relevant period and in the exercise of acquiring powers—

(a) to acquire an interest in any part of the hereditament or, in the case of an agricultural unit, any part of the affected area, or

(b) where the appropriate enactment confers power to acquire rights over land, to acquire an interest in, or to acquire any right over, any part of the hereditament or area.

(5) In subsection (4) "the relevant period" is—

(a) the period beginning with the day the counter-notice is served and ending with—

(i) where the land is identified by a relevant development plan (within the meaning given by paragraph 1(2) of Schedule 19), the end of the period specified in the plan as that for which it is to have effect;

(ii) where the land is identified by the National Development Framework for Wales (within the meaning given by paragraph 2(3) of Schedule 19), the end of the period specified in the Framework as that for which it is to have effect, or

(b) a longer period, beginning with the day the counter-notice is served, that is specified in the counter-notice.

(6) Ground 5 is that, on the day the notice was served under section 324, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates.

(7) Ground 6 is that (for reasons specified in the counter-notice) the claimant's interest is not a qualifying interest.

(8) Ground 7 is that the condition specified in section 324(3)(c) is not met.

(9) In this section "acquiring powers" means powers under which the appropriate authority is or could be authorised to acquire an interest in land compulsorily, to take temporary possession of land compulsorily (in the case of land falling within paragraph 27 of Schedule 19) or to acquire any rights over land compulsorily—

(a) as being land falling within a paragraph of Schedule 19, or

(b) for a purpose for which, in accordance with the circumstances by virtue of which the land falls within a paragraph of that Schedule, the land is liable to be acquired or is indicated as being proposed to be acquired.

(10) In this Part references to Grounds 1 to 7 are to the grounds mentioned in this section.

327 Grounds of objection: further provision

(1) An objection may not be made on Ground 4 if it may be made on Ground 2.

(2) Where a blight notice has been served in respect of land falling within paragraph 28 or 29 of Schedule 19, an objection may not be made on Ground 2.

328 Further counter-notice where certain proposals come into force

(1) Subsection (2) applies where—

(a) an appropriate authority has served a counter-notice objecting to a blight notice in respect of land falling within the provision of Schedule 19 specified in the second column of the table, and

(b) the event specified in the corresponding entry in the third column of the table occurs.

TABLE 2

Description	Provision of Schedule 19	Event
Land identified for public functions by a relevant development plan (or revised plan) undergoing independent examination	Paragraph 1 because of paragraph (c) or (d) in the definition of "relevant development plan" in paragraph 1(2)	The plan is adopted or approved (whether in its original form or with modifications)
Land identified for public functions by a draft of the National Development Framework (or of a revised Framework) laid before Senedd Cymru	Paragraph 2 because of paragraph (b) or (c) in the definition of "the National Development Framework for Wales" in paragraph 2(3)	The Framework is published (whether in its original form or with changes)

Land indicated for a proposed highway in an order or scheme submitted for confirmation by the Welsh Ministers or prepared in draft by them	Paragraph 13 because of sub-paragraph (2)(b) of that paragraph	The order or scheme comes into operation (whether in its original form or with modifications)

(2) The appropriate authority may serve on the claimant a further counter-notice under section 325 that—

(a) specifies different grounds of objection, and

(b) is in substitution for the earlier counter-notice.

(3) Section 325(3) does not apply to a further counter-notice, but instead such a notice must be served before the end of 2 months beginning with the day on which the event specified in the entry in the third column of the table occurs.

(4) A further counter-notice must not be served if—

(a) the objection in the earlier counter-notice has been withdrawn, or

(b) the Upper Tribunal has already determined whether or not to uphold that objection.

329 Reference of objection to Upper Tribunal: general

(1) Where an appropriate authority has served a counter-notice objecting to a blight notice, the claimant may refer the objection to the Upper Tribunal.

(2) In the case of a further counter-notice, subsection (1) applies whether or not the objection in the earlier counter-notice was referred.

(3) On a reference of an objection, the Upper Tribunal must consider—

(a) the matters set out in the blight notice, and

(b) the grounds of the objection specified in the counter-notice.

(4) The Upper Tribunal must reject an objection on Ground 2, 3 or 4 unless it is shown to its satisfaction that the objection is well-founded.

(5) The Upper Tribunal must reject an objection on Ground 3 unless it is also satisfied that the specified part of the hereditament or affected area—

(a) in the case of a house, building or factory, can be taken without material detriment to the house, building or factory, or

(b) in the case of a park or garden belonging to a house, can be taken without seriously affecting the amenity or convenience of the house.

(6) The Upper Tribunal must uphold an objection on any other ground specified in the counter-notice unless it is shown to its satisfaction that the objection is not well-founded.

(7) If the Upper Tribunal rejects the objection, it must uphold the blight notice.

(8) If the Upper Tribunal upholds the objection but only on Ground 3, it must uphold the blight notice—

(a) in relation to the specified part of the hereditament or affected area, but

(b) not in relation to any other part of the hereditament or affected area.

(9) Where subsection (7) or (8) applies, the Upper Tribunal must give directions specifying the day on which a notice to treat (as mentioned in sections 331(2)(b) and 332(4)(b)) is to be treated as having been served.

(10) In subsections (5) and (8) "specified part" means the part of the hereditament or the part of the affected area specified in the counter-notice as the part that the appropriate authority proposes to acquire.

330 Effect of objection where no reference is made to Upper Tribunal

(1) Subsection (2) applies where—

(a) a counter-notice objecting to a blight notice has been served and not withdrawn, and

(b) the time for referring the objection to the Upper Tribunal ends without its having been referred.

(2) The claimant is to be treated as having withdrawn the blight notice.

Blight notices where no objection or where upheld by the Upper Tribunal

331 Effect of blight notice

(1) Subsection (2) applies where a blight notice has been served and—

(a) no counter-notice objecting to that notice has been served under section 325, or

(b) a counter-notice has been served but the objection has been withdrawn or has been rejected by the Upper Tribunal.

(2) The appropriate authority is to be treated—

(a) as being authorised to acquire compulsorily under the appropriate enactment—

(i) the claimant's interest in the hereditament, or

(ii) in the case of an agricultural unit, the claimant's interest in the affected area, and

(b) as having served a notice to treat in respect of that interest on the day mentioned in subsection (3).

(3) The day is—

(a) the day specified in directions given by the Upper Tribunal under section 329(9), or

(b) where section 329(9) does not apply, the last day of the 2-month period.

(4) The 2-month period is 2 months beginning with the day the blight notice was served.

332 Blight notice in respect of part of hereditament or unit

(1) Subsection (4) applies where—

(a) the appropriate authority has served a counter-notice objecting to a blight notice on Ground 3, and

(b) the first or second condition is met.

(2) The first condition is that the claimant does not refer the objection to the Upper Tribunal but, before the end of the time for referring it, serves notice on the appropriate authority—

(a) accepting its proposal to acquire an interest in the part of the hereditament or affected area specified in the counter-notice, and

(b) withdrawing the blight notice in relation to the rest of that hereditament or area.

(3) The second condition is that the Upper Tribunal upholds the blight notice under section 329(8) in relation to the part of the hereditament or affected area specified in the counter-notice.

(4) The appropriate authority is to be treated—

(a) as being authorised to acquire compulsorily under the appropriate enactment the claimant's interest in the part of the hereditament or affected area specified in the counter-notice (but not in any other part of the hereditament or area), and

(b) as having served a notice to treat in respect of that interest on the day mentioned in subsection (5).

(5) The day is—

(a) the day notice is served under subsection (2), or

(b) where subsection (3) applies, the day specified in directions given by the Upper Tribunal under section 329(9).

Effect of Grounds 2, 3 and 4 on compulsory acquisition powers

333 Effect on powers of compulsory acquisition where no intention to acquire

(1) Subsection (2) applies where an objection on Ground 2 or 4 is made in a counter-notice and—

(a) the objection is upheld by the Upper Tribunal, or

(b) the time for referring the objection to the Upper Tribunal ends without its having been referred.

(2) A compulsory acquisition power ceases to have effect in relation to the claimant's interest in that part of the relevant land to which the counter-notice relates.

(3) In this section—

"compulsory acquisition power" ("*pŵer caffael gorfodol*") means a power conferred by the appropriate enactment—

(a) to acquire compulsorily an interest in relevant land or rights over relevant land, or

(b) to take temporary possession of relevant land compulsorily;

"relevant land" ("*tir perthnasol*") means land that consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates.

334 Effect on powers of compulsory acquisition where intention to acquire part

(1) Subsection (2) applies where an objection on Ground 3 is made in a counter-notice and—

(a) the objection is upheld by the Upper Tribunal, or

(b) the time for referring the objection to the Upper Tribunal ends without its having been referred.

(2) A compulsory acquisition power ceases to have effect in relation to the claimant's interest in the unspecified part.

(3) In this section—

"compulsory acquisition power" ("*pŵer caffael gorfodol*") means a power conferred by the appropriate enactment to acquire compulsorily an interest in relevant land or rights over relevant land;

"relevant land" ("*tir perthnasol*") means land that consists of or includes an unspecified part;

"unspecified part" ("*rhan amhenodedig*") means the whole of the hereditament or affected area to which the counter-notice relates except the part specified in the counter-notice as the part in which the appropriate authority proposes to acquire an interest.

Blight notice requiring purchase of unaffected area of agricultural unit

335 Requirement to purchase parts of agricultural units unaffected by blight

(1) This section applies where—

(a) a claimant serves a blight notice in respect of an interest in the whole or part of an agricultural unit, and

(b) on the day the blight notice is served, that whole or part contains land that is not blighted land ("the unaffected area") as well as blighted land.

(2) The claimant may include in the blight notice—

(a) a claim that the unaffected area is not reasonably capable of being farmed as a separate agricultural unit, either by itself or in conjunction with other relevant land, and

(b) a requirement that the appropriate authority purchases the claimant's interest in the whole of the unit, or in the whole of the part of the unit to which the notice relates.

(3) In subsection (2) and section 336(3), "other relevant land" means—

(a) if the blight notice is served in respect of an interest in part of the agricultural unit, the rest of that unit;

(b) land—

(i) that consists of or forms part of any other agricultural unit occupied by the claimant on the day the blight notice is served, and

(ii) in which the claimant is on that day entitled to an owner's interest (as defined in paragraph 34(1) of Schedule 19).

(But see section 337(3) for the definition of "other relevant land" where there is an objection on Ground 3.)

336 Additional ground of objection to blight notice including requirement to purchase unaffected area

(1) This section applies where a claimant serves a blight notice that includes the claim and requirement mentioned in section 335(2).

(2) An objection in a counter-notice to the blight notice may be made on Ground 8.

(3) Ground 8 is that the unaffected area is reasonably capable of being farmed as a separate agricultural unit, either by itself or in conjunction with other relevant land.

(4) An objection must not be made in a counter-notice to the blight notice on Ground 3 unless it is also made on Ground 8.

(5) In this section and sections 337 to 340, 347 and 349, references to Ground 8 are to the ground mentioned in subsection (3).

337 Upper Tribunal: objection to blight notice including requirement to purchase unaffected area

(1) If the Upper Tribunal upholds an objection to a blight notice only on Ground 8, it must uphold the blight notice in relation to the affected area but not in relation to the unaffected area.

(2) Subsections (3) to (6) apply where the grounds for an objection to a blight notice include Ground 8 and Ground 3.

(3) In determining whether or not to uphold the objection, the Upper Tribunal must treat that part of the affected area that is not specified in the counter-notice as included in "other relevant land" as defined in section 335(3).

(4) The Upper Tribunal must not uphold the objection on Ground 3 unless it also upholds it on Ground 8.

(5) If the Upper Tribunal upholds the objection both on Ground 8 and on Ground 3 (but not on any other grounds), it must uphold the blight notice in relation to the part of the affected area specified in the counter-notice as being the part in which the appropriate authority proposes to acquire an interest, but not in relation to any other part of the affected area or in relation to the unaffected area.

(6) Where subsection (1) or (5) applies, the Upper Tribunal must give directions specifying the day on which a notice to treat (as mentioned in sections 339(3)(b) and 340(3)(b)) is to be treated as having been served.

338 Effect of blight notice including requirement to purchase unaffected area

(1) This section applies where a claimant serves a blight notice that includes the claim and requirement mentioned in section 335(2).

(2) Section 331(2) has effect as if references to the claimant's interest in the affected area were to the claimant's interest in the agricultural unit.

(3) Section 332 does not apply in relation to the blight notice.

339 Effect of blight notice where claim in respect of unaffected area withdrawn or rejected

(1) Subsection (3) applies where the appropriate authority has served a counter-notice objecting to a blight notice only on Ground 8, and the claimant—

(a) does not refer the objection to the Upper Tribunal, but

(b) before the end of the time for referring it, serves notice on the appropriate authority withdrawing the blight notice in relation to the unaffected area.

(2) Subsection (3) also applies where the Upper Tribunal upholds a blight notice under section 337(1) in relation to the affected area but not in relation to the unaffected area.

(3) The appropriate authority is to be treated—

(a) as being authorised to acquire compulsorily under the appropriate enactment the claimant's interest in the affected area (but not in the unaffected area), and

(b) as having served a notice to treat in respect of it on the day mentioned in subsection (4).

(4) The day is—

(a) the day notice is served under subsection (1)(b), or

(b) where subsection (2) applies, the day specified in directions given by the Upper Tribunal under section 337(6).

340 Effect of blight notice where claim in respect of unaffected area and part of affected area withdrawn or rejected

(1) Subsection (3) applies where the appropriate authority has served a counter-notice objecting to a blight notice on Ground 8 and on Ground 3 (but not on any other grounds), and the claimant—

(a) does not refer the objection to the Upper Tribunal, but

(b) before the end of the time for referring it, serves notice on the appropriate authority—

(i) accepting its proposal to acquire an interest in the part of the affected area specified in the counter-notice, and

(ii) withdrawing the blight notice in relation to the rest of that area and the unaffected area.

(2) Subsection (3) also applies where the Upper Tribunal upholds the blight notice under section 337(5) in respect of that part of the affected area specified in the counter-notice, but not in relation to any other part of the affected area or in relation to the unaffected area.

(3) The appropriate authority is to be treated—

(a) as being authorised to acquire compulsorily under the appropriate enactment the claimant's interest in the part of the affected area specified in the counter-notice (but not in any other part of that area or in the unaffected area), and

(b) as having served a notice to treat in respect of it on the day mentioned in subsection (4).

(4) The day is—

(a) the day notice is served under subsection (1)(b), or

(b) where subsection (2) applies, the day specified in directions given by the Upper Tribunal under section 337(6).

Withdrawal of blight notice

341 Withdrawal of blight notice

(1) A claimant may not withdraw a blight notice after the end of 6 weeks beginning with the day the Upper Tribunal determines the compensation payable for a compulsory acquisition in pursuance of the blight notice.

(2) Nor may a claimant withdraw a blight notice after the appropriate authority has exercised a right to enter and take possession of land in pursuance of a notice to treat that the authority is treated as having served in consequence of the blight notice.

(3) Where a claimant withdraws a blight notice and the appropriate authority is treated as having served a notice to treat in consequence of the blight notice, the authority—

(a) is to be treated as having withdrawn the notice to treat, but

(b) is not liable to pay compensation in respect of its withdrawal.

Compensation: special cases

342 Compensation: cases where prospect of planning permission to be ignored

(1) This section applies where—

(a) an interest in land is acquired in pursuance of a blight notice,

(b) a compulsory purchase order is in force authorising the acquisition of the interest, and

(c) the order includes a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (c. 33) (cases where prospect of planning permission to be ignored).

(2) The compensation payable for the acquisition is to be assessed—

(a) in accordance with the direction in the compulsory purchase order, and

(b) as if the notice to treat mentioned in section 331 or 332 had been served in pursuance of the order.

343 Compensation: listed buildings in need of repair

(1) This section applies where—

(a) an interest in land is acquired in pursuance of a blight notice,

(b) a compulsory purchase order is in force authorising the acquisition of the interest under section 137 of the Historic Environment Act (compulsorily acquisition of listed building for preservation), and

(c) the order includes a direction for minimum compensation under section 140 of the Historic Environment Act (buildings deliberately allowed to fall into disrepair).

(2) The compensation payable for the acquisition is to be assessed—

(a) in accordance with the direction in the compulsory purchase order, and

(b) as if the notice to treat mentioned in section 331 or 332 had been served in pursuance of the order.

344 Compensation: blight notice including claim in respect of unaffected area

(1) This section applies where, by virtue of sections 335 to 340, an interest is acquired in land consisting of—

(a) the unaffected area of an agricultural unit, or

(b) where the appropriate authority has served a counter-notice objecting to the blight notice on Ground 3, so much of the affected area of the unit as is not specified in the counter-notice.

(2) The compensation payable for the acquisition is to be assessed—

(a) on the assumption that planning permission would not be granted for any development of the land, and

(b) ignoring any planning permission that has been granted for development of the land, so far as the development to which it relates has not been carried out.

Personal representatives

345 Powers of personal representatives in respect of blight notice served before death

In relation to any time after the death of a person who has served a blight notice, sections 325(1), 328(2), 329(1), 332(2), 339(1), 340(1) and 341 apply as if the references in them to the claimant were to the claimant's personal representatives.

346 Power of personal representative to serve blight notice

(1) Where a person claims that the conditions in subsection (3) are met, the person may serve a blight notice under this section on an appropriate authority.

(2) Regulations must specify the form of the blight notice.

(3) The conditions are that—

(a) the whole or part of a hereditament or agricultural unit consists of blighted land,

(b) the person is the personal representative of a person ("the deceased") who immediately before death was entitled to an interest in that hereditament or unit,

(c) the interest would have been a qualifying interest if a notice under section 324 had been served in respect of it immediately before the death,

(d) one of the following applies—

(i) the person has made reasonable endeavours to sell that interest and, because the hereditament, unit or part consisted or was likely to consist of blighted land, has been unable to sell the qualifying interest except at a reduced price,

(ii) the land falls within paragraph 18, 19, 21, 23, 25 or 27 of Schedule 19 and the powers of compulsory acquisition remain exercisable, or

(iii) the land falls within paragraph 24 or 26 of Schedule 19, and

(e) one or more individuals (and not any body corporate) are beneficially entitled to that interest.

(4) In subsection (3)(d)(i) "reduced price" means a price that is substantially lower than that for which the interest might reasonably have been expected to sell if no part of the hereditament or unit consisted, or were likely to consist, of blighted land.

(5) The blight notice must be served in respect of what was the whole of the deceased's interest in the hereditament or unit (whether that interest was in the whole or part of the hereditament or unit).

347 Grounds of objection to blight notice served by personal representative

(1) The grounds on which objection may be made in a counter-notice under section 325 to a blight notice served under section 346 are—

(a) Ground 1;

(b) Ground 2;

(c) Ground 3;

(d) Ground 4 (in the case of land falling within paragraph 1, 2 or 12 but not also within paragraph 13, 14 or 15 of Schedule 19);

(e) that the claimant is not the personal representative of the deceased;

(f) that, immediately before death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(g) that (for reasons specified in the counter-notice) the deceased's interest would not have been a qualifying interest if a notice under section 324 had been served in respect of it immediately before the death;

(h) that none of the conditions specified in section 346(3)(d) is met;

(i) that the condition specified in section 346(3)(e) is not met;

(j) Ground 8.

(2) See sections 327 and 336(4) for further provision about grounds of objection.

Mortgagees

348 Power of mortgagee to serve blight notice

(1) Where a person claims that the conditions in subsection (3) are met, the person may serve a blight notice under this section on an appropriate authority.

(2) Regulations must specify the form of the blight notice.

(3) The conditions are that—

(a) the whole or part of a hereditament or agricultural unit consists of blighted land,

(b) the person is entitled as mortgagee (by virtue of a power that has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land,

(c) one of the following applies—

(i) the person has made reasonable endeavours to sell that interest and, because the hereditament, unit or part consisted or was likely to consist of blighted land, has been unable to sell the qualifying interest except at a reduced price,

(ii) the land falls within paragraph 18, 19, 21, 23, 25 or 27 of Schedule 19 and the powers of compulsory acquisition remain exercisable, or

(iii) the land falls within paragraph 24 or 26 of Schedule 19, and

(d) the interest could have been the subject of a blight notice served under section 324 by the mortgagor on—

(i) the day notice is served under this section, or

(ii) any day in the preceding 6 months.

(4) In subsection (3)(c)(i) "reduced price" means a price that is substantially lower than that for which the interest might reasonably have been expected to sell if no part of the hereditament or unit consisted, or were likely to consist, of blighted land.

(5) The blight notice must be served in respect of the whole of the mortgagee's interest in the hereditament or unit (whether that interest is in the whole or part of the hereditament or unit).

349 Grounds of objection to blight notice served by mortgagee

(1) The grounds on which objection may be made in a counter-notice under section 325 to a blight notice served under section 348 are—

(a) Ground 1;

(b) Ground 2;

(c) Ground 3;

(d) Ground 4 (in the case of land falling within paragraph 1, 2 or 12 but not also within paragraph 13, 14 or 15 of Schedule 19);

(e) that, on the day the blight notice was served, the claimant had no interest as mortgagee in any part of the hereditament or agricultural unit to which the notice relates;

(f) that (for reasons specified in the counter-notice), on the day the blight notice was served, the claimant did not have the power referred to in section 348(3)(b);

(g) that none of the conditions specified in section 348(3)(c) is met;

(h) that neither of the conditions specified in section 348(3)(d) is met;

(i) Ground 8.

(2) See sections 327 and 336(4) for further provision about grounds of objection.

Prohibition on simultaneous blight notices

350 Prohibition on service of simultaneous notices under sections 324, 346 and 348

(1) A blight notice must not be served under section 324 or 346 in respect of a hereditament or agricultural unit, or any part of it, at a time when a blight notice served under section 348 is outstanding in relation to the hereditament, unit or part.

(2) A blight notice must not be served under section 348 in respect of a hereditament or agricultural unit, or any part of it, at a time when a blight notice served under section 324 or 346 is outstanding in relation to the hereditament, unit or part.

(3) For the purposes of this section, a blight notice is outstanding in relation to a hereditament, unit or part—

(a) until it is withdrawn in relation to the hereditament, unit or part, or

(b) where an objection to it has been made by a counter-notice under section 325, until—

(i) the time for referring the objection to the Upper Tribunal under section 329(1) ends without the claimant having referred it, or

(ii) the objection is upheld by the Upper Tribunal in relation to the hereditament, unit or part.

Partnerships

351 Partnerships: special provision

(1) For the purposes of this Part, occupation of a hereditament or agricultural unit for the purposes of carrying on a business in partnership is to be treated as occupation by the partnership, and not as occupation by any one or more of the partners individually.

(2) The definitions of "owner-occupier" in paragraphs 31 and 33 of Schedule 19 apply in relation to the partnership accordingly.

(3) A partnership is to be treated as the same partnership despite a change in membership after it has served a blight notice.

Powers to acquire land where blight notice served

352 Power of the Welsh Ministers to acquire land identified by National Development Framework for Wales

Where a blight notice has been served in respect of land falling within paragraph 2 of Schedule 19, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice.

353 Power of the Welsh Ministers to acquire land affected by order relating to new town

(1) Where a blight notice has been served in respect of land falling within paragraph 5 or 6 of Schedule 19, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice until a development corporation is established for the new town.

(2) Where the Welsh Ministers acquire an interest under subsection (1)—

(a) if the land is or becomes land falling within paragraph 6 of Schedule 19, they must, when the development corporation is established for the new town, transfer the interest to it;

(b) in any other case, they may dispose of the interest as they think fit.

(3) In the case of land falling within paragraph 5 of Schedule 19, the Land Compensation Act 1961 (c. 33) has effect in relation to the compensation payable in respect of the acquisition of an interest by the Welsh Ministers under subsection (1) as if the land formed part of an area designated as the site of a new town by an order that has come into operation under section 1 of the New Towns Act 1981 (c. 64).

354 Power of the Welsh Ministers to acquire land affected by order relating to urban development area

(1) Where a blight notice has been served in respect of land falling within paragraph 7 of Schedule 19, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice until an urban development corporation is established for the urban development area.

(2) Where the Welsh Ministers acquire an interest under subsection (1)—

(a) if the order designating the land as an urban development area has come into effect or comes into effect, they must, when the urban development corporation is established for the urban development area, transfer the interest to it;

(b) in any other case, they may dispose of the interest as they think fit.

(3) If the order designating the land as an urban development area has not come into effect, the Land Compensation Act 1961 (c. 33) has effect in relation to the compensation payable in respect of the acquisition of an interest by the Welsh Ministers under subsection (1) as if the order had come into effect.

355 Power of the Welsh Ministers to acquire land identified in infrastructure policy statement

Where a blight notice has been served in respect of land falling within paragraph 28 of Schedule 19, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice.

356 Power of the Secretary of State to acquire land identified in national policy statement

Where a blight notice has been served in respect of land falling within paragraph 29 of Schedule 19, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice.

Miscellaneous and supplementary provisions

357 No withdrawal of notice to treat deemed to have been served under this Part

Where a notice to treat is treated as having been served by virtue of section 331, 332, 339 or 340, an appropriate authority may not withdraw it under section 31 of the Land Compensation Act 1961 (c. 33) (but see section 341(3) for deemed withdrawal of a notice to treat where a blight notice is withdrawn).

358 Assistance to acquire property where objection on Ground 4

(1) A county council or county borough council may advance money to a person to enable that person to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 325 specifying Ground 4 as a ground of objection.

(2) No advance may be made for the acquisition of a hereditament if its annual value exceeds the amount specified in regulations under section 323(5)(b).

(3) An advance may be made subject to conditions.

Interpretation

359 Interpretation of this Part

(1) In this Part—

"the affected area" ("*yr ardal yr effeithir arni*"), in relation to an agricultural unit, means so much of the unit as, on the day a blight notice is served in respect of the unit, consists of blighted land;

"annual value" ("*gwerth blynyddol*") has the meaning given by Part 2 of Schedule 19;

"appropriate authority" ("*awdurdod priodol*") has the meaning given by Part 3 of Schedule 19;

"appropriate enactment" ("*deddfiad priodol*") has the meaning given by Part 4 of Schedule 19;

"billing authority" ("*awdurdod bilio*") has the meaning given by section 1(2) of the Local Government Finance Act 1992 (c. 14);

"blight notice" ("*hysbysiad malltod*") has the meaning given by section 323(2);

"blighted land" ("*tir o dan falltod*") has the meaning given by section 323(1);

"the claimant" ("*yr hawlydd*"), in relation to a blight notice, means the person who served the notice;

"the claimant's interest" ("*buddiant yr hawlydd*") means the interest that a blight notice requires the appropriate authority to purchase;

"hereditament" ("*hereditament*") means a relevant hereditament within the meaning given by section 64(4)(a) to (c) of the Local Government Finance Act 1988 (c. 41) (lands and mines);

"infrastructure policy statement" ("*datganiad polisi seliwaith*") has the meaning given by section 127(2) of the Infrastructure (Wales) Act 2024 (asc 3);

"national policy statement" ("*datganiad polisi cenedlaethol*") has the meaning given by section 5(2) of the Planning Act 2008 (c. 29);

"owner-occupier ("*perchen-feddiannydd*") has the meaning given by Part 2 of Schedule 19;

"qualifying interest" ("*buddiant cymhwysol*") has the meaning given by section 323(3);

"resident owner-occupier" ("*perchen-feddiannydd preswyl*") has the meaning given by paragraph 32 of Schedule 19;

"special enactment" ("*deddfiad arbennig*") means—

(a) an Act of Senedd Cymru or of the Parliament of the United Kingdom, or

(b) an instrument that has come into operation having been subject to special Senedd procedure or special parliamentary procedure,

that specifically identifies land and authorises its compulsory acquisition;

"the unaffected area" ("*yr ardal nad effeithir arni*") has the meaning given by section 335(1)(b).

(2) Land that (apart from this subsection) would consist of separate hereditaments solely because it is divided by a boundary between the areas of two or more billing authorities is to be treated for the purposes of the definition of "hereditament" in subsection (1) as if it were not so divided.

PART 14

ADMINISTRATION AND VALIDITY

CHAPTER 1

EXERCISE OF FUNCTIONS OF PLANNING AUTHORITIES

Fees and charges

360 Fees and charges for exercise of functions by planning authorities

(1) Regulations may require the payment of a fee or charge to a planning authority for—

(a) exercising any of its functions;

(b) doing anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of its functions.

(2) In subsection (1) references to a planning authority's functions do not include its functions under the Historic Environment Act (for which see section 167 of that Act).

(3) Regulations under this section may in particular—

(a) make provision about when a fee or charge must be paid;

(b) make provision about who must pay a fee or charge;

(c) make provision about the amount of a fee or charge (which may include provision that specifies the amount or confers a function of specifying it, or provision about how the amount is to be calculated and who is to make the calculation);

(d) specify circumstances in which a fee or charge is to be waived or refunded (wholly or in part);

(e) specify circumstances in which no fee or charge is to be paid;

(f) make provision about the effect of paying or failing to pay a fee or charge in accordance with the regulations (which may include provision that amends, repeals or revokes any enactment, including any provision of this Act).

(4) If regulations under this section provide for a planning authority to specify or calculate the amount of any fees or charges, the authority must ensure that, taking one financial year with another, its income from the fees or charges does not exceed the cost of exercising the functions, or doing the things, to which they relate.

Arrangements for exercise of functions relating to applications

361 Power to require functions to be exercised by committees, sub-committees or officers

(1) Regulations may require a planning authority to make arrangements under section 101 of the Local Government Act for any of its relevant functions to be exercised by a committee, sub-committee or officer of the authority.

(2) The regulations may specify the terms of the arrangements (which may include exceptions) and any permitted variations in those terms.

(3) Where arrangements required by the regulations are in force in relation to a relevant function of a planning authority, the function may only be exercised in accordance with the arrangements (and section 101(4) of the Local Government Act does not apply).

(4) In this Chapter "relevant function" means a function exercisable in relation to an application under or by virtue of this Act.

362 Size and composition of committees to exercise functions

(1) Regulations may impose requirements relating to the size and composition of a committee or sub-committee by which a relevant function of a planning authority is to be exercised.

(2) A planning authority may not arrange for a relevant function of the authority to be exercised by a committee or sub-committee of the authority that fails to satisfy a requirement of regulations under this section.

(3) If a committee or sub-committee exercising a relevant function fails to satisfy such a requirement, paragraph 43 of Schedule 12 to the Local Government Act (validity of proceedings not affected by vacancies etc.) does not apply in relation to the failure.

363 Arrangements for exercise of functions: supplementary

(1) Sections 101 and 102 of the Local Government Act (arrangements for discharge of functions of local authorities) have effect subject to sections 361 and 362 and regulations made under them.

(2) Where arrangements are in force under section 101(5) of the Local Government Act for two or more planning authorities to exercise any of their relevant functions jointly, sections 361 and 362 apply in relation to those functions as if—

(a) references to a committee or sub-committee of a planning authority were references to a joint committee or joint sub-committee of those authorities;

(b) references to an officer of a planning authority were references to an officer of any of those authorities.

(3) Regulations under sections 361 and 362 may—

(a) make different provision for different areas;

(b) make special provision for cases where two or more authorities have made arrangements for the exercise of any of their relevant functions under section 101(1)(b) or (5) of the Local Government Act (discharge of functions by another authority or by authorities acting jointly).

CHAPTER 2

PROCEEDINGS BEFORE THE WELSH MINISTERS

Fees and charges

364 Fees and charges for applications and appeals to the Welsh Ministers

(1) Regulations may require the payment of a fee or charge to the Welsh Ministers for—

(a) exercising any functions they have in relation to an application made or proposed to be made to them under section 78 (option to make application for planning permission or approval of reserved matters to the Welsh Ministers) or section 80 (connected applications);

(b) doing anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of those functions.

(2) Regulations may require the payment of a fee to the Welsh Ministers where an application for planning permission is made to them under section 85 (urgent Crown development).

(3) Regulations may require a person who makes an appeal to the Welsh Ministers under any provision made by or under this Act to pay a fee to the Welsh Ministers.

(4) Regulations may require the payment of a fee to the Welsh Ministers or a planning authority (or of fees to both of them) where an appeal is made to the Welsh Ministers under section 131 (appeal against enforcement notice) on the ground that planning permission ought to be granted or a condition or limitation of planning permission ought to be removed.

(5) A fee payable under regulations made under subsection (4) is in addition to any fee payable under regulations made under subsection (3).

(6) Regulations under this section may in particular—

(a) make provision about when a fee or charge must be paid;

(b) in the case of regulations under subsection (1), (2) or (4), make provision about who must pay a fee or charge;

(c) make provision about the amount of a fee or charge (which may include provision that specifies the amount or confers a function of specifying it, or provision about how the amount is to be calculated and who is to make the calculation);

(d) specify circumstances in which a fee or charge is to be waived or refunded (wholly or in part);

(e) specify circumstances in which no fee or charge is to be paid;

(f) make provision about the effect of paying or failing to pay a fee or charge in accordance with the regulations (which may include provision that amends, repeals or revokes any enactment, including any provision of this Act);

(g) specify circumstances in which a fee or charge paid to the Welsh Ministers in accordance with the regulations is to be transferred to another person.

(7) This section does not limit any other power conferred by this Act to make provision about the payment of fees or charges to the Welsh Ministers.

Procedural provisions applying to proceedings before the Welsh Ministers

365 Determination of appeal by inspector

(1) An appeal to which this section applies is to be determined by an inspector instead of by the Welsh Ministers.

(2) This section applies to any appeal made to the Welsh Ministers under or by virtue of this Act, other than an appeal under section 61 (for which see section 62(4) to (6) and Schedule 2) or under CIL regulations.

(3) But this section does not apply to an appeal if—

(a) it is an appeal of a description specified in regulations, or

(b) the Welsh Ministers direct that the appeal is to be determined by them instead of by an inspector.

(4) Where an inspector determines an appeal, the inspector's decision is to be treated as the decision of the Welsh Ministers.

(5) Schedule 20 makes further provision in connection with the appointment of inspectors to determine appeals and the giving of directions under subsection (3)(b).

366 Choice of inquiry, hearing or written procedure for appeals and applications

(1) This section applies to the following proceedings—

(a) any application made or referred to the Welsh Ministers under or by virtue of this Act, other than an application for an order under Part 11 (highways) or Part 12 (statutory undertakers);

(b) any appeal made to the Welsh Ministers under or by virtue of this Act, other than an appeal under section 61 (for which see section 62(3)) or under CIL regulations.

(2) The Welsh Ministers must in each case determine the procedure by which proceedings to which this section applies are to be considered.

(3) A determination must provide for the proceedings to be considered in one or more of the following ways—

(a) at a local inquiry;

(b) at a hearing;

(c) on the basis of representations in writing.

(4) The Welsh Ministers must make a determination before the end of the period specified in regulations.

(5) A determination may be varied by a further determination at any time before the proceedings to which it relates are determined.

(6) The Welsh Ministers must notify the following persons of a determination—

(a) the applicant or appellant (as appropriate), and

(b) the planning authority in whose area the land to which the proceedings relate is situated.

(7) In a case where an application has been made to the Welsh Ministers under section 78 (option to make application for planning permission or approval of reserved matters to the Welsh Ministers) or section 80 (connected applications), they must also notify any representative persons they consider appropriate.

(8) In subsection (7) "representative person" means a person that the Welsh Ministers consider to represent persons (other than the applicant and the planning authority) who have an interest in the proceedings.

(9) The Welsh Ministers must publish the criteria they will apply in making determinations under this section.

(10) Regulations may amend subsection (1) to—

(a) add proceedings under or by virtue of this Act,

(b) remove proceedings, or

(c) modify a description of proceedings.

367 Procedural requirements for appeals, applications and other proceedings

(1) Regulations may make provision about the procedure to be followed in connection with—

(a) proceedings on any application, appeal or reference made to the Welsh Ministers under or by virtue of this Act (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing);

(b) any other local inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of this Act.

(2) The regulations may include provision about—

(a) the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or to the making of representations in writing;

(b) the conduct of proceedings.

(3) The regulations may include provision about the procedure to be followed—

(a) where steps have been taken with a view to the holding of an inquiry or hearing that does not take place,

(b) where steps have been taken with a view to the determination of any matter by an inspector and the proceedings are the subject of a direction that the matter must instead be determined by the Welsh Ministers, or

(c) where steps have been taken in pursuance of such a direction and a further direction is given revoking that direction,

and may provide that such steps are to be treated as compliance, in whole or in part, with the requirements of the regulations.

(4) The regulations may—

(a) specify a time limit within which a party to proceedings must submit representations in writing and any supporting documents, or enable the Welsh Ministers to give directions setting the time limit in a particular case or in cases of a particular description;

(b) enable the Welsh Ministers to proceed to a decision taking into account only the representations in writing and supporting documents that were submitted within the time limit;

(c) enable the Welsh Ministers, after giving the parties notice in writing of their intention to do so, to proceed to a decision even though no representations in writing were submitted within the time limit, if they consider that they have sufficient material before them to enable them to reach a decision on the merits of the case.

(5) The regulations may also make provision about the circumstances in which—

(a) a direction about the payment of the Welsh Ministers' costs may be given under section 372;

(b) an order about the payment of a party's costs may be made under section 373.

(6) The regulations may provide that in circumstances specified in the regulations a matter may not be raised in proceedings on an appeal to the Welsh Ministers unless—

(a) the matter was previously raised before a time specified in the regulations, or

(b) it is shown that the matter could not have been raised before that time.

(7) This section does not limit any other power conferred by this Act to make provision about the procedure to be followed on an application, appeal or reference to the Welsh Ministers.

Local inquiries

368 Power of the Welsh Ministers to hold local inquiry

(1) The Welsh Ministers may cause a local inquiry to be held for the purposes of the exercise of any of their functions under or by virtue of any of the provisions of this Act (except Chapter 2 of Part 6).

(2) See also—

(a) paragraph 5(2) of Schedule 4 and paragraph 2(1) of Schedule 20 for powers of an inspector to hold a local inquiry in accordance with a determination under section 366;

(b) paragraphs 4 and 13 of Schedule 17 for duties of the Welsh Ministers to cause a local inquiry to be held in certain cases where objections or representations are made in relation to orders under Part 11 (highways).

369 Power of person holding inquiry to require evidence

(1) A person holding a local inquiry under this Act may by summons require any person—

(a) to attend the inquiry, at a time and place stated in the summons, and to give evidence, or

(b) to produce any documents in the person's possession or under the person's control that relate to any matter in question at the inquiry.

(2) The person holding the inquiry may take evidence on oath, and for that purpose may administer oaths.

(3) A summons under this section does not require a person to attend the inquiry unless the person's necessary expenses of attending are paid or offered to the person.

(4) A person may not be required under this section to produce the title (or any instrument relating to the title) of any land that does not belong to a local authority.

(5) It is an offence for a person to—

(a) refuse or deliberately fail to comply with a requirement of a summons under this section, or

(b) deliberately alter, suppress, conceal or destroy a document the person is required, or is liable to be required, to produce under this section.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or imprisonment for a term not exceeding the maximum term for summary offences, or both.

(7) In subsection (6) "the maximum term for summary offences" means—

(a) in relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, 6 months;

(b) in relation to an offence committed after it comes into force, 51 weeks.

370 Access to evidence at inquiry

(1) At a local inquiry held under this Act—

(a) oral evidence must be heard in public, and

(b) documentary evidence must be available for public inspection.

(2) But if a ministerial authority is satisfied that both of the conditions in subsection (3) are met in relation to an inquiry, it may direct that evidence of a description specified in the direction is to be heard or available for inspection at that inquiry only by persons who are specified in the direction or of a description specified in it.

(3) The conditions are—

(a) that giving evidence of a particular description in public or making it available for public inspection would be likely to result in the disclosure of information about—

(i) national security, or

(ii) the measures taken or to be taken to ensure the security of any land or other property, and

(b) that the public disclosure of the information would be against the national interest.

(4) If a ministerial authority is considering giving a direction under this section, the Counsel General may appoint a person (an "appointed representative") to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.

(5) If there is no appointed representative when a ministerial authority gives a direction under this section, the Counsel General may at any time appoint a person as an appointed representative for the purposes of the inquiry.

(6) Regulations may make provision about—

(a) the procedure to be followed by a ministerial authority before it gives a direction under this section in a case where there is an appointed representative;

(b) the functions of an appointed representative.

(7) In this section and section 371, "ministerial authority" means the Welsh Ministers or the Secretary of State.

371 Payment of appointed representative where access to evidence restricted

(1) This section applies if a person is appointed under section 370 as an appointed representative for the purposes of a local inquiry, whether or not the inquiry takes place.

(2) A ministerial authority may direct a person ("the responsible person") to pay the fees and expenses of the appointed representative.

(3) The responsible person must be a person that the ministerial authority considers is, or would have been, interested in the inquiry in relation to—

(a) national security, or

(b) the measures taken or to be taken to ensure the security of any land or other property.

(4) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the ministerial authority that gave the direction.

(5) The ministerial authority must cause the amount agreed between the appointed representative and the responsible person, or determined by the ministerial authority, to be certified.

(6) The certified amount is recoverable from the responsible person as a debt.

Costs of proceedings before the Welsh Ministers

372 Payment of costs of the Welsh Ministers

(1) This section applies to the following proceedings—

(a) proceedings on an application, appeal or reference made to the Welsh Ministers under or by virtue of this Act (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing);

(b) any other local inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of this Act.

(2) The Welsh Ministers may give a direction requiring the applicant or appellant, or a planning authority or other party to the proceedings, to pay the costs incurred by the Welsh Ministers in relation to the proceedings (or so much of those costs as the Welsh Ministers may direct).

(3) The costs incurred by the Welsh Ministers in relation to any proceedings include—

(a) the entire administrative cost incurred by the Welsh Ministers in connection with the proceedings, including in particular a reasonable amount that they determine in respect of general staff costs and overheads of the Welsh Government;

(b) costs in respect of an inquiry or hearing that does not take place.

(4) Regulations may specify a standard daily amount for proceedings of a specified description.

(5) Where proceedings of a specified description take place, the costs incurred by the Welsh Ministers are to be taken to be—

(a) the standard daily amount for each day (or an appropriate proportion of that amount for a part of a day) on which a specified person is engaged in dealing with the case;

(b) costs actually incurred in connection with dealing with the case on—

(i) travelling or subsistence allowances, or

(ii) the provision of accommodation or other facilities;

(c) any costs attributable to the appointment of specified persons to assist in dealing with the case;

(d) any legal costs or disbursements incurred or made by or on behalf of the Welsh Ministers in connection with the case.

(6) In this section "specified" means specified in regulations.

(7) This section does not apply to proceedings under CIL regulations (and does not limit the provision that CIL regulations may make about the costs of proceedings under them).

373 Orders relating to costs of parties

(1) This section applies to the following proceedings—

(a) proceedings on an application, appeal or reference made to the Welsh Ministers under or by virtue of this Act (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing);

(b) any other local inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of this Act.

(2) The Welsh Ministers may make orders about—

(a) the costs of the applicant or appellant or a planning authority or other party to the proceedings (which may include costs in respect of an inquiry or hearing that does not take place), and

(b) the person or persons who must pay the costs.

(3) But the Welsh Ministers may not order a person to pay the costs of another party unless they are satisfied that—

(a) the person has behaved unreasonably in relation to the proceedings, and

(b) the person's unreasonable behaviour has caused the other party to incur unnecessary or wasted expenditure.

(4) The power to make orders under this section must also be exercised in accordance with any provision made under section 367 (procedural requirements).

(5) This section does not apply to proceedings under CIL regulations (and does not limit the provision that CIL regulations may make about the costs of proceedings under them).

CHAPTER 3

VALIDITY OF PLANS, DECISIONS AND ORDERS

Review by High Court of plans, decisions and orders

374 Statutory review of development plans

(1) The validity of a plan to which this section applies may not be questioned in any legal proceedings except an application for statutory review under this section.

(2) The plans to which this section applies are—

(a) the National Development Framework for Wales or a revised Framework;

(b) a strategic development plan or a revision of such a plan;

(c) a local development plan or a revision of such a plan.

(3) A person aggrieved by a plan to which this section applies may make an application for statutory review under this section.

(4) An application for statutory review under this section is an application to the High Court questioning the validity of the plan on the ground that—

(a) it is not within the powers conferred by Part 2, or

(b) a requirement relating to the publication, adoption or approval of the plan that is imposed by that Part, or by regulations made under it, has not been complied with.

(5) An application for statutory review may only be made with the permission of the High Court.

(6) An application for permission must be made before the end of 6 weeks beginning with the day after—

(a) in a case relating to the National Development Framework for Wales (or a revised Framework), the day the Framework is published by the Welsh Ministers;

(b) in a case relating to a strategic development plan (or a revision of it), the day the plan is adopted by a corporate joint committee or approved by the Welsh Ministers;

(c) in a case relating to a local development plan (or a revision of it), the day the plan is adopted by a planning authority or approved by the Welsh Ministers.

(7) When considering whether to give permission, the High Court may make an interim order suspending the operation of the plan until the final determination of the proceedings on—

(a) the application for permission, or

(b) where permission is given, the application for statutory review.

(8) On an application for statutory review, the High Court may make an interim order suspending the operation of the plan until the proceedings are finally determined.

(9) Subsection (10) applies if the High Court is satisfied—

(a) that the plan is to any extent outside the powers conferred by Part 2, or

(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement imposed by that Part, or by regulations made under it, relating to the publication, adoption or approval of the plan.

(10) The court may—

(a) quash the plan;

(b) remit the plan to a person with a function relating to its preparation, publication, adoption or approval.

(11) If the court remits the plan to a person, it may give directions about action to be taken in relation to the plan.

(12) The directions may in particular—

(a) require the plan to be treated (generally or for specified purposes) as not having been published, adopted or approved;

(b) require specified steps in the process that has resulted in the publication, adoption or approval of the plan to be treated (generally or for specified purposes) as having been taken or not taken;

(c) require action to be taken by the person to whom the plan is remitted or any other person with a function relating to the preparation, publication, adoption or approval of the plan;

(d) provide for the action that is required of one person to depend on what action has been taken by another person.

(13) The High Court may exercise its powers under subsections (7) to (12) in relation to a plan—

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

375 Validity of certain decisions and orders

(1) The validity of—

(a) a decision to which this section applies, or

(b) an order to which this section applies (whether before or after it is made, confirmed or approved),

may not be questioned in any legal proceedings except an application for statutory review under section 376.

(2) The decisions to which this section applies are—

(a) a decision on an application referred to the Welsh Ministers under section 72 (reference of application for planning permission, approval etc.);

(b) a decision on an appeal under section 73 (appeal against decision or failure to make decision on application for planning permission, approval etc.);

(c) a decision on an application made to the Welsh Ministers under section 78 (option to make application for planning permission or approval of reserved matters to the Welsh Ministers) or section 80 (connected applications) (not including a decision to refer an application under section 80(5));

(d) a decision on an application for planning permission made to the Welsh Ministers under section 85 (urgent Crown development);

(e) a decision on an application referred to the Welsh Ministers, or an appeal made to them, under Schedule 8 (determination of conditions of minerals permissions relating to dormant site);

(f) a decision on an application referred to the Welsh Ministers, or an appeal made to them, under Schedule 9 (periodic review of minerals permissions relating to mining site);

(g) a decision under paragraph 6 or 7 of Schedule 12 to confirm or not to confirm a purchase notice, including—

(i) a decision to confirm the notice in relation to only part of the land to which it relates, and

(ii) a decision to grant planning permission, or direct that permission must be granted, instead of confirming the notice in relation to the land or any part of it;

(h) a decision under section 133 to grant planning permission or remove a condition or limitation of planning permission on the determination of an appeal against an enforcement notice;

(i) a decision on an appeal under section 160 (appeal against decision or failure to make decision on application for certificate of lawfulness);

(j) a decision under control of advertisements regulations on an application made or referred to the Welsh Ministers or on an appeal made to them;

(k) a decision under tree preservation regulations on an application made or referred to the Welsh Ministers or on an appeal made to them.

(3) The orders to which this section applies are—

(a) a termination order;

(b) an order under section 102 (orders modifying or revoking planning permission);

(c) a discontinuance order;

(d) a prohibition order;

(e) a protection order;

(f) an order under control of advertisements regulations designating an area of special control;

(g) a tree preservation order or woodland preservation order;

(h) an order under section 373 (orders relating to costs of parties to proceedings) made in connection with a decision to which this section applies or an order mentioned in paragraphs (a) to (g).

(4) This section does not prevent any court exercising any jurisdiction in relation to a refusal or failure to make a decision to which this section applies.

376 Application for statutory review of decision or order

(1) A person aggrieved by a decision or order to which section 375 applies, or the authority directly concerned with such a decision or order, may make an application for statutory review under this section.

(2) An application for statutory review under this section is an application to the High Court questioning the validity of the decision or order on the grounds that—

(a) it is not within the powers conferred by this Act, or

(b) a requirement imposed by this Act, or by subordinate legislation made under it, has not been complied with in relation to the decision or order.

(3) An application for statutory review may only be made with the permission of the High Court.

(4) An application for permission must be made before the end of 6 weeks beginning with the day after—

(a) in a case relating to a decision, the day the decision is made;

(b) in a case relating to an order made by a planning authority and confirmed or approved by the Welsh Ministers (with or without modifications), the day the order is confirmed or approved;

(c) in a case relating to any other order except an order under section 373, the day the order takes effect;

(d) in a case relating to an order under section 373, the day the order is made.

(5) When considering whether to give permission, the High Court may make an interim order suspending the operation of the decision or order to which the proposed application for statutory review relates until the final determination of the proceedings on—

(a) the application for permission, or

(b) where permission is given, the application for statutory review.

(6) On an application for statutory review the High Court—

(a) may make an interim order suspending the operation of the decision or order to which the application relates until the proceedings are finally determined;

(b) may quash that decision or order if satisfied that—

(i) it is not within the powers conferred by this Act, or

(ii) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement imposed by this Act, or by subordinate legislation made under it, in relation to the decision or order.

(7) In relation to an order under control of advertisements regulations designating an area of special control, the High Court may exercise its powers under subsections (5) and (6) to quash or suspend the order wholly or in part.

(8) In relation to a tree preservation order or woodland preservation order—

(a) subsections (5) and (6)(a) do not apply;

(b) the High Court may exercise its power under subsection (6)(b) to quash the order wholly or in part.

(9) For the purposes of this section the authority directly concerned with a decision or order is—

(a) in the case of a decision on an application referred to the Welsh Ministers, the planning authority that made the reference;

(b) in the case of a decision on an appeal made to the Welsh Ministers following an application to a planning authority, the authority to which the application was made;

(c) in the case of a decision to confirm or not to confirm a purchase notice—

(i) the planning authority on which the purchase notice was served, and

(ii) if the Welsh Ministers have modified the notice wholly or in part by substituting another local authority or statutory undertaker for the planning authority, that other local authority or statutory undertaker;

(d) in the case of a decision relating to an enforcement notice, the planning authority that issued the notice or, if the notice was issued by the Welsh Ministers, the planning authority in whose area the land to which the notice relates is situated;

(e) in the case of any order except an order under section 373, the planning authority that made the order or, if the order was made by the Welsh Ministers, the planning authority in whose area the land to which the order relates is situated;

(f) in the case of an order made under section 373 in connection with a decision or order mentioned in paragraphs (a) to (e), the authority directly concerned with that decision or order.

(10) In subsections (4)(b) and (9)(e) the references to an order confirmed or made by the Welsh Ministers include an order that is confirmed or made by the Welsh Ministers and the appropriate Minister by virtue of Part 12 (statutory undertakers).

377 Statutory review of orders relating to highways and statutory undertakers

(1) The validity of an order to which this section applies may not be questioned in any legal proceedings (whether before or after the order is made or confirmed) except an application for statutory review under this section.

(2) The orders to which this section applies are—

(a) an order under Part 11 (orders stopping up or diverting highways or extinguishing public rights of way);

(b) an order under section 318 (orders relieving statutory undertakers from obligations).

(3) A person aggrieved by an order to which this section applies may make an application for statutory review under this section.

(4) An application for statutory review under this section is an application to the High Court questioning the validity of the order on the grounds that—

(a) it is not within the powers conferred by the provisions under which it is made, or

(b) a procedural requirement has not been complied with.

(5) An application for statutory review may only be made with the permission of the High Court.

(6) An application for permission must be made before the end of 6 weeks beginning with the day after the day the relevant notice is first published.

(7) When considering whether to give permission, the High Court may make an interim order suspending the operation of the order to which the proposed application for statutory review relates until the final determination of the proceedings on—

(a) the application for permission, or

(b) where permission is given, the application for statutory review.

(8) On an application for statutory review the High Court—

(a) may make an interim order suspending the operation of the order to which the application relates until the proceedings are finally determined;

(b) may quash that order if satisfied that—

(i) it is not within the powers conferred by the provisions under which it is made, or

(ii) the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

(9) The High Court may exercise its powers under subsections (7) and (8) in relation to an order—

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

(10) In subsection (6) "the relevant notice" means—

(a) in a case relating to an order under section 280, 281, 286, 287 or 297, the notice required by paragraph 6 of Schedule 17;

(b) in a case relating to an order under section 293 or 300, the notice required by paragraph 16 of Schedule 17;

(c) in a case relating to an order under section 318, the notice required by paragraph 11 of Schedule 18.

(11) Where an order under section 318 is subject to special parliamentary procedure by virtue of paragraph 10 of Schedule 18—

(a) if the order is confirmed by an Act of the Parliament of the United Kingdom in accordance with section 6 of the Statutory Orders (Special Procedure) Act 1945 (9 & 10 Geo. 6 c. 18), this section does not apply to it;

(b) in any other case, this section applies to the order as if the reference in subsection (6) to the day the relevant notice is first published were a reference to the day the order becomes operative under section 6 of that Act.

Appeals to High Court against decisions relating to certain notices

378 Appeal against decision relating to enforcement notice

(1) Rules of court must provide either—

(a) that an interested person may appeal to the High Court on a point of law against a decision to which this section applies that is made by the Welsh Ministers, or

(b) that where the Welsh Ministers make a decision to which this section applies, an interested person may require them to state and sign a case for the opinion of the High Court.

(2) The decisions to which this section applies are any decision (including a direction or order) made in proceedings on an appeal under section 131 against an enforcement notice, other than a decision under section 133 to grant planning permission or remove a condition or limitation of permission.

(3) For the purposes of this section the following are interested persons—

(a) the person who made the appeal,

(b) the planning authority in whose area the land to which the enforcement notice relates is situated, and

(c) any other person who has an interest in the land.

(4) At any stage of the proceedings on an appeal under section 131, the Welsh Ministers may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.

(5) A decision of the High Court on a case stated under subsection (4) is to be treated as a judgment of the court for the purposes of section 16 of the Senior Courts Act 1981 (c. 54) (jurisdiction of Court of Appeal to hear and determine appeals from judgments or orders of High Court).

(6) Where proceedings are brought by virtue of this section, the High Court or the Court of Appeal (as the case may be) may order that the enforcement notice is to have effect, either in full or to the extent specified in the order, pending the final determination of the proceedings and any re-hearing and determination of the appeal by the Welsh Ministers.

(7) An order under subsection (6) may be made on whatever terms the court considers appropriate, which may include terms requiring the planning authority to give an undertaking as to damages or any other matter.

(8) Rules of court may make provision—

(a) for the Welsh Ministers to be a party to proceedings in the High Court or the Court of Appeal brought by virtue of this section, either generally or in circumstances specified in the rules;

(b) about the powers of the High Court or the Court of Appeal to remit the matter to the Welsh Ministers for re-hearing and determination in accordance with the opinion or direction of the court;

(c) for the High Court or the Court of Appeal to give directions about the exercise of any other powers in respect of the matters to which the enforcement notice relates pending the final determination of the proceedings and any re-hearing and determination of the appeal by the Welsh Ministers.

(9) Proceedings in the High Court under this section may only be brought with the permission of the High Court.

(10) An appeal to the Court of Appeal by virtue of this section may only be brought with the permission of the High Court or the Court of Appeal.

379 Appeal against decision relating to maintenance of land notice or tree replacement notice

(1) Rules of court must provide either—

(a) that an interested person may appeal to the High Court on a point of law against a decision to which this section applies that is made by the Welsh Ministers, or

(b) that where the Welsh Ministers make a decision to which this section applies, an interested person may require them to state and sign a case for the opinion of the High Court.

(2) The decisions to which this section applies are any decision (including a direction or order) made by the Welsh Ministers on—

(a) an appeal under section 215 against a maintenance of land notice;

(b) an appeal under section 254 against a tree replacement notice.

(3) For the purposes of this section the following are interested persons—

(a) the person who made the appeal;

(b) the planning authority that issued the notice;

(c) in a case relating to a maintenance of land notice, any other person who has an interest in the land to which the notice relates;

(d) in a case relating to a tree replacement notice, any other person on whom a copy of the notice was served.

(4) Where proceedings are brought by virtue of this section, the notice to which the proceedings relate has no effect pending the final determination of the proceedings and any re-hearing and determination of the appeal by the Welsh Ministers.

(5) Rules of court may make provision—

(a) for the Welsh Ministers to be a party to proceedings in the High Court or the Court of Appeal brought by virtue of this section, either generally or in circumstances specified in the rules;

(b) about the powers of the High Court or the Court of Appeal to remit the matter to the Welsh Ministers for re-hearing and determination in accordance with the opinion or direction of the court.

(6) Proceedings in the High Court under this section may only be brought with the permission of the High Court.

(7) An appeal to the Court of Appeal by virtue of this section may only be brought with the permission of the High Court or the Court of Appeal.

CHAPTER 4

CORRECTION OF DECISIONS OF THE WELSH MINISTERS

380 Meaning of "decision document" and "correctable error"

(1) This section applies for the purposes of this Chapter.

(2) "Decision document" means a document that records—

(a) a decision to which section 375 applies (see subsection (2) of that section),

(b) a decision in proceedings on an appeal under section 131, 215 or 254 (appeal against enforcement notice, maintenance of land notice or tree replacement notice), or

(c) any other decision made under or by virtue of this Act that is of a description specified in regulations.

(3) "Correctable error" means an error that—

(a) is contained in any part of the decision document that records the decision, but

(b) is not part of any reasons given for the decision,

and "error" includes omission.

381 Power to correct correctable errors in decision documents

(1) This section applies where a decision document is issued that contains a correctable error.

(2) If, before the end of the review period, the Welsh Ministers—

(a) receive a request in writing to correct the error from any person, or

(b) send a statement in writing to the applicant that explains the error and states that they are considering correcting it,

the Welsh Ministers must decide whether or not to correct the error.

(3) But the Welsh Ministers may not make a correction unless they have informed the planning authority that they have received the request mentioned in subsection (2)(a) or sent the statement mentioned in subsection (2)(b).

(4) The review period is—

(a) where the decision document records a decision to which section 375 applies, the period within which an application for permission to apply for statutory review under section 376 may be made to the High Court;

(b) where the decision document records a decision on an appeal under section 131 to which section 375 does not apply, the period within which an application for permission to bring proceedings under section 378 may be made to the High Court, not including any time by which the High Court may extend that period;

(c) where the decision document records a decision on an appeal under section 215 or 254, the period within which an application for permission to bring proceedings under section 379 may be made to the High Court, not including any time by which the High Court may extend that period,

and it does not matter whether any such application is actually made.

(5) As soon as practicable after the Welsh Ministers correct the error or decide not to correct it, they must issue a correction notice.

(6) A correction notice is a notice that—

(a) specifies the correction of the error, or

(b) gives notice of a decision not to correct it.

(7) The Welsh Ministers must serve the correction notice on—

(a) the applicant;

(b) if the applicant is not the owner of the land to which the original decision relates, every owner of the land;

(c) the planning authority;

(d) if the correction was requested by any other person, that person;

(e) any other person who is specified, or of a description specified, in regulations.

(8) Where the decision document was issued by an inspector, the functions of the Welsh Ministers under this section may also be exercised by that inspector or any other inspector.

(9) In this section—

"the applicant" ("*y ceisydd*") means the person who made the application or appeal, or served the purchase notice, to which the original decision relates;

"owner" ("*perchennog*"), in relation to land, means—

(a) an owner of the freehold estate, or

(b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run;

"the planning authority" ("*yr awdurdod cynllunio*") means the planning authority in whose area the land to which the original decision relates is situated.

382 Effect and validity of correction notice

(1) If a correction is made under section 381—

(a) the original decision is to be treated as not having been made;

(b) the decision is to be treated for all purposes as having been made on the day the correction notice is issued.

(2) If a correction is not made—

(a) the original decision continues to have effect;

(b) section 381 and this section do not affect anything done in pursuance of or in relation to the decision.

(3) Where a correction notice is issued in relation to a decision to which section 375 applies, section 376 applies to the correction notice as if it were a decision to which section 375 applies.

(4) Where a correction notice is issued in relation to a decision to which section 378 or 379 applies, the section in question applies to the correction notice as if it were a decision to which that section applies.

(5) Where regulations under section 380(2)(c) specify a description of decision, they must make provision that corresponds to section 376, 378 or 379 for questioning the validity of a correction notice issued in relation to a decision of that description.

(6) The validity of a correction notice may not be questioned in any legal proceedings except to the extent provided by virtue of this section.

PART 15

GENERAL

Powers to require information about interests in land

383 Power to serve information notice

(1) A relevant authority may, for the purpose of enabling it to make an order or issue or serve a notice or other document under or by virtue of this Act (except Chapter 2 of Part 6), serve an information notice on—

(a) an occupier of any land, or

(b) a person who receives rent (either directly or indirectly) in respect of any land.

(2) An information notice is a notice requiring the person on whom it is served to give the relevant authority information in writing about the matters specified in the notice.

(3) The matters that may be specified are—

(a) the nature of the person's interest in the land to which the notice relates;

(b) the name and postal address of any other person known to the person as having an interest in the land;

(c) the purpose for which the land is being used;

(d) the time when the use of the land for that purpose started;

(e) the name and postal address of any person known to the person on whom the notice is served as having used the land for that purpose;

(f) the time when any activities being carried out on the land started.

(4) An information notice may require information to be given within—

(a) 21 days beginning with the day after the day the notice is served, or

(b) any longer period specified by the notice or allowed by the relevant authority.

(5) In this section "relevant authority" means the Welsh Ministers or a local authority.

384 Offences of failing to comply with information notice

(1) A person required to provide information by an information notice commits an offence if the person fails, without reasonable excuse, to provide the information.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person required to provide information by an information notice commits an offence if the person, in purported compliance with the notice, knowingly provides information that is false or misleading in a material respect.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction, or on conviction on indictment, to a fine.

385 Information about interests in Crown land

(1) This section applies to an interest in Crown land that is not a private interest.

(2) A relevant authority may not serve an information notice in relation to an interest to which this section applies.

(3) But the Welsh Ministers may, for the purpose of enabling a relevant authority to make an order or issue or serve a notice or other document under or by virtue of this Act (except Chapter 2 of Part 6), request the appropriate Crown authority to give them information in writing about the matters specified in the request.

(4) The matters that may be specified in the request are the matters mentioned in section 383(3).

(5) The appropriate Crown authority must comply with the request except to the extent—

(a) that the information requested is not within the knowledge of the authority, or

(b) that to do so will disclose information about—

(i) national security, or

(ii) the measures taken or to be taken to ensure the security of any land or other property.

(6) In this section "relevant authority" has the same meaning as in section 383.

Powers of entry

386 Powers to enter land

(1) A person authorised in writing by a corporate joint committee or the Welsh Ministers may enter any land to survey it in connection with the preparation, revision, adoption or approval of a strategic development plan.

(2) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to survey it in connection with the preparation, revision, adoption or approval of a local development plan.

(3) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to survey it in connection with an application mentioned in subsection (4) relating to that land or any other land.

(4) The applications are—

(a) an application for planning permission;

(b) an application for approval of a reserved matter;

(c) an application for any other consent, agreement or approval required by a condition or limitation subject to which planning permission has been granted;

(d) an application made to the Welsh Ministers under section 80 (option to make application to Welsh Ministers: connected applications);

(e) an application under section 100 for a non-material change to planning permission;

(f) an application under Schedule 8 or 9 (application to determine conditions of minerals permissions or postpone review date);

(g) an application under section 167 for the modification or discharge of a planning obligation;

(h) an application for consent under control of advertisements regulations.

(5) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to—

(a) survey it in connection with a proposal to make an order, or issue a notice, mentioned in subsection (6), or

(b) assess whether an order or notice mentioned in that subsection has been complied with.

(6) The orders and notices are—

(a) a development order that makes provision in relation to land specified in the order or land of a description specified in the order;

(b) a local development order that relates to land specified in the order or land in a part of a planning authority's area specified in the order;

(c) an order under section 102 (orders modifying or revoking planning permission);

(d) a discontinuance order;

(e) a prohibition order;

(f) a protection order;

(g) a maintenance of land notice;

(h) an order or notice under control of advertisements regulations.

(7) If it would be impossible to exercise a power conferred on a planning authority by section 231 (removal and obliteration of placards and posters) without entering any land, a person authorised in writing by the authority may enter the land to exercise the power.

(8) An authorised person may enter any land to survey it, or estimate its value, in connection with a claim for compensation in respect of that land or any other land that is payable by a planning authority or the Welsh Ministers under—

(a) Chapter 11 of Part 3 (changes to planning permission);

(b) section 124 or 152 (temporary stop notices and stop notices);

(c) Chapter 1 of Part 7 (discontinuance orders, prohibition orders and protection orders);

(d) section 232 (damage caused in removing or obliterating placard or poster);

(e) section 289 (pedestrianisation of highway);

(f) section 319 or 320(3) (statutory undertakers: changes to planning permission and re-siting of apparatus).

(9) In subsection (8) "authorised person" means—

(a) an officer of the Valuation Office of His Majesty's Revenue and Customs, or

(b) a person authorised in writing by the planning authority or (in the case of a claim for compensation under section 152 or 320(3) that is payable by the Welsh Ministers) the Welsh Ministers.

387 Powers of entry: scope and restrictions

(1) A power to enter land under section 386 may be exercised at any reasonable time.

(2) A person authorised to enter land under that section may not demand admission as of right to any land that is occupied unless at least 24 hours' notice of the intended entry has been given to every occupier.

(3) A person authorised to enter land under that section must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land.

(4) A power to enter land under section 386 to survey it includes power to search and bore to determine the nature of the subsoil or the presence of minerals.

(5) Subsection (6) applies where a person who is authorised to enter land to survey it—

(a) is required to give notice of the intended entry under subsection (2), and

(b) proposes to carry out works under subsection (4).

(6) The person may not carry out the works unless the notice of intended entry includes notice of the person's intention to carry them out.

(7) Where—

(a) a person proposes to carry out works under subsection (4) on land that belongs to a statutory undertaker, and

(b) the undertaker objects to the proposed works on the ground that carrying them out would be seriously detrimental to the carrying on of its undertaking,

the person may not carry out the works without the agreement of the appropriate Minister.

388 Powers of entry: offences and compensation

(1) This section applies where a person has a power to enter land under section 386.

(2) A person who intentionally obstructs a person exercising the power of entry commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If damage is caused to land or other property—

(a) in the exercise of the power of entry, or

(b) in making any survey for the purpose of which the power of entry was conferred,

a person suffering the damage may recover compensation from the person who authorised the entry.

(5) A person commits an offence if the person discloses information which the person obtained in the exercise of the power of entry, and which relates to a manufacturing process or trade secret, for a purpose other than that for which the person was authorised to enter the land.

(6) A person guilty of an offence under subsection (5) is liable—

(a) on summary conviction, to a fine;

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.

389 Powers to enter Crown land

(1) A person may not enter Crown land under section 386 without the agreement of—

(a) a person who appears to the person seeking entry to the land to be entitled to give that agreement, or

(b) the appropriate Crown authority.

(2) Sections 387 and 388 do not apply to anything done by virtue of this section.

Offences

390 Offences by bodies corporate

(1) This section applies where an offence under a provision of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—

(a) a senior officer of the body, or

(b) a person who was purporting to be a senior officer of the body.

(2) The senior officer or person (as well as the body corporate) is guilty of the offence, and is liable to be proceeded against and punished accordingly.

(3) In this section "senior officer" means a director, manager, secretary or other similar officer of the body corporate.

(4) But in the case of a body corporate whose affairs are managed by its members, "director" means a member of the body.

Compensation

391 Making claims for compensation

(1) Regulations may—

(a) make provision about how a claim for compensation under any provision of this Act must be made;

(b) amend any provision of this Act that specifies the period within which a claim for compensation must be made.

(2) The Welsh Ministers may extend the period for making a claim for compensation under a provision of this Act in a particular case, if they are satisfied that there are good reasons for doing so.

(3) The period for making a claim may be extended—

(a) at any time, whether before or after the period ends, and

(b) more than once.

392 Determination of compensation claims by Upper Tribunal

(1) Any dispute about compensation under a provision of this Act is to be referred to and determined by the Upper Tribunal.

(2) Section 4 of the Land Compensation Act 1961 (c. 33) (costs) applies to the determination of a question referred under this section as it applies to the determination of a question referred under section 1 of that Act, but as if references to the acquiring authority were references to the person from whom compensation is claimed.

393 Compensation for depreciation of value of land

(1) The rules in section 5 of the Land Compensation Act 1961 (c. 33) have effect for the purpose of assessing any compensation for depreciation payable under a provision of this Act, so far as relevant and with any necessary modifications, as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) Where an interest in land is subject to a mortgage—

(a) any compensation for depreciation that is payable under this Act in respect of the interest must be assessed as if the interest were not subject to the mortgage;

(b) a claim for compensation for depreciation may be made by any mortgagee of the interest, but that does not affect the right of the person whose interest is subject to the mortgage to make a claim;

(c) no compensation for depreciation is payable in respect of the interest of the mortgagee (as distinct from the interest that is subject to the mortgage);

(d) any compensation for depreciation that is payable in respect of the interest subject to the mortgage must be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee; and it must be applied by the mortgagee to whom it is paid as if it were proceeds of sale.

(3) In this section "compensation for depreciation" means compensation for loss or damage consisting of depreciation of the value of an interest in land.

394 Power to modify compensation provisions in relation to minerals

(1) Regulations may make provision about entitlement to compensation where—

(a) an order under section 102 modifies planning permission for minerals development;

(b) a discontinuance order is made in relation to a use of land for carrying out mining operations or depositing mineral waste;

(c) a prohibition order or protection order is made.

(2) The regulations may make provision (which may include provision amending this Act)—

(a) for sections 106, 107 and 211 to have effect subject to different modifications from those set out in Schedules 11 and 16 (or without any or all of those modifications);

(b) for sections 319, 321 and 393 to have effect subject to modifications.

(3) The regulations may, for example—

(a) specify circumstances in which compensation is not payable;

(b) change the basis on which any compensation is to be assessed.

(4) Before making any regulations under this section, the Welsh Ministers must consult persons they consider to be representative of—

(a) persons carrying out mining operations;

(b) owners of interests in land that contains minerals;

(c) planning authorities.

Financial contributions

395 Contributions towards costs incurred by authorities

(1) Any local authority or statutory undertaker may contribute towards costs incurred by a corporate joint committee, or by a planning authority, local highway authority or other local authority, in or in connection with the exercise of any of its functions under or by virtue of this Act (except Chapter 2 of Part 6).

(2) Any local authority may contribute towards costs incurred by a local highway authority in the construction or improvement of a road for the purpose of providing a public right of way as an alternative to a right of way extinguished by an order under section 297 or 300.

(3) Subsection (4) applies where compensation is payable by a planning authority, local highway authority or other local authority in consequence of anything done under or by virtue of this Act (except Chapter 2 of Part 6).

(4) The Welsh Ministers may—

(a) contribute towards the payment of the compensation, if the thing in consequence of which it is payable was done wholly or partly in the interests of a service that is provided by the Welsh Ministers, or

(b) direct another local authority to contribute an amount that the Welsh Ministers consider reasonable, having regard to any benefit accruing to that other authority as a result of the thing being done.

(5) Subsection (6) applies where—

(a) compensation is payable by a planning authority or other local authority in consequence of any decision or order made under or by virtue of Parts 3 to 9 (except Chapter 2 of Part 6), and

(b) the decision or order was made wholly or partly in the interests of a service—

(i) that is provided by a Minister of the Crown or a department of the government of the United Kingdom, and

(ii) the cost of which is met out of money provided by the Parliament of the United Kingdom.

(6) The Minister or department may, with the consent of the Treasury, contribute towards the payment of the compensation.

(7) The powers conferred on local authorities by this section do not limit the powers conferred by sections 274 and 275 of the Highways Act (contributions towards costs of highway authorities and costs relating to public paths).

(8) See also section 272 of that Act for provision about the making of advances by the Welsh Ministers for highway purposes.

Forms

396 Form of local authority documents

Regulations may specify the form and content of any notice, order or other document that a local authority is authorised or required to serve, make or issue under or by virtue of this Act.

397 Powers to make provision about forms for applications and appeals

(1) This section applies to a power under this Act to make provision in regulations or a development order about the form of—

(a) an application,

(b) a notice of appeal, or

(c) any other document to be provided by an applicant or appellant.

(2) The power includes power to make provision authorising or requiring the use of a form to be published or provided by the Welsh Ministers or another person.

(3) It does not matter for the purposes of this section how the power is expressed.

Service of documents

398 Service of notices and other documents: general

(1) This section applies where a provision contained in or made under this Act requires or authorises a notice or other document to be served on a person (whether the provision uses the word "serve" or "give" or any other term).

(2) The document may be served on the person in any of the following ways—

(a) by handing it to the person or, in the case of a person who is a body corporate, handing it to the secretary or clerk of the body at its registered or principal office;

(b) by leaving it at the person's usual or last known place of residence or, if the person has given an address for service, at that address;

(c) by sending it using a registered post service or a recorded delivery service—

(i) addressed to the person at the person's usual or last known place of residence or, in the case of a person who is a body corporate, addressed to the secretary or clerk of the body at its registered or principal office, or

(ii) if the person has given an address for service, addressed to the person at that address;

(d) if the person has given an address for service using electronic communications, by sending it to the person at that address using an electronic communication that complies with the conditions in subsection (3).

(3) The conditions are that the document is—

(a) capable of being accessed by the person to whom it is sent,

(b) legible in all material respects, and

(c) capable of being used for subsequent reference.

(4) Where an electronic communication is used to serve a document on a person and is received by the person outside the person's business hours, the document is to be treated as having been served on the next working day.

(5) Subsection (2)(d) does not apply to the service of—

(a) an enforcement investigation notice;

(b) a copy of a temporary stop notice;

(c) a breach of condition notice or a notice withdrawing a breach of condition notice;

(d) a copy of an enforcement notice;

(e) a notice that an enforcement notice has been withdrawn or that any of its requirements have been waived or relaxed;

(f) a notice under section 143(6) of an intention to enter land and take steps required by an enforcement notice;

(g) a copy of a stop notice, or a notice that a stop notice has been withdrawn;

(h) a copy of a tree preservation order or woodland preservation order, or a notice of the making of such an order, in accordance with tree preservation regulations;

(i) a copy of a maintenance of land notice;

(j) an information notice.

(6) See section 233 of the Local Government Act for additional provision about the methods by which certain local authorities may serve documents.

(7) This section is subject to any provision to the contrary made by or under this Act.

399 Service of documents on persons having an interest in land or occupying land

(1) This section applies (in addition to section 398) where a provision contained in or made under this Act requires or authorises a notice or other document to be served on a person—

(a) as having an interest in land, or

(b) as an occupier of land.

(2) Where the document is to be served on a person as having an interest in any land, and the name of the person cannot be discovered after making reasonable inquiries, the document may be addressed to the person as "the owner" of the land (which must be described).

(3) Where the document is to be served on a person as an occupier of any land, it may be addressed to the person by name or as "the occupier" of the land (which must be described).

(4) Subsection (5) applies—

(a) where—

(i) a document is to be served on a person as having an interest in any land,

(ii) the person's usual or last known place of residence cannot be discovered after making reasonable inquiries, and

(iii) the person has not given an address for the service of the document, or

(b) where a document is to be served on a person as an occupier of any land.

(5) The document is to be treated as properly served if it is addressed to the person, clearly marked as an important communication affecting the person's property, and is—

(a) sent to the land using a registered post service or a recorded delivery service and not returned as undelivered,

(b) handed to a person who is, or appears to be, resident or employed on the land, or

(c) attached conspicuously to an object on the land.

(6) This section is subject to any provision to the contrary made by or under this Act.

400 Service of documents on the Crown

(1) This section applies where a notice or other document is required or authorised under or by virtue of this Act to be served on the Crown.

(2) The document must be served on the appropriate Crown authority.

(3) Sections 398 and 399 do not apply to the service of the document.

The Crown

401 Definitions relating to the Crown

(1) This section applies for the purposes of this Act.

(2) "Crown land" means land in which there is a Crown interest or a Duchy interest.

(3) "Crown interest" means an interest that—

(a) belongs to His Majesty in right of the Crown or in right of His private estates, or

(b) belongs to a government department or is held in trust for His Majesty for the purposes of a government department.

(4) "Duchy interest" means—

(a) an interest belonging to His Majesty in right of the Duchy of Lancaster, or

(b) an interest belonging to the Duchy of Cornwall.

(5) "Private interest", in relation to Crown land, means an interest that is neither a Crown interest nor a Duchy interest.

(6) "Appropriate Crown authority", in relation to Crown land, means—

(a) in relation to land belonging to His Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;

(b) in relation to any other land belonging to His Majesty in right of the Crown, the government department having the management of the land;

(c) in relation to land belonging to His Majesty in right of His private estates, a person appointed by His Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Welsh Ministers;

(d) in relation to land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(e) in relation to land belonging to the Duchy of Cornwall, a person appointed by the Duke of Cornwall or by the possessor for the time being of the Duchy;

(f) in relation to land belonging to a government department or held in trust for His Majesty for the purposes of a government department, the department.

(7) "The Crown" is to be treated as including the Senedd Commission.

(8) Any question that arises about who is the appropriate Crown authority in relation to any land must be referred to the Treasury, whose decision is final.

(9) In this section—

(a) references to His Majesty's private estates are to be read in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37);

(b) references to a government department include the Senedd Commission.

402 Representation of Crown and Duchy interests in land

(1) This section applies to anything that is required or authorised to be done for the purposes of any provision contained in or made under this Act (except Chapter 2 of Part 6) by or in relation to an owner of an interest in land (including an interest only as an occupier of the land).

(2) To the extent that the interest is a Crown interest or a Duchy interest, the thing must be done by or in relation to the appropriate Crown authority.

403 Enforcement steps in relation to Crown land

(1) A planning authority must not take a relevant enforcement step in relation to Crown land without the agreement of the appropriate Crown authority.

(2) The appropriate Crown authority may give agreement subject to conditions.

(3) In this section "relevant enforcement step" means anything done in connection with the enforcement of a requirement or prohibition imposed by or under this Act (except Chapter 2 of Part 6).

(4) It includes—

(a) entering land, and

(b) bringing proceedings or making an application.

(5) But it does not include—

(a) issuing or serving a notice (for example, a temporary stop notice or enforcement notice), or

(b) making an order (for example, an order under section 102).

Other special cases

404 Listed buildings and features of special architectural or historical interest

(1) In considering whether to grant planning permission under a provision mentioned in subsection (2) for development that affects a listed building or its setting, the Welsh Ministers or a planning authority must have special regard to the desirability of preserving—

(a) the listed building,

(b) the setting of the building, and

(c) any features of special architectural or historic interest that the building possesses.

(2) The provisions are—

(a) Chapter 2 of Part 3 (grant of planning permission by development order or local development order);

(b) Chapters 6 and 7 of that Part (grant of permission on application or appeal);

(c) paragraph 6 of Schedule 12 (grant of permission instead of confirming purchase notice);

(d) section 133 (grant of permission on determination of appeal against enforcement notice);

(e) section 207 and paragraph 1(7) of Schedule 14 (grant of permission by discontinuance order).

(3) In exercising the powers conferred by sections 266 to 268 (appropriation, disposal and development of land held for planning purposes), a local authority must have regard to the desirability of preserving features of special architectural or historic interest, and in particular listed buildings.

(4) In this section "listed building" includes a listed building, within the meaning given by section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9), situated in England.

405 Development by, and land of, planning authorities and the Welsh Ministers

(1) Regulations may make provision about the application of the provisions mentioned in subsection (2) in relation to—

(a) the development of land in the area of a planning authority by the planning authority or the Welsh Ministers (whether alone or jointly with any other person);

(b) land in the area of a planning authority in which the planning authority or the Welsh Ministers have an interest.

(2) The provisions are any of the provisions of—

(a) Part 3 (planning permission) except Chapter 8 (development with government authorisation);

(b) Chapter 1 of Part 6 (planning obligations);

(c) Chapter 1 of Part 7 (discontinuance orders, prohibition orders and protection orders);

(d) Part 9 (preservation of trees and woodlands).

(3) Regulations under this section may—

(a) provide for any of those provisions to apply subject to exceptions or modifications, or not to apply, in relation to development mentioned in subsection (1)(a) or land mentioned in subsection (1)(b);

(b) make new provision about any matter dealt with in any of those provisions.

(4) The regulations may, in particular, provide—

(a) for an application for a relevant consent to be made to, or determined by, the planning authority or the Welsh Ministers;

(b) for the procedure to be followed in connection with an application for a relevant consent.

(5) If the regulations provide for an application to be determined by the planning authority, they may regulate the authority's arrangements for the exercise of its functions in relation to the application, despite any provision made by or under sections 361 to 363 or by section 101 of the Local Government Act.

(6) The regulations may, in relation to an application relating to development by a planning authority or relating to land in which a planning authority has an interest—

(a) provide for any provision made by regulations under section 58 or 63 to apply subject to exceptions or modifications, or

(b) make corresponding provision.

(7) In subsection (4) "relevant consent" means—

(a) planning permission for development mentioned in subsection (1)(a);

(b) planning permission to develop land mentioned in subsection (1)(b);

(c) any other consent, agreement or approval that is required in respect of development mentioned in subsection (1)(a) or land mentioned in subsection (1)(b).

406 Church of England land

(1) Where any provision contained in or made under this Act requires or authorises a notice or other document to be served on an owner of land, and the land is Church of England land, a corresponding document must also be served on the appropriate Board of Finance.

(2) Church of England land belonging to an ecclesiastical benefice that is vacant is to be treated for the purposes of the compulsory acquisition of the land under any provision of this Act as belonging to the appropriate Board of Finance.

(3) Any compensation payable in relation to Church of England land under any provision contained in or made under this Act must be—

(a) paid to the appropriate Board of Finance, and

(b) applied by that Board for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Church of England Measure authorising or disposing of the proceeds of such a sale.

(4) Where an amount of compensation is recoverable under paragraph 5 of Schedule 10 in relation to Church of England land, the appropriate Board of Finance may apply any money or securities held by it towards repaying that amount.

(5) In this section—

"appropriate Board of Finance" ("*Bwrdd Cyllid priodol*"), in relation to any land, means the Diocesan Board of Finance for the diocese in which the land is situated;

"Church of England land" ("*tir Eglwys Loegr*") means land that—

(a) belongs to an ecclesiastical benefice of the Church of England,

(b) is or forms part of a church subject to the jurisdiction of a bishop of a diocese of the Church of England or the site of such a church, or

(c) is or forms part of a burial ground subject to the jurisdiction of such a bishop.

General

407 Regulations

(1) A power to make regulations under any provision of this Act (except section 306) is exercisable by the Welsh Ministers.

(2) The power to make regulations under section 306 (operational land of universal postal service providers) is exercisable by the Welsh Ministers and the Secretary of State for Business and Trade acting jointly.

(3) A power to make regulations under this Act includes power—

(a) to make different provision for different purposes;

(b) to make incidental, supplementary, consequential, transitional or saving provision.

(4) In the case of regulations made under the powers mentioned in subsection (5), the provision that may be made by virtue of subsection (3)(b) includes provision that disapplies, modifies the effect of, amends, repeals or revokes any enactment, including any provision of this Act.

(5) The powers referred to in subsection (4) are the powers conferred on the Welsh Ministers by—

(a) Part 2 (the development plan);

(b) Chapter 2 of Part 6 (CIL regulations);

(c) section 360 (fees for exercise of planning authority functions);

(d) section 364 (fees for applications and appeals to the Welsh Ministers);

(e) section 366(10) (proceedings for which the Welsh Ministers must determine the procedure);

(f) Chapter 4 of Part 14 (correction of decisions of the Welsh Ministers).

(6) Regulations under this Act (except regulations under section 306) must be made by Welsh statutory instrument.

(7) The following regulations are subject to the Senedd approval procedure—

(a) regulations under section 9 (joint planning areas and National Parks);

(b) regulations under paragraph 1(9) of Schedule 3 (aftercare period);

(c) regulations under paragraph 1(4) of Schedule 5 (duration of minerals permissions);

(d) CIL regulations;

(e) regulations under section 305 (operational land of Civil Aviation Authority);

(f) regulations under section 360 (fees for exercise of planning authority functions);

(g) regulations under section 362 (size and composition of planning authority committees);

(h) regulations under section 364 (fees for applications and appeals to the Welsh Ministers);

(i) regulations under section 366(10) (proceedings for which the Welsh Ministers must determine the procedure);

(j) regulations under section 394 (compensation for orders relating to minerals);

(k) regulations under section 405 that relate to the development of land by the Welsh Ministers or to land in which the Welsh Ministers have an interest;

(l) regulations under any other provision of this Act (except section 306) that amend or repeal any enactment contained in primary legislation (including any provision of this Act).

(8) Any other regulations under this Act (except regulations under section 306) are subject to the Senedd annulment procedure.

(9) Regulations under section 306—

(a) must be made by statutory instrument,

(b) are subject to the Senedd approval procedure, and

(c) may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of the Parliament of the United Kingdom.

(10) In subsection (7)(l) "primary legislation" means—

(a) an Act of Senedd Cymru;

(b) an Assembly Measure;

(c) an Act of the Parliament of the United Kingdom.

408 Interpretation

(1) In this Act—

"acquiring authority" ("*awdurdod caffael*"), in relation to the acquisition or proposed acquisition of an interest in land (whether compulsorily or by agreement), means the public authority or other person by whom the interest is acquired or is proposed to be acquired;

"address" ("*cyfeiriad*"), in relation to electronic communications, means any number or address used for the purpose of electronic communications;

"advertisement" ("*hysbyseb*") has the meaning given by section 221(5);

"aftercare condition" ("*amod ôl-ofal*") has the meaning given by paragraph 1(2)(b) of Schedule 3;

"agricultural unit" ("*uned amaethyddol*") means land that is occupied as a unit for the purposes of agriculture, including any of the following that are on the land—

(a) a dwelling or other building that is occupied for the purpose of farming the land by the person who occupies the unit, and

(b) a dwelling occupied by an agricultural worker;

"agriculture" ("*amaethyddiaeth*") includes—

(a) horticulture, fruit growing and seed growing,

(b) dairy farming and the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for use in farming land),

(c) the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and

(d) the use of land for woodlands, where that use is ancillary to the farming of land for other agricultural purposes;

"air traffic licensee" ("*trwyddedai traffig awyr*") means a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 (c. 38) (air traffic services);

"appropriate Crown authority" ("*awdurdod priodol y Goron*"), in relation to Crown land, has the meaning given by section 401(6);

"appropriate Minister" ("*Gweinidog priodol*"), in relation to a statutory undertaker, has the meaning given by section 308;

"breach of condition notice" ("*hysbysiad tor amod*") means a notice served under section 125;

"breach of planning control" ("*tor rheolaeth gynllunio*") has the meaning given by section 112(1);

"building" ("*adeilad*") (except in Chapter 2 of Part 6) means—

(a) any building or structure, or

(b) any part of a building or structure,

but does not include plant or machinery forming part of a building or structure;

"burial ground" ("*claddfa*") includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the interment of human remains;

"Church of England Measure" ("*Mesur gan Eglwys Loegr*") means a Measure of the Church Assembly or of the General Synod of the Church of England;

"CIL regulations" ("*rheoliadau ASC*") has the meaning given by section 171(3);

"compulsory acquisition" ("*caffaeliad gorfodol*") does not include the transfer of property from one person to another by an enactment;

"control of advertisements regulations" ("*rheoliadau rheolaethu hysbysebion*") has the meaning given by section 221(1);

"corporate joint committee" ("*cyd-bwyllgor corfforedig*") means a corporate joint committee to which Part 2 of this Act applies by virtue of regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 (asc 1);

"the Crown" ("*y Goron*") is to be interpreted in accordance with section 401(7);

"Crown interest" ("*buddiant y Goron*") has the meaning given by section 401(3);

"Crown land" ("*tir y Goron*") has the meaning given by section 401(2);

"depositing of mineral waste" ("*dyddodi gwastraff mwynau*") means any process whereby a deposit of mineral waste is created or enlarged;

"development" ("*datblygiad*") (except in Chapter 2 of Part 6) has the meaning given by section 3 (see also sections 4 to 6);

"development consent ("*cydsyniad datblygu*") means development consent under the Planning Act 2008 (c. 29);

"development order" ("*gorchymyn datblygu*") has the meaning given by section 44(1);

"the development plan" ("*y cynllun datblygu*"), in relation to an area, is to be interpreted in accordance with section 10;

"discontinuance order" ("*gorchymyn datbarhau*") means an order under section 206;

"display" ("*arddangos*"), in relation to an advertisement, is to be interpreted in accordance with section 221(5);

"disposal" ("*gwaredu*"), in relation to land, means disposal by sale, exchange or lease, by creating an easement, right or privilege, or in any other way, but does not include a disposal by appropriation, gift or mortgage;

"Duchy interest" ("*buddiant Dugiaeth*") has the meaning given by section 401(4);

"electricity licensee" ("*trwyddedai trydan*") means a person who holds a licence under section 6 of the Electricity Act 1989 (c. 29) (generation, distribution, supply etc. of electricity);

"electronic communication" ("*cyfathrebiad electronig*") has the meaning given by section 15(1) of the Electronic Communications Act 2000 (c. 7);

"electronic communications apparatus" ("*cyfarpar cyfathrebiadau electronig*") has the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21);

"electronic communications code" ("*cod cyfathrebiadau electronig*") means the code set out in Schedule 3A to the Communications Act 2003;

"electronic communications code network" ("*rhwydwaith cod cyfathrebiadau electronig*") has the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003;

"electronic communications code operator" ("*gweithredwr cod cyfathrebu electronig*") has the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003;

"enactment" ("*deddfiad*") means any enactment, whenever enacted or made;

"enforcement action" ("*cam gorfodi*"), and references to taking enforcement action, are to be interpreted in accordance with section 112(2);

"enforcement investigation notice" ("*hysbysiad ymchwilio am orfodi*") means a notice served under section 114;

"enforcement notice" ("*hysbysiad gorfodi*") means a notice issued under section 128 or 144;

"enforcement warning notice" ("*hysbysiad rhybuddio am orfodi*") means a notice issued under section 119;

"erection" ("*codi*"), in relation to a building, includes extension, alteration and re-erection;

"farming" ("*ffermio*"), in relation to land, includes carrying out any agricultural activities in relation to it;

"former public telecommunications operator" ("*cyn-weithredwr telathrebu cyhoeddus*") has the meaning given to "former PTO" by paragraph 1(1) of Schedule 17 to the Communications Act 2003;

"functions" ("*swyddogaethau*") includes powers and duties;

"gas transporter" ("*trawsgludydd nwy*") has the meaning given by section 7(1) of the Gas Act 1986 (c. 44) (licensing of conveyance of gas through pipes);

"government department" ("*adran o'r llywodraeth*") includes the Welsh Ministers and a Minister of the Crown;

"the Hazardous Substances Act" ("*y Ddeddf Sylweddau Peryglus*") means the Planning (Hazardous Substances) Act 1990 (c. 10);

"highway" ("*priffordd*") has the same meaning as in the Highways Act (see section 328(1) and (2) of that Act);

"highway authority" ("*awdurdod priffyrdd*") has the same meaning as in the Highways Act (see Part 1 of that Act);

"the Highways Act" ("*y Ddeddf Priffyrdd*") means the Highways Act 1980 (c. 66);

"the Historic Environment Act" ("*Deddf yr Amgylchedd Hanesyddol*") means the Historic Environment (Wales) Act 2023 (asc 3);

"improvement" ("*gwella*"), in relation to a highway, has the same meaning as in the Highways Act (see sections 329(1) and 332 of that Act);

"information notice" ("*hysbysiad gwybodaeth*") means a notice served under section 383;

"infrastructure consent order" ("*gorchymyn cydsyniad seilwaith*") has the meaning given by section 143(1) of the Infrastructure (Wales) Act 2024 (asc 3);

"inspector" ("*arolygydd*") means a person appointed by the Welsh Ministers;

"joint planning board" ("*bwrdd cydgynllunio*") means a joint board established under section 8(1)(b);

"land" ("*tir*")—

(a) means any corporeal hereditament, including—

(i) a building;

(ii) any mine or minerals, whether or not severed from the surface;

(b) in relation to the acquisition of land, includes any interest in or right over land;

"lawful" ("*cyfreithlon*"), in relation to any use of land or operations on land, or any failure to comply with a condition of planning permission, has the meaning given by section 155;

"lease" ("*les*") includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage;

"listed building" ("*adeilad rhestredig*") has the meaning given by section 76 of the Historic Environment Act;

"local authority" ("*awdurdod lleol*") means—

(a) a county council or county borough council in Wales;

(b) a National Park authority in Wales;

(c) a community council;

(d) a police and crime commissioner in Wales;

(e) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;

(f) a body in Wales that is a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 (c. 41);

(g) a body in Wales to which section 75 of that Act (special levies) applies;

(h) a joint board or joint committee, if all the constituent authorities are local authorities within paragraphs (a) to (g);

"local development order" ("*gorchymyn datblygu lleol*") has the meaning given by section 45(1);

"local development plan" ("*cynllun datblygu lleol*") is to be interpreted in accordance with section 19;

"the Local Government Act" ("*y Ddeddf Llywodraeth Leol*") means the Local Government Act 1972 (c. 70);

"local highway authority" ("*awdurdod priffyrdd lleol*") means a highway authority other than the Welsh Ministers, the Secretary of State or a strategic highways company;

"maintenance of land notice" ("*hysbysiad cynnal a chadw tir*") means a notice issued under section 214;

"material change in the use of land" ("*newid sylweddol yn y defnydd o dir*") is to be interpreted in accordance with Chapter 2 of Part 1;

"mineral waste" ("*gwastraff mwynau*") means material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of mining operations;

"minerals" ("*mwynau*") includes all substances of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale;

"minerals development" ("*datblygiad mwynau*") means development that—

(a) consists of mining operations, or

(b) includes the depositing of mineral waste;

"minerals permission" ("*caniatâd mwynau*") means planning permission for minerals development, but does not include planning permission granted by a development order;

"mining operations" ("*gweithrediadau mwyngloddio*") has the meaning given by section 4(5);

"mortgage" ("*morgais*") includes any charge or lien on any property for securing money or money's worth;

"National Development Framework for Wales" ("*Fframwaith Datblygu Cenedlaethol Cymru*") is to be interpreted in accordance with section 12;

"open space" ("*man agored*") means any land that—

(a) is laid out as a public garden,

(b) is used for public recreation, or

(c) is a disused burial ground;

"operational land" ("*tir gweithredol*"), in relation to a statutory undertaker, has the meaning given by section 304, 305 or 306;

"operations" ("*gweithrediadau*") has the meaning given by section 4(1);

"operator" ("*gweithredwr*"), in relation to an electronic communications code network, has the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003;

"outline planning permission" ("*caniatâd cynllunio amlinellol*") has the meaning given by section 48(4);

"owner" ("*perchennog*"), in relation to land (except where a provision of this Act specifies a different meaning), means a person who, whether in their own right or as trustee for any other person—

(a) is entitled to receive the rack rent of the land, or

(b) would be so entitled if the land were let at a rack rent,

but does not include a mortgagee who is not in possession;

"planning authority" ("*awdurdod cynllunio*") has the meaning given by section 7;

"planning decision" ("*penderfyniad cynllunio*") means a decision on an application for planning permission made under this Act (see also subsections (5) and (6));

"planning obligation" ("*rhwymedigaeth gynllunio*") means an obligation entered into under section 165;

"planning permission" ("*caniatâd cynllunio*") means permission under Part 3;

"planning permission granted for a limited period" ("*caniatâd cynllunio a roddir am gyfnod cyfyngedig*") has the meaning given by section 67(4);

"post-1948 minerals permission" ("*caniatâd mwynau ôl-1948*") has the meaning given by section 103(6);

"pre-1948 minerals permission" ("*caniatâd mwynau cyn-1948*") has the meaning given by section 103(6);

"private interest" ("*buddiant preifat*"), in relation to Crown land, has the meaning given by section 401(5);

"prohibition order" ("*gorchymyn gwahardd*") means an order under paragraph 1 of Schedule 15;

"protection order" ("*gorchymyn diogelu*") means an order under paragraph 5 of Schedule 15;

"relevant airport operator" ("*gweithredwr maes awyr perthnasol*") has the meaning given by section 57A of the Airports Act 1986 (c. 31);

"removal" ("*symud ymaith*")—

(a) in relation to a building, includes demolition;

(b) in relation to works, includes filling in trenches;

"reserved matter" ("*mater a gadwyd yn ôl*") has the meaning given by section 48(4);

"restoration condition" ("*amod adfer*") has the meaning given by paragraph 1(2)(a) of Schedule 3;

"special parliamentary procedure" ("*gweithdrefn arbennig Senedd y Deyrnas Unedig*") means the procedure set out in the Statutory Orders (Special Procedure) Act 1945 (9 & 10 Geo. 6 c. 18);

"special Senedd procedure" ("*gweithdrefn arbennig Senedd Cymru*") means the procedure specified in the standing orders of Senedd Cymru for subordinate legislation that is subject to special Senedd procedure;

"statutory undertaker" ("*ymgymerwr statudol*") and "statutory undertaking" ("*ymgymeriad statudol*") have the meanings given by section 303;

"stop notice" ("*hysbysiad stop*") means a notice issued under section 145 or 150;

"strategic development plan" ("*cynllun datblygu strategol*") is to be interpreted in accordance with section 17;

"strategic highways company" ("*cwmni priffyrdd strategol*") means a company for the time being appointed under Part 1 of the Infrastructure Act 2015 (c. 7);

"temporary stop notice" ("*hysbysiad stop dros dro*") means a notice issued under section 120;

"termination order" ("*gorchymyn terfynu*") means an order under section 98;

"tree preservation order" ("*gorchymyn diogelu coed*") means an order under section 234 or 236(1);

"tree preservation regulations" ("*rheoliadau diogelu coed*") has the meaning given by section 237(1);

"tree replacement notice" ("*hysbysiad amnewid coed*") means a notice issued under section 252;

"universal postal service provider" ("*darparwr gwasanaeth post cyffredinol*") means a "universal service provider" within the meaning given by section 65 of the Postal Services Act 2011 (c. 5), and references to the provision of a universal postal service are to be read in accordance with that section;

"urban development area" ("*ardal datblygu trefol*") has the same meaning as in Part 16 of the Local Government, Planning and Land Act 1980 (c. 65) (see section 171 of that Act);

"urban development corporation" ("*corfforaeth datblygu trefol*") has the same meaning as in Part 16 of the Local Government, Planning and Land Act 1980 (see section 171 of that Act);

"Wales" ("*Cymru*") means the combined area of the counties and county boroughs in Wales;

"waste" ("*gwastraff*") includes anything that is—

(a) waste within the scope of Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851, or

(b) mineral waste;

"water undertaker" ("*ymgymerwr dŵr*") and "sewerage undertaker" ("*ymgymerwr carthffosiaeth*") are to be interpreted in accordance with section 6 of the Water Industry Act 1991 (c. 56);

"the Well-being Act" ("*y Ddeddf Llesiant*") means the Well-being of Future Generations (Wales) Act 2015 (anaw 2);

"the Welsh planning Acts" ("*Deddfau cynllunio Cymru*") means—

(a) this Act,

(b) the Hazardous Substances Act, as it applies in relation to Wales, and

(c) Parts 3 to 5 of the Historic Environment Act, and Part 7 of that Act as it applies for the purposes of those Parts;

"woodland preservation order" ("*gorchymyn diogelu coetir*") means an order under section 235 or 236(2);

"works" ("*gwaith*") includes waste deposited on land, and references to the construction of works include the deposit of waste on land.

(2) In this Act (except in Part 11)—

(a) references to things on land include things in, under or over the land;

(b) references to doing anything on land include doing it in, under or over the land.

(3) Where a provision of this Act requires a person to have regard to the development plan for an area and any other relevant considerations in exercising a function, the considerations to which the person must have regard include—

(a) national policies relating to the development and use of land issued by the Welsh Ministers, so far as those policies are relevant to the exercise of the function, and

(b) considerations relating to the use of the Welsh language, so far as they are relevant to the exercise of the function.

(4) Subsection (3) does not affect—

(a) whether the considerations that it mentions, or any other considerations, are relevant to the exercise of a function, or

(b) the weight that must be given to any consideration to which a person has regard.

(5) In this Act a reference to a planning decision (however expressed) is—

(a) in relation to a decision of a planning authority that is altered on appeal by the reversal or variation of all or part of it, a reference to the decision as altered on appeal;

(b) in relation to a decision of a planning authority that is upheld on appeal, a reference to the decision of the planning authority and not the decision of the Welsh Ministers on the appeal;

(c) in relation to a decision given on an appeal under section 73(3) (failure to give notice of decision etc.), a reference to the decision on the appeal.

(6) In a case where there is an appeal, a planning decision is to be treated as having been made—

(a) when the planning authority made its decision (whether or not that decision is altered on the appeal), or

(b) if the appeal is made under section 73(3), at the end of the period mentioned in that subsection,

but for the purpose of determining whether a purchase notice has been served within the period specified in paragraph 4(2) of Schedule 12, this is subject to paragraphs 4(3) and 10(2) of that Schedule.

409 Coming into force

(1) The following provisions come into force on the day after the day this Act receives Royal Assent—

(a) Chapter 1 of Part 1 (introduction and overview);

(b) section 42 (overview of Part 3);

(c) section 407 (regulations);

(d) section 408 (interpretation);

(e) this section;

(f) section 410 (short title).

(2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by Welsh statutory instrument.

(3) An order under subsection (2) may make transitional or saving provision in connection with the coming into force of a provision of this Act.

410 Short title

This Act may be referred to as—

(a) the Planning (Wales) Act 2026, or

(b) Deddf Cynllunio (Cymru) 2026.

SCHEDULE 1

(introduced by section 45(8))

LOCAL DEVELOPMENT ORDERS

Preparation of order

1 A local development order must be prepared in accordance with the procedure specified in regulations.

Power of the Welsh Ministers to direct authority to modify order before adoption

2 (1) If the Welsh Ministers consider that a local development order being prepared by a planning authority is unsatisfactory, they may at any time before the order is adopted direct the authority to modify the order in accordance with the direction.

(2) If the Welsh Ministers give a direction under this paragraph, they must state their reasons for doing so.

(3) The planning authority must not adopt the order unless the Welsh Ministers give notice that they are satisfied that the authority has complied with the direction.

Power to direct authority to submit order for approval

3 (1) At any time before a local development order is adopted by a planning authority, the Welsh Ministers may direct the authority to submit the order (or a part of it) to them for their approval.

(2) If the Welsh Ministers give a direction under this paragraph, the planning authority must not take any further steps in connection with the adoption of the order unless the Welsh Ministers approve it (or, if the direction relates to only part of the order, they approve the part).

(3) In considering an order (or part of an order) submitted to them in accordance with a direction under this paragraph, the Welsh Ministers may take account of any matter they consider relevant, whether or not it was taken into account by the planning authority.

(4) The Welsh Ministers may approve or reject an order (or part of an order) submitted to them in accordance with a direction under this paragraph.

(5) The Welsh Ministers must give reasons for their decision.

Revision of order after adoption

4 (1) A planning authority may at any time revise a local development order made by the authority.

(2) If the Welsh Ministers direct a planning authority to revise a local development order, the authority must revise the order in accordance with the timetable (if any) set out in the direction.

(3) Section 45 and this Schedule apply to the revision of a local development order as they apply to the preparation of the order.

Revocation of order

5 (1) A planning authority may at any time revoke a local development order made by the authority.

(2) The Welsh Ministers may at any time by order revoke a local development order.

(3) The Welsh Ministers must not do so without consulting the planning authority that made the local development order.

(4) Where the Welsh Ministers propose to make an order revoking a local development order, they must serve notice of the proposed order on the planning authority.

(5) The notice must specify the period within which the planning authority may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(6) If the planning authority makes such a request within that period, the Welsh Ministers must give the authority such an opportunity before making the order.

(7) The period specified under sub-paragraph (5) must be at least 28 days beginning with the day after the day the notice is served.

(8) If the Welsh Ministers revoke a local development order, they must state their reasons for doing so.

Annual monitoring report

6 (1) A report made by a planning authority under section 35 must include a report about the extent to which a local development order made by the authority is achieving its purposes.

(2) Regulations may make provision about the form and content of the report as it relates to a local development order.

Regulations

7 (1) Regulations may make provision in connection with the preparation, submission, approval, adoption, withdrawal, revision and revocation of a local development order.

(2) The regulations may, in particular, make provision about—

(a) notification and publicity;

(b) consultation with and participation by persons specified in the regulations;

(c) making and considering representations;

(d) making documents available for public inspection.

SCHEDULE 2

(introduced by section 62(6))

APPEALS UNDER SECTION 61: DETERMINATION BY INSPECTORS

Powers and duties of inspector

1 An inspector has the same powers and duties in relation to an appeal under section 61 as the Welsh Ministers have under—

(a) section 62(1),

(b) regulations under section 367 (procedural requirements), and

(c) sections 372 and 373 (costs).

Replacement of inspector

2 At any time before an inspector determines an appeal under section 61, the Welsh Ministers may—

(a) revoke the inspector's appointment, and

(b) appoint another inspector to determine the appeal.

Direction that appeal is to be determined by the Welsh Ministers

3 (1) This paragraph applies where the Welsh Ministers give a direction under section 62(4) that an appeal is to be determined by them instead of by an inspector.

(2) The Welsh Ministers must serve a copy of the direction on—

(a) the inspector (if any) appointed to determine the appeal,

(b) the appellant, and

(c) the planning authority that gave the notice to which the appeal relates.

(3) In determining the appeal, the Welsh Ministers may take account of any report made to them by an inspector previously appointed to determine it.

Revocation of direction

4 (1) The Welsh Ministers may by a further direction revoke a direction under section 62(4) at any time before the determination of the appeal.

(2) The Welsh Ministers must serve a copy of a further direction under this paragraph on—

(a) the inspector (if any) previously appointed to determine the appeal,

(b) the appellant, and

(c) the planning authority.

(3) Where the Welsh Ministers give a further direction under this paragraph—

(a) they must appoint an inspector ("the new inspector") to determine the appeal;

(b) anything done by or on behalf of the Welsh Ministers in connection with the appeal that might have been done by an inspector is, unless the new inspector directs otherwise, to be treated as having been done by the new inspector;

(c) subject to that, section 62 and this Schedule apply to the appeal as if no direction had been given under section 62(4).

Supplementary

5 The validity of an inspector's decision on an appeal may not be questioned by the appellant or the planning authority in any legal proceedings on the ground that the appeal ought to have been determined by the Welsh Ministers instead of an inspector, unless the appellant or the planning authority challenges the inspector's power to determine the appeal before the decision on the appeal is given.

SCHEDULE 3

(introduced by section 67(6))

CONDITIONS RELATING TO MINING OPERATIONS AND DEPOSITING OF WASTE

Power to grant permission subject to aftercare conditions

1 (1) If planning permission for development that consists of mining operations or includes the depositing of waste is granted subject to one or more restoration conditions that are to have effect after the operations have been completed or the depositing has ceased, it may also be granted subject to one or more aftercare conditions.

(2) In this Act—

(a) "restoration condition" means a condition requiring that the land affected by the mining operations or depositing of waste must be restored by the use of subsoil, topsoil or soil-making material;

(b) "aftercare condition" means a condition requiring the taking of steps that are necessary to bring land to the required standard (set out in paragraph 2) for one or more uses specified in the condition.

(3) A use of land specified in an aftercare condition must be a use for agriculture, for growing timber or for amenity.

(4) An aftercare condition may either—

(a) specify the steps that must be taken to bring the land to the required standard, or

(b) require steps to be taken in accordance with a scheme (an "aftercare scheme") approved by the planning authority.

(5) A planning authority may approve an aftercare scheme with or without modifications.

(6) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating land.

(7) The condition or scheme may specify the period during which a step must be taken; but it may not require a step to be taken after the end of the aftercare period.

(8) The "aftercare period" means 5 years beginning with the day after the day the works required by the restoration condition are completed; and for any part of the land to which the restoration condition relates, the period begins with the day after the day the works required in relation to that part are completed.

(9) Regulations may specify a different period, beginning with the day after the day the requirements of the restoration condition are complied with, for the purposes of sub-paragraph (8) (including by amending that sub-paragraph).

Meaning of "required standard" for use specified in aftercare condition

2 (1) Sub-paragraph (2) applies where all of the following conditions are met—

(a) an aftercare condition specifies a use of land for agriculture,

(b) when the planning permission was granted, the land either—

(i) was in use for agriculture, or

(ii) had previously been used for agriculture and had not been used for any other purpose authorised by planning permission since ceasing to be used for agriculture, and

(c) the Welsh Ministers have notified the planning authority of the physical characteristics of the land when it was last used for agriculture.

(2) The land is brought to the required standard when its physical characteristics are restored, so far as practicable, to what they were when the land was last used for agriculture.

(3) In any other case where an aftercare condition specifies a use of land for agriculture, the land is brought to the required standard when it is reasonably fit for that use.

(4) Where an aftercare condition specifies a use of land for growing timber, the land is brought to the required standard when it is reasonably fit for that use.

(5) Where an aftercare condition specifies a use of land for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or other plants.

Consultation on aftercare condition that specifies use for agriculture or for growing timber

3 (1) Before imposing an aftercare condition that specifies a use of land for agriculture or for growing timber, a planning authority must consult the appropriate authority about whether it is appropriate to specify that use.

(2) If after that consultation the planning authority is satisfied that the aftercare condition should specify a use for agriculture or for growing timber, it must consult the appropriate authority about whether the steps that must be taken should be specified in the aftercare condition or in an aftercare scheme.

(3) Where an aftercare condition specifies a use for agriculture or for growing timber, the planning authority must—

(a) if the steps that must be taken are to be specified in the condition, consult the appropriate authority about the steps that should be specified;

(b) if the steps are to be specified in an aftercare scheme, consult the appropriate authority before approving a scheme that is submitted to it.

(4) The planning authority must also consult the appropriate authority from time to time about whether the steps specified in the condition or the scheme are being taken.

(5) In this paragraph "the appropriate authority" means—

(a) the Welsh Ministers, in relation to a use for agriculture;

(b) Natural Resources Wales, in relation to a use for growing timber.

Certificate of compliance with aftercare condition

4 If, on the application of any person with an interest in land in relation to which an aftercare condition has been imposed, the planning authority is satisfied that the condition has been complied with, it must issue a certificate to that effect.

Recovery of costs of compliance

5 (1) This paragraph applies where—

(a) a person ("A") has complied with an aftercare condition subject to which planning permission has been granted, but

(b) A has not personally carried out mining operations or deposited waste on the land to which the permission relates.

(2) A is entitled to recover from the last person who did carry out mining operations or deposit waste ("B") any costs reasonably incurred by A in complying with the aftercare condition; but this is subject to any provision to the contrary contained in a contract that is enforceable against A by B.

SCHEDULE 4

(introduced by section 83(6))

APPLICATIONS TO THE WELSH MINISTERS: EXERCISE OF FUNCTIONS BY INSPECTORS

PART 1

PROVISION OF PRE-APPLICATION SERVICES BY INSPECTOR

Replacement of inspector

1 Where an inspector has been appointed to exercise functions under regulations made under section 53 (pre-application services) in relation to a proposed application under section 78 or 80, the Welsh Ministers may at any time—

(a) revoke the inspector's appointment, and

(b) appoint another inspector to exercise the functions.

Service of direction that functions are to be exercised by the Welsh Ministers

2 (1) This paragraph applies where the Welsh Ministers give a direction under section 83(3)(a) that functions are to be exercised in respect of a proposed application by them instead of by an inspector.

(2) A copy of the direction must be served on—

(a) the inspector (if any) appointed in relation to the proposed application,

(b) the person who proposes to make the application, and

(c) the planning authority to which the application would otherwise be made.

Revocation of direction

3 (1) The Welsh Ministers may by a further direction revoke a direction under section 83(3)(a).

(2) The Welsh Ministers must serve a copy of a further direction under this paragraph on the persons on whom paragraph 2(2) required the direction under section 83(3)(a) to be served.

(3) Where the Welsh Ministers give a further direction under this paragraph, they must appoint an inspector to exercise functions under regulations made under section 53 in relation to the proposed application.

PART 2

DETERMINATION OF APPLICATION BY INSPECTOR

Powers and duties of inspector

4 (1) An inspector appointed to determine an application made under section 78 or 80 has, so far as the context permits, the same powers and duties that the Welsh Ministers have by virtue of regulations under section 81(3).

(2) Sub-paragraph (3) applies where an enactment (other than section 83 or this Schedule)—

(a) refers (or is to be read as referring) to the Welsh Ministers in a context relating to or capable of relating to an application made under section 78 or 80, or

(b) refers (or is to be read as referring) to anything (other than the making of an application) done or authorised or required to be done by, to or before the Welsh Ministers in connection with any such application.

(3) So far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by an inspector, as if the reference to the Welsh Ministers were or included a reference to an inspector.

Local inquiry, hearing or written representations

5 (1) This paragraph applies where an application made under section 78 or 80 is to be determined by an inspector.

(2) The inspector may hold a local inquiry or a hearing in connection with the application if a determination under section 366 provides for the application to be considered in that way.

(3) The costs of the local inquiry or hearing are to be met by the Welsh Ministers; but this is subject to section 372.

(4) The Welsh Ministers or the inspector may appoint an assessor to advise the inspector on any matters that arise—

(a) at a local inquiry or hearing held by the inspector in connection with the application or in consequence of such an inquiry or hearing, or

(b) in written representations made to the inspector in connection with the application or in consequence of such representations.

Replacement of inspector

6 At any time before an inspector has determined an application made under section 78 or 80, the Welsh Ministers may—

(a) revoke the inspector's appointment, and

(b) appoint another inspector to determine the application.

Direction that application is to be determined by the Welsh Ministers

7 (1) This paragraph applies where the Welsh Ministers give a direction under section 83(3)(b) that an application is to be determined by them instead of by an inspector.

(2) A copy of the direction must be served on—

(a) the inspector (if any) appointed to determine the application,

(b) the applicant, and

(c) the planning authority to which the application would otherwise have been made.

(3) In determining the application, the Welsh Ministers may take account of any report made to them by an inspector previously appointed to determine it.

(4) Subject to that, for the purpose of the determination of the application by the Welsh Ministers, the application is to be treated as if no inspector had ever been appointed to determine it.

Revocation of direction

8 (1) The Welsh Ministers may by a further direction revoke a direction under section 83(3)(b) at any time before the determination of the application.

(2) The Welsh Ministers must serve a copy of a further direction under this paragraph on the persons on whom paragraph 7(2) required the direction under section 83(3)(b) to be served.

(3) Where the Welsh Ministers give a further direction under this paragraph—

(a) they must appoint an inspector ("the new inspector") to determine the application;

(b) anything done by or on behalf of the Welsh Ministers in connection with the application that might have been done by an inspector is, unless the new inspector directs otherwise, to be treated as having been done by the new inspector;

(c) subject to that, section 83 and this Schedule apply to the application as if no direction had been given under section 83(3)(b).

Supplementary

9 It is not a ground of application to the High Court for statutory review under section 376 that an application made under section 78 or 80 ought to have been determined by the Welsh Ministers instead of an inspector, unless the applicant challenges the inspector's power to determine the application before the decision on the application is given.

SCHEDULE 5

(introduced by section 96)

CONDITION LIMITING DURATION OF MINERALS PERMISSION

Permission granted on or after 22 February 1982

1 (1) Sub-paragraphs (2) and (3) apply to every minerals permission granted on or after 22 February 1982 (the day section 7 of the Town and Country Planning (Minerals) Act 1981 (c. 36) came into force).

(2) The permission must be granted subject to the condition that the mining operations or depositing of mineral waste to which the permission relates must stop before the end of a period specified in the condition that begins with the day the permission is granted.

(3) If the permission is granted without the condition required by sub-paragraph (2), it is to be treated as having been granted subject to the condition that the mining operations or depositing of mineral waste must stop before the end of 60 years beginning with the day the permission is granted.

(4) Regulations may specify a different period, beginning with the day the permission is granted, for the purposes of sub-paragraph (3) (including by amending that sub-paragraph).

Permission granted before 22 February 1982

2 It is a condition of every minerals permission granted before 22 February 1982 that the mining operations or depositing of mineral waste to which the permission relates must stop on or before 21 February 2042 (the end of 60 years beginning with 22 February 1982).

General

3 (1) A condition to which a minerals permission is subject by virtue of this Schedule is not to be regarded as a condition mentioned in section 67(3) (planning permission granted for a limited period).

(2) The fact that a minerals permission is subject to a condition by virtue of this Schedule does not prevent the condition being the subject of an application under section 68 or an appeal under section 73.

SCHEDULE 6
(introduced by section 98(6))

TERMINATION ORDERS

PART 1

PROCEDURE FOR ORDERS MADE BY PLANNING AUTHORITIES

Requirement for confirmation by the Welsh Ministers

1 (1) A termination order made by a planning authority does not take effect unless it is confirmed by the Welsh Ministers.

(2) Where a planning authority submits a termination order to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on—

(a) every owner and occupier of the land to which the order relates, and

(b) any other person it thinks will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

(6) In confirming a termination order the Welsh Ministers may modify the order by substituting a longer period for the period specified in the order submitted to them as the period at the end of which the planning permission is to cease to have effect.

PART 2

PROCEDURE FOR ORDERS MADE BY THE WELSH MINISTERS

Consultation and notification before making order

2 (1) The Welsh Ministers must not make a termination order without consulting the planning authority in whose area the land to which the order relates is situated.

(2) Before making a termination order, the Welsh Ministers must serve notice that they propose to do so on—

(a) the planning authority,

(b) every owner and occupier of the land to which the order relates, and

(c) any other person they think will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and (if that person is not the planning authority) to the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

SCHEDULE 7

(introduced by section 102)

ORDERS MODIFYING OR REVOKING PLANNING PERMISSION

PART 1

PROCEDURES FOR ORDERS MADE BY PLANNING AUTHORITIES

Circumstances in which order takes effect

1 (1) Where a planning authority makes an order under section 102 modifying or revoking a planning permission granted by the authority (other than an order modifying a condition to which a permission is subject by virtue of section 93 or 94), the order takes effect only—

(a) if it is confirmed by the Welsh Ministers under paragraph 2, or

(b) in accordance with paragraph 3.

(2) Where a planning authority makes an order under section 102—

(a) modifying a condition to which a planning permission granted by the authority is subject by virtue of section 93 or 94, or

(b) modifying or revoking a planning permission granted by the Welsh Ministers,

the order takes effect only if it is confirmed by the Welsh Ministers (and accordingly paragraph 3 does not apply).

Procedure for confirmation of order by the Welsh Ministers

2 (1) Where a planning authority submits an order under section 102 to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on—

(a) every owner and occupier of the land to which the order relates, and

(b) any other person it thinks will be affected by the order.

(2) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(3) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and the planning authority.

(4) The period specified under sub-paragraph (2) must be at least 28 days beginning with the day after the day the notice is served.

(5) The Welsh Ministers may confirm the order with or without modifications.

Procedure for order to take effect without confirmation

3 (1) This paragraph applies where—

(a) a planning authority has made an order under section 102, and

(b) the following persons have notified the authority in writing that they do not object to the order—

(i) every owner and occupier of the land to which the order relates, and

(ii) every other person the authority thinks will be affected by the order.

(2) The planning authority must (instead of submitting the order to the Welsh Ministers for confirmation)—

(a) publish notice of the making of the order in the way specified in regulations,

(b) serve a copy of the notice on the persons mentioned in sub-paragraph (1)(b), and

(c) send a copy of the notice to the Welsh Ministers not later than 3 days after the day it is published.

(3) The notice must specify—

(a) the period within which persons affected by the order may give notice to the Welsh Ministers that they want the order to be submitted to the Welsh Ministers for confirmation under the procedure in paragraph 2;

(b) the period at the end of which, if no such notice is given and the Welsh Ministers do not direct that the order must be submitted to them for confirmation, the order will take effect without being confirmed by the Welsh Ministers.

(4) If at the end of the period specified under sub-paragraph (3)(a)—

(a) no person affected by the order has given notice to the Welsh Ministers as mentioned in sub-paragraph (3)(a), and

(b) the Welsh Ministers have not directed that the order must be submitted to them for confirmation,

the order takes effect at the end of the period specified under sub-paragraph (3)(b).

(5) The period specified under sub-paragraph (3)(a) must be at least 28 days beginning with the day after the day the notice of the making of the order is first published.

(6) The period specified under sub-paragraph (3)(b) must be at least 14 days after the end of the period specified under sub-paragraph (3)(a).

PART 2

PROCEDURE FOR ORDERS MADE BY THE WELSH MINISTERS

Consultation and notification before making order

4 (1) The Welsh Ministers must not make an order under section 102 without consulting the planning authority in whose area the land to which the order relates is situated.

(2) Before making an order under section 102 the Welsh Ministers must serve notice of the proposed order on—

(a) the planning authority,

(b) every owner and occupier of the land to which the order relates, and

(c) any other person they think will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and (if that person is not the planning authority) to the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

PART 3

MODIFICATION OR REVOCATION OF PLANNING PERMISSION FOR MINING OPERATIONS OR DEPOSITING OF WASTE

Power to impose aftercare condition on modification or revocation of permission

5 (1) This paragraph applies to an order under section 102 that modifies or revokes planning permission for development that—

(a) consists of mining operations, or

(b) includes the depositing of waste.

(2) If the order imposes one or more restoration conditions, or if one or more restoration conditions have previously been imposed under this Act in relation to the land to which the order relates, the order may also impose one or more aftercare conditions.

(3) Paragraphs 1(3) to (9) and 2 to 5 of Schedule 3 apply in relation to an aftercare condition imposed by an order under section 102 as they apply in relation to an aftercare condition imposed on the grant of planning permission (with any necessary modifications, in the case of an order made by the Welsh Ministers).

SCHEDULE 8
(introduced by section 103)

MINERALS PERMISSIONS RELATING TO DORMANT SITES

Application to determine conditions of minerals permissions relating to dormant sites

1 (1) An interested person may apply to the planning authority to determine—

(a) the conditions to which a pre-1948 minerals permission to which section 103 applies is to be subject;

(b) the conditions to which each post-1948 minerals permission to which that section applies relating to a site is to be subject.

(2) An application must be in writing and must—

(a) identify the land or site to which the application relates;

(b) identify the minerals permissions relating to that land or site;

(c) specify the land included in that land or site of which the applicant is an owner or the minerals comprised in the land or site in which the applicant is entitled to an interest;

(d) identify, and give a postal address for, each other person that the applicant knows to be, or after reasonable inquiry has cause to believe to be, an interested person;

(e) set out the conditions to which the applicant proposes that each minerals permission to which the application relates should be subject.

(3) Where regulations make provision under section 58 that would apply to an application for a minerals permission, the provision applies to an application under this paragraph with any necessary modifications.

(4) In this paragraph—

"interested person" ("*person a chanddo un neu ragor o fuddiannau*") means—

(a) in relation to a pre-1948 minerals permission—

(i) an owner of any land to which the permission relates, or

(ii) a person who is entitled to an interest in any mineral to which the permission relates;

(b) in relation to a site to which one or more post-1948 minerals permissions relate—

(i) an owner of any land to which the permission relates (or, if there is more than one permission, to which any of them relate) that is included in the site, or

(ii) a person who is entitled to an interest in any mineral to which the permission relates (or, if there is more than one permission, to which any of them relate) that is included in the site;

"owner" ("*perchennog*"), in relation to land, means—

(a) an owner of the freehold estate, or

(b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run;

"the planning authority" ("*yr awdurdod cynllunio*") means the planning authority in whose area the land or site to which an application relates is situated.

Dealing with an application

2 (1) Where a planning authority receives an application under paragraph 1, the authority must—

(a) give the applicant written acknowledgement of the application as soon as reasonably practicable, and

(b) determine the conditions to which each minerals permission to which the application relates is to be subject.

(2) Those conditions—

(a) may include any conditions that could be imposed on a grant of minerals permission;

(b) may be imposed in addition to, or in place of, any existing conditions to which the permission in question is subject;

(c) in relation to a pre-1948 minerals permission, must include a condition that the minerals development must stop on or before 21 February 2042.

(3) In determining whether a permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the planning authority must have regard to any relevant guidance issued by the Welsh Ministers.

(4) If the planning authority considers that it is unable to determine an application under paragraph 1 unless further details are provided, it must serve notice to that effect on the applicant within 1 month after the day it receives the application.

(5) The notice must specify the further details the authority requires to determine the application, which may (for example) include—

(a) any information, plans or drawings, or

(b) any evidence in support of any details provided to the authority in respect of the application,

that it is reasonable for the authority to request.

(6) Sub-paragraph (7) applies if the planning authority does not give the applicant notice of its decision on the application within the 3-month period or a longer period agreed in writing between the authority and the applicant.

(7) The authority is to be treated as having determined, at the end of the 3-month period or longer period agreed between the authority and the applicant, that the conditions to which each minerals permission to which the application relates is to be subject are the conditions proposed in the application.

(8) In this paragraph "the 3-month period" means—

(a) in a case where the authority does not serve notice under sub-paragraph (4), the 3 months after the day it receives the application;

(b) in a case where the authority serves notice under sub-paragraph (4), the 3 months after the day it has received all of the further details specified in the notice.

(9) Regulations may make provision imposing requirements on planning authorities relating to publicity for applications under paragraph 1.

(10) A condition to which a pre-1948 minerals permission is subject by virtue of sub-paragraph (2)(c) is not to be regarded as a condition mentioned in section 67(3) (planning permission granted for a limited period).

Reference of applications to the Welsh Ministers

3 (1) The Welsh Ministers may direct a planning authority to refer an application made to the authority under paragraph 1 to them for determination instead of dealing with the application itself.

(2) A direction may relate to—

(a) a particular application, or

(b) applications of a description specified in the direction.

(3) A planning authority must refer an application to which a direction applies to the Welsh Ministers.

(4) Regulations may make provision requiring the Welsh Ministers to give an applicant, within a period specified in the regulations, notice that an application has been referred to them under this paragraph (including provision about the form and content of a notice and how it must be given).

(5) Where an application is referred to the Welsh Ministers under this paragraph, paragraph 2(1)(b), (2), (4) and (5) apply to the application, but as if references to the planning authority were references to the Welsh Ministers.

(6) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of an application referred to the Welsh Ministers under this paragraph.

(7) The decision of the Welsh Ministers on the application is final.

Right to appeal against determination of application

4 (1) Where on an application under paragraph 1 a planning authority determines conditions that differ in any respect from the conditions proposed in the application, the applicant may appeal to the Welsh Ministers.

(2) An appeal must be made by serving a notice of appeal on the Welsh Ministers before the end of 6 months beginning with the day after the day the planning authority makes its decision on the application.

(3) A notice of appeal—

(a) must be on a form published or provided by the Welsh Ministers or a person authorised by them, and

(b) must give the information required by the form, so far as reasonably practicable.

(4) On an appeal under this paragraph the Welsh Ministers may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the planning authority's decision (whether or not the appeal relates to that part),

and may deal with the application as if it had been made to them in the first instance.

(5) If at any time before or during the determination of the appeal the Welsh Ministers consider that the appellant is responsible for undue delay in the progress of the appeal—

(a) they may give the appellant notice that the appeal will be dismissed unless, within the period specified in the notice, the appellant takes steps specified in the notice for the expedition of the appeal, and

(b) if the appellant fails to take those steps within that period, they may dismiss the appeal.

(6) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of appeals under this paragraph (including provision for them to be determined by inspectors).

(7) Where regulations make provision under section 58 that would apply to an application for a minerals permission, the provision applies to an appeal under this paragraph with any necessary modifications.

(8) The decision of the Welsh Ministers on the appeal is final.

Time when conditions of permission take effect

5 (1) Each minerals permission in relation to which an application is made under paragraph 1 has effect subject to the conditions determined under this Schedule from the time when the application is finally determined.

(2) The application is finally determined—

(a) in a case where paragraph 2(7) applies, when the planning authority is treated as having determined the conditions;

(b) in any other case, when—

(i) the conditions have been determined under paragraph 2(1)(b),

(ii) any appeal under paragraph 4, and any proceedings under section 376 for questioning a decision of the Welsh Ministers on the application or on an appeal, have been determined or withdrawn, and

(iii) any period for appealing under paragraph 4, or for applying under section 376 for permission to apply for statutory review of a decision of the Welsh Ministers on the application or an appeal, has ended.

Applications made electronically

6 Regulations may make provision about the use of electronic communications in connection with applications under paragraph 1.

Two or more applications

7 (1) This paragraph applies where a planning authority has received an application under paragraph 1.

(2) The applicant may not make another application under paragraph 1 that is connected with that application.

(3) If the application has been determined (whether or not it has been finally determined), no other person may make a connected application under paragraph 1.

(4) Sub-paragraph (5) applies if, before the application has been determined, the planning authority receives a connected application under paragraph 1 from another person.

(5) For the purposes of the determination of the applications and any appeal against their determination, this Schedule has effect—

(a) as if they were a single application made to the planning authority on the day it received the later application;

(b) as if references to the applicant were references to each of the applicants.

(6) For the purposes of this paragraph—

(a) applications in respect of pre-1948 minerals permissions are connected where they relate to the same permission;

(b) applications in respect of post-1948 minerals permissions are connected where they relate to the same site.

SCHEDULE 9
(introduced by section 104)

PERIODIC REVIEW OF MINERALS PERMISSIONS

Duty to carry out periodic reviews of minerals permissions

1 (1) A planning authority must cause periodic reviews to be carried out in accordance with this Schedule of the minerals permissions relating to each mining site in its area.

(2) In this Schedule—

(a) "mining site" means the land to which a minerals permission relates; but if the planning authority considers that the land to which two or more minerals permissions relate should be treated as a single site for the purposes of this Schedule, it means all of the land to which those permissions relate;

(b) references to a minerals permission relating to a mining site are to a minerals permission relating to any of the land included in the site.

(3) In deciding whether the land to which two or more minerals permissions relate should be treated as a single site, a planning authority must have regard to any relevant guidance issued by the Welsh Ministers.

First review date

2 (1) This paragraph determines the review date for the first periodic review of the minerals permissions relating to a mining site (subject to the power to postpone the review date under paragraph 6).

(2) The review date for a mining site of a description specified in the first column of the Table is the date 15 years after the day specified in the corresponding entry in the second column.

TABLE 3

Description of mining site	Day to use for calculating first review date
The minerals permissions relating to the site include a pre-1948 minerals permission.	The day the conditions of the pre-1948 minerals permission were finally determined on an application under paragraph 2 of Schedule 2 to the Planning and Compensation Act 1991 (c. 34) or paragraph 1(1)(a) of Schedule 8 to this Act (or if there is more than one pre-1948 minerals permission and their conditions were finally determined on different days, the last of those days).
The site is shown in a list prepared under paragraph 3 of Schedule 13 to the Environment Act 1995 (c. 25).	The day the conditions of the post-1948 minerals permissions relating to the site were finally determined on an application under paragraph 9 of Schedule 13 to the Environment Act 1995 or paragraph 1(1)(b) of Schedule 8 to this Act.
There are no pre-1948 minerals permissions relating to the site and the site is not shown in a list prepared under paragraph 3 of Schedule 13 to the Environment Act 1995.	The day the most recent minerals permission relating to the site was granted (but see sub-paragraphs (3) to (5)).
An order has been made under section 102 in respect of a minerals permission relating to the site.	The day the order took effect (or if there is more than one order and they took effect on different days, the last of those days).
A discontinuance order has been made in respect of a use of the site, or any part of it, for carrying out mining operations or depositing waste.	The day the order took effect (or if there is more than one order and they took effect on different days, the last of those days).

(3) Sub-paragraph (4) applies where—

(a) there are no pre-1948 minerals permissions relating to a mining site, and the site is not shown in a list prepared under paragraph 3 of Schedule 13 to the Environment Act 1995,

(b) the most recent minerals permission relating to the site relates to only part of the site, or the most recent minerals permissions (whether or not granted on the same day) between them relate to only part of the site, and

(c) the planning authority considers that the review date for the site should be calculated by reference to the day the last of the other minerals permissions relating to the site was granted.

(4) The most recent minerals permission or permissions relating to the mining site are to be treated for the purposes of this paragraph as having been granted at the same time as the last of the other minerals permissions relating to the site.

(5) In deciding whether it is of the opinion mentioned in sub-paragraph (3)(c), a planning authority must have regard to any relevant guidance issued by the Welsh Ministers.

(6) If the Table specifies more than one day for the same mining site, the review date for the site is to be calculated by reference to the latest of those days.

(7) Regulations may, in relation to a mining site to which a pre-1948 minerals permission relates or which is shown in a list prepared under paragraph 3 of Schedule 13 to the Environment Act 1995—

(a) specify a review date that is different from the date that would otherwise be determined in accordance with this paragraph, or

(b) if no review date would otherwise be determined in accordance with this paragraph, specify a review date.

(8) In the Table "finally determined" has the meaning given—

(a) in relation to conditions determined on an application under paragraph 2 of Schedule 2 to the Planning and Compensation Act 1991, by paragraph 10(2) of that Schedule;

(b) in relation to conditions determined on an application under paragraph 9 of Schedule 13 to the Environment Act 1995, by paragraph 1(7) of that Schedule;

(c) in relation to conditions determined on an application under paragraph 1(1)(a) or (b) of Schedule 8 to this Act, by paragraph 5(2) of that Schedule.

Later review dates

3 (1) This paragraph determines the review date for the second and subsequent periodic reviews of the minerals permissions relating to a mining site (subject to the power to postpone the review date under paragraph 6).

(2) The review date is the date 15 years after the day the most recent application under paragraph 7 in respect of the site was finally determined (see paragraph 12).

Application of provisions of this Schedule

4 The remaining provisions of this Schedule apply for the purposes of each periodic review of the minerals permissions relating to a mining site.

Notice of periodic review

5 (1) At least 12 months before the review date for the mining site, the planning authority must serve notice on each person the authority considers to be an interested person.

(2) The notice must—

(a) specify the mining site to which it relates;

(b) identify the minerals permissions relating to the site;

(c) indicate that land the person owns, or a mineral in which the person is entitled to an interest, is included in the site;

(d) state the review date;

(e) state that any application to determine the conditions of the minerals permissions relating to the site must be made on or before the review date, and explain the consequences of not making an application on or before that date;

(f) explain the right to apply to postpone the review date and state that any such application must be made on or before a date specified in the notice.

(3) Sub-paragraph (4) applies if—

(a) a planning authority has served notice on an interested person under sub-paragraph (1),

(b) the authority has not received an application under paragraph 7 from that person, and

(c) the period of 8 weeks ending with the review date has begun.

(4) The authority must serve a written reminder on the person on or before the day falling 4 weeks before the review date.

(5) The reminder must contain the information required by sub-paragraph (2)(a) to (e).

(6) Regulations may make provision about how a notice or reminder under this paragraph is to be served where the name or address of an interested person cannot be discovered after making reasonable inquiries (which may include provision for a notice or reminder to be served by displaying a copy of it on the land in question).

(7) Where regulations are made under sub-paragraph (6), section 399 does not apply.

Application to postpone review date

6 (1) An interested person who considers that the conditions of the minerals permissions relating to the mining site are satisfactory may apply to the planning authority to postpone the review date.

(2) An application must be made within 3 months after the day notice is served on the interested person under paragraph 5(1).

(3) An application must be in writing and must set out—

(a) the conditions to which each minerals permission relating to the site is subject,

(b) the applicant's reasons for considering that those conditions are satisfactory, and

(c) the date that the applicant proposes should be the new review date.

(4) If the planning authority considers that the conditions of the minerals permissions are satisfactory, it must allow the application and determine a new review date.

(5) In any other case, the authority must refuse the application.

(6) The planning authority must—

(a) give the applicant notice of its decision on the application, and

(b) if it allows the application, give the applicant notice of the new review date.

(7) Sub-paragraph (8) applies if the planning authority does not give the applicant notice mentioned in sub-paragraph (6)(a) within—

(a) 3 months after the day it receives the application, or

(b) a longer period agreed in writing between the applicant and the authority.

(8) The authority is to be treated as having—

(a) allowed the application, and

(b) determined that the new review date is the date proposed in the application.

Application to determine conditions of minerals permission

7 (1) An interested person may apply to the planning authority to determine the conditions to which the minerals permissions relating to the mining site are to be subject.

(2) An application must be in writing and must—

(a) identify the mining site to which the application relates, and the periodic review in connection with which the application is made (for example, the first review or the second review relating to the site);

(b) identify the minerals permissions relating to the site;

(c) specify the land included in the site of which the applicant is an owner or the minerals comprised in the site in which the applicant is entitled to an interest;

(d) identify, and give a postal address for, each other person that the applicant knows to be, or after reasonable inquiry has cause to believe to be, an interested person;

(e) set out the conditions to which the applicant proposes that the minerals permissions relating to the site should be subject.

(3) Where regulations make provision under section 58 that would apply to an application for a minerals permission, the provision applies to an application under this paragraph with any necessary modifications.

Termination of permission if no application is made

8 (1) This paragraph applies if—

(a) a planning authority serves notice under paragraph 5 in respect of a mining site, but

(b) no application is made under paragraph 7 in respect of the site on or before the review date or a later date agreed in writing between the applicant and the authority.

(2) Each minerals permission that relates to the site and is identified in the notice ceases to have effect, except so far as it imposes a restoration condition or an aftercare condition, at the end of the review date or later agreed date.

Dealing with an application

9 (1) Where a planning authority receives an application under paragraph 7, the authority must—

(a) give the applicant written acknowledgement of the application as soon as reasonably practicable, and

(b) determine the conditions to which each minerals permission to which the application relates is to be subject.

(2) Those conditions—

(a) may include any conditions that may be imposed on a grant of minerals permission;

(b) may be imposed in addition to, or in place of, any existing conditions to which the permission in question is subject.

(3) In determining whether a minerals permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the planning authority must have regard to any relevant guidance issued by the Welsh Ministers.

(4) If the planning authority considers that it is unable to determine an application unless further details are provided, it must serve notice to that effect on the applicant within 1 month after the day it receives the application.

(5) The notice must specify the further details the authority requires to determine the application, which may (for example) include—

(a) any information, plans or drawings, or

(b) any evidence in support of any details provided to the authority in respect of the application,

that it is reasonable for the authority to request.

(6) Sub-paragraph (7) applies if the planning authority does not give the applicant notice of its decision on the application within the 3-month period or a longer period agreed in writing between the authority and the applicant.

(7) The authority is to be treated as having determined, at the end of the 3-month period or longer period agreed between the authority and the applicant, that the conditions to which each minerals permission relating to the site is to be subject are the conditions proposed for that permission in the application.

(8) In this paragraph "the 3-month period" means—

(a) in a case where the authority does not serve notice under sub-paragraph (4), the 3 months after the day it receives the application;

(b) in a case where the authority serves notice under sub-paragraph (4), the 3 months after the day it has received all of the further details specified in the notice.

(9) Regulations may make provision imposing requirements on planning authorities relating to publicity for applications under paragraph 7.

Reference of applications to the Welsh Ministers

10 (1) The Welsh Ministers may direct a planning authority to refer an application made to the authority under paragraph 7 to them for determination instead of dealing with the application itself.

(2) A direction may relate to—

(a) a particular application, or

(b) applications of a description specified in the direction.

(3) A planning authority must refer an application to which a direction applies to the Welsh Ministers.

(4) Regulations may make provision requiring the Welsh Ministers to give an applicant, within a period specified in the regulations, notice that an application has been referred to them under this paragraph (including provision about the form and content of a notice and how it must be given).

(5) Where an application is referred to the Welsh Ministers under this paragraph, paragraph 9(1)(b), (2), (4) and (5) apply to the application, but as if references to the planning authority were references to the Welsh Ministers.

(6) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of an application referred to the Welsh Ministers under this paragraph.

(7) The decision of the Welsh Ministers on the application is final.

Right to appeal against determination of application

11 (1) Where on an application under paragraph 7 a planning authority determines conditions that differ in any respect from the conditions proposed in the application, the applicant may appeal to the Welsh Ministers.

(2) An appeal must be made by serving a notice of appeal on the Welsh Ministers before the end of 6 months beginning with the day after the day the planning authority makes its decision on the application.

(3) A notice of appeal—

(a) must be on a form published or provided by the Welsh Ministers or a person authorised by them, and

(b) must give the information required by the form, so far as reasonably practicable.

(4) On an appeal under this paragraph the Welsh Ministers may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the planning authority's decision (whether or not the appeal relates to that part),

and may deal with the application as if it had been made to them in the first instance.

(5) If at any time before or during the determination of the appeal the Welsh Ministers consider that the appellant is responsible for undue delay in the progress of the appeal—

(a) they may give the appellant notice that the appeal will be dismissed unless, within the period specified in the notice, the appellant takes steps specified in the notice for the expedition of the appeal, and

(b) if the appellant fails to take those steps within that period, they may dismiss the appeal.

(6) Chapter 2 of Part 14 makes further provision about the procedure for the consideration of appeals under this paragraph (including provision for them to be determined by inspectors).

(7) Where regulations make provision under section 58 that would apply to an application for a minerals permission, the provision applies to an appeal under this paragraph with any necessary modifications.

(8) The decision of the Welsh Ministers on the appeal is final.

Time when conditions of permission take effect

12 (1) Where an application has been made under paragraph 7 in respect of a mining site, each of the minerals permissions relating to the site has effect subject to the conditions determined under this Schedule from the time when the application is finally determined.

(2) The application is finally determined—

(a) in a case where paragraph 9(7) applies, when the planning authority is treated as having determined the conditions;

(b) in any other case, when—

(i) the conditions have been determined under paragraph 9(1)(b),

(ii) any appeal under paragraph 11, and any proceedings under section 376 for questioning a decision of the Welsh Ministers on the application or on an appeal, have been determined or withdrawn, and

(iii) any period for appealing under paragraph 11, or for applying under section 376 for permission to apply for statutory review of a decision of the Welsh Ministers on the application or on an appeal, has ended.

Applications made electronically

13 Regulations may make provision about the use of electronic communications in connection with applications under paragraph 6 or 7.

Two or more applications

14 (1) This paragraph applies where a planning authority has received an application under paragraph 6 or 7 in respect of a mining site.

(2) The applicant may not make another application under the paragraph in question in respect of the site.

(3) If the application has been determined (whether or not it has been finally determined, in the case of an application under paragraph 7), no other person may make an application under the paragraph in question in respect of the site.

(4) Sub-paragraph (5) applies if, before the application has been determined, the planning authority receives an application under the paragraph in question from another person in respect of the site.

(5) For the purposes of the determination of the applications and any appeal against their determination, this Schedule has effect—

(a) as if they were a single application made to the planning authority on the day it received the later application;

(b) as if references to the applicant were references to each of the applicants.

Interpretation

15 In this Schedule—

"interested person" ("*person a chanddo un neu ragor o fuddiannau*") means—

(a) an owner of any land included in the mining site to which a periodic review relates, or

(b) a person who is entitled to an interest in any mineral included in the site;

"mining site" ("*safle mwyngloddio*") has the meaning given by paragraph 1(2);

"owner" ("*perchennog*"), in relation to land, means—

(a) an owner of the freehold estate, or

(b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run;

"review date" ("*dyddiad adolygu*") has the meaning given by paragraph 2 (for a first periodic review) or paragraph 3 (for a second or subsequent periodic review).

SCHEDULE 10
(introduced by section 108)

APPORTIONMENT AND RECOVERY OF COMPENSATION FOR DEPRECIATION

Introduction and key terms

1 (1) This Schedule applies where compensation becomes payable by a planning authority under section 105 or 106 that includes compensation for depreciation of more than £20.

(2) In this Schedule—

(a) "compensation for depreciation" means compensation for loss or damage consisting of depreciation of the value of an interest in land;

(b) "interest in land" means a freehold interest or the interest of a tenant under a lease (and does not include any other interest in land);

(c) "compensation notice" has the meaning given by paragraph 3(2);

(d) "registered", in relation to a compensation notice, means registered in the local land charges register kept under section 3 of the Local Land Charges Act 1975 (c. 76).

Apportionment of compensation and determination of disputes

2 (1) The planning authority by which compensation is payable—

(a) if it considers that it is practicable to do so, must apportion the compensation for depreciation between different parts of the land to which the claim for compensation relates, and

(b) if it apportions the compensation, must give details of the apportionment to the claimant and to any other person with an interest in land that the authority considers is substantially affected by the apportionment.

(2) In carrying out an apportionment, the authority must divide the land into parts and distribute the compensation for depreciation between those parts according to how it considers different parts of the land are differently affected by the planning decision or order in consequence of which the compensation is payable.

(3) If any of the following persons dispute an apportionment of compensation, they may refer the apportionment to the Upper Tribunal—

(a) the claimant;

(b) any other person to whom details of the apportionment have been given;

(c) any other person who establishes that they have an interest in land that is substantially affected by the apportionment.

(4) The claimant and every other person to whom details of the apportionment have been given are entitled to be heard by the Upper Tribunal on the reference.

(5) On a reference of an apportionment, the Upper Tribunal must—

(a) either confirm or vary the apportionment, and

(b) notify the parties of its decision.

(6) Where on a reference to the Upper Tribunal it is shown that an apportionment—

(a) relates wholly or partly to the same matters as a previous apportionment, and

(b) is consistent with the previous apportionment so far as it relates to those matters,

the Tribunal must not vary the apportionment in a way that is inconsistent with the previous apportionment so far as it relates to those matters.

(7) Sub-paragraphs (1) and (2) apply to an apportionment by the Upper Tribunal, but as if references to the planning authority by which compensation is payable were references to the Tribunal.

Notice of compensation

3 (1) The planning authority by which compensation is payable must give notice to the Welsh Ministers that compensation has become payable which includes compensation for depreciation.

(2) Where the Welsh Ministers are given notice under sub-paragraph (1) they must cause notice of that fact (a "compensation notice") to be served—

(a) on the council of the county or county borough in which the land to which the notice relates is situated, and

(b) if that council is not the planning authority for the area in which the land is situated, on the planning authority for the area.

(3) A notice under this paragraph must specify—

(a) the planning decision or order in consequence of which the compensation is payable and the land to which the claim for compensation relates, and

(b) the amount of the compensation for depreciation and any apportionment of it under paragraph 2.

(4) A compensation notice is a local land charge, and for the purposes of the Local Land Charges Act 1975 (c. 76) the county council or county borough council on which the notice is served is the originating authority as respects the charge.

Development not to be carried out until compensation paid or secured

4 (1) A person must not carry out development to which this paragraph applies on land in respect of which a compensation notice has been registered until any amount that is recoverable in respect of the compensation specified in the notice by virtue of paragraph 5 has been paid or secured to the satisfaction of the Welsh Ministers in accordance with paragraph 6.

(2) This paragraph applies to—

(a) development that—

(i) is of a residential, commercial or industrial character, and

(ii) consists wholly or mainly of the construction of houses, flats, shop or office premises or industrial buildings (including warehouses), or any combination of them;

(b) development that consists of mining operations;

(c) development to which, having regard to the probable value of the development, the Welsh Ministers consider it reasonable that this paragraph should apply.

(3) This paragraph does not apply to development by virtue of sub-paragraph (2)(c) if, on an application made to them, the Welsh Ministers have certified that, having regard to the probable value of the development, they do not consider it reasonable that this paragraph should apply.

(4) Where the compensation specified in the compensation notice became payable in consequence of—

(a) a grant of planning permission subject to conditions, or

(b) an order under section 102 modifying planning permission,

this paragraph does not apply to development in accordance with those conditions or in accordance with the modified permission.

Amount recoverable by the Welsh Ministers in respect of compensation

5 (1) The amount recoverable in respect of the compensation specified in a registered compensation notice is—

(a) if the land on which development is to be carried out includes all of the land to which the notice relates (whether alone or with other land), the amount of compensation specified in the notice;

(b) if the land on which development is to be carried out includes only part of the land to which the notice relates (whether alone or with land to which the notice does not relate), the amount of the compensation specified in the notice that is attributable to that part,

but this is subject to the following provisions of this paragraph.

(2) The Welsh Ministers may defer recovery of all or part of the amount that would otherwise be recoverable in connection with a particular development of land if they consider, having regard to the probable value of any proper development of that land, that no proper development of it is likely to be carried out unless they exercise their powers under this sub-paragraph.

(3) If the Welsh Ministers defer recovery of only part of the amount that would otherwise be recoverable in respect of any land, they must cause the registered compensation notice in question to be amended so that the amount of compensation stated in it, so far as attributable to that land, is the amount they have deferred.

(4) Where an amount has become recoverable in respect of compensation in connection with the development of land, no amount is recoverable in respect of the compensation attributable to that land in connection with any later development of it.

(5) Sub-paragraph (4) does not apply to an amount to the extent that recovery of the amount was deferred in connection with the earlier development.

(6) If an amount has become recoverable from an acquiring authority under paragraph 7 (recovery on compulsory acquisition or sale) in respect of any compensation, no amount is recoverable in respect of that compensation by virtue of this paragraph.

(7) For the purposes of this Schedule, the amount of the compensation specified in a compensation notice that is attributable to a part of the land to which the notice relates is to be calculated—

(a) if the notice includes an apportionment of the compensation between different parts of the land under paragraph 2, on the basis that—

(i) the compensation is distributed between those parts in accordance with the apportionment, and

(ii) the compensation attributed to each part is distributed evenly by area over that part;

(b) if the notice does not include an apportionment, on the basis that the compensation is distributed evenly by area over the land to which the notice relates.

Payment etc. of amount recoverable

6 (1) An amount recoverable by virtue of paragraph 5 in connection with the development of land is payable to the Welsh Ministers—

(a) as a single capital payment,

(b) as a series of instalments of capital and interest combined, or

(c) as a series of other annual or periodical payments, of the amounts, and payable at the times, that the Welsh Ministers direct.

(2) Before giving a direction under sub-paragraph (1)(c), the Welsh Ministers must take into account any representations made by the person by whom the development is to be carried out.

(3) If the amount payable under sub-paragraph (1) is not paid as a single capital payment, it must be secured by the person by whom the development is to be carried out in the way (whether by mortgage, covenant or otherwise) that the Welsh Ministers direct.

(4) If a person starts development to which paragraph 4 applies in breach of that paragraph, the Welsh Ministers may serve a notice on the person—

(a) specifying the amount they consider to be recoverable under paragraph 5 in respect of the compensation in question, and

(b) requiring the person to pay that amount to the Welsh Ministers within a period specified in the notice.

(5) The period specified in the notice must be at least 3 months beginning with the day after the day the notice is served.

Recovery of compensation from acquiring authority on compulsory acquisition or sale

7 (1) This paragraph applies where—

(a) an interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers,

(b) a compensation notice is registered in respect of any of the land, whether before or after the completion of the acquisition or sale, and

(c) the compensation specified in the notice is payable in consequence of a planning decision or order that was made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected.

(2) The Welsh Ministers are entitled to recover from the acquiring authority an amount equal to the amount of the compensation specified in the compensation notice that is attributable to the land acquired or sold.

(See paragraph 5(7) for provision about calculating the amount of compensation that is attributable to a part of the land to which a compensation notice relates.)

(3) If, immediately after the completion of the acquisition or sale, a person other than the acquiring authority continues to have an interest in the land acquired or sold, the amount that is recoverable under this paragraph does not become payable until either the interest ceases to exist or the acquiring authority becomes entitled to the interest.

(4) No amount is recoverable under this paragraph in connection with the acquisition or sale if the Welsh Ministers are satisfied that the interest in question is being acquired for the purposes of the use of the land as an open space.

(5) A power under any enactment to pay a grant in respect of expenditure incurred by the acquiring authority in connection with the acquisition or sale includes the power to pay a grant in respect of any amount recoverable from the authority under this paragraph.

(6) In sub-paragraph (1)(a) "authority possessing compulsory purchase powers" means—

(a) a person who could be or has been authorised to acquire the interest in question compulsorily for the purpose for which the interest is sold, or

(b) a community council or parish council on whose behalf a county council, county borough council or district council could be or has been authorised to acquire the interest for that purpose (see section 125 of the Local Government Act).

(7) In sub-paragraph (1)(c)—

(a) the reference to the service of a notice to treat is to be read, in a case where such a notice is treated as having been served by virtue of an enactment, as a reference to the day the notice is treated as having been served;

(b) the reference to the making of a contract is to be read, in a case where an interest is conveyed or assigned without a preliminary contract, as a reference to the execution of the conveyance or assignment.

(8) See also section 12 of the Land Compensation Act 1961 (c. 33) for provision about the assessment of compensation for the compulsory acquisition of an interest in land where a compensation notice relating to the land is registered under this Schedule.

Reimbursement of amount recovered to planning authority

8 (1) The Welsh Ministers must pay any amount they recover under paragraph 6 or 7 to the planning authority that paid the compensation to which the amount relates.

(2) The Welsh Ministers must deduct from the amount they pay to the planning authority the amount of any contribution they have made under section 395 towards the payment of that compensation.

(3) If the amount recovered by the Welsh Ministers—

(a) is an instalment of the total amount recoverable by them, or

(b) is recovered in connection with development of only part of the land in respect of which the compensation was payable,

any amount deducted under sub-paragraph (2) must be the amount that the Welsh Ministers determine is the appropriate proportion of the amount of the grant.

SCHEDULE 11

(introduced by section 109)

COMPENSATION FOR CHANGES TO PLANNING PERMISSION FOR MINERALS DEVELOPMENT

PART 1

COMPENSATION WHERE PLANNING PERMISSION IS WITHDRAWN, MODIFIED OR REVOKED

Compensation in respect of buildings, plant or machinery

1 (1) This paragraph applies where planning permission for minerals development is withdrawn, modified or revoked.

(2) No compensation is payable under section 105 or 106 in respect of any buildings, plant or machinery unless it is shown that the claimant—

(a) is unable to put the buildings, plant or machinery to a reasonably beneficial use, or

(b) is unable to put them to a reasonably beneficial use except at the loss claimed.

(3) Where a disputed claim for compensation under section 105 or 106 includes a claim for expenditure, loss or damage in respect of buildings, plant or machinery, the Upper Tribunal may give directions for that part of the claim to be dealt with separately from the rest of the claim on a later date that is specified in the directions or is to be fixed by the Tribunal on an application by either party.

(4) In sub-paragraph (1) the reference to minerals development does not include carrying out mining operations on land where—

(a) the land is held or occupied with other land that is used for agriculture, and

(b) the minerals that are won and worked are reasonably required for that use (for example, for the fertilisation of the other land, or for the maintenance, improvement or alteration of buildings or works on the other land that are occupied or used for agriculture).

Compensation where minerals permission is modified by order

2 (1) Where an order under section 102 modifies a minerals permission, compensation is payable under section 106 only if one or more of the following conditions are met.

(2) The first condition is that the order—

(a) imposes a restriction on working rights in respect of the land to which it relates, or

(b) modifies or replaces a restriction on working rights, other than one imposed by a restoration condition or aftercare condition.

(3) The second condition is that the minerals permission was granted less than 5 years before the day the order was made.

(4) The third condition is that, in relation to the land to which the order relates, any of the following happened in the 5 years before the day the order was made—

(a) another order was made under section 102 modifying a minerals permission;

(b) an application under paragraph 1 of Schedule 8 was finally determined (within the meaning given by paragraph 5(2) of that Schedule);

(c) an application under paragraph 7 of Schedule 9 was finally determined (within the meaning given by paragraph 12(2) of that Schedule);

(d) a discontinuance order was made relating to a use of the land for carrying out mining operations or depositing mineral waste;

(e) a prohibition order was made.

PART 2

COMPENSATION FOLLOWING PERIODIC REVIEW OF MINERALS PERMISSIONS

Compensation where working rights are restricted by new conditions of minerals permissions

3 (1) This paragraph applies where—

(a) an application under paragraph 7 of Schedule 9 in respect of a mining site is finally determined (within the meaning given by paragraph 12(2) of that Schedule),

(b) the new conditions of the minerals permissions relating to the site differ in any respect from the conditions proposed in the application, and

(c) the effect of the new conditions of the permissions, as compared with the existing conditions, is to impose a restriction on working rights in respect of the site.

(2) Any person interested in land included in the site is entitled, on making a claim to the planning authority in whose area the land is situated, to be paid compensation by the authority for—

(a) any expenditure incurred by the person in carrying out works that become abortive because of a restriction on working rights imposed by the new conditions;

(b) any other loss or damage suffered by the person that is directly attributable to such a restriction.

(3) A claim for compensation under this paragraph must be made in writing within 12 months beginning with the day the application under paragraph 7 of Schedule 9 is finally determined.

(4) For the purposes of this paragraph, expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.

(5) Subject to that, no compensation is payable under this paragraph in respect of—

(a) works carried out before the grant of the earliest of the minerals permissions to which the application related, or

(b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the earliest of those permissions was granted.

(6) Schedule 10 applies to compensation payable under this paragraph as if it were compensation payable under section 106 in consequence of an order under section 102 modifying planning permission.

(7) In this paragraph—

(a) "mining site" has the meaning given by paragraph 1(2) of Schedule 9;

(b) the "new conditions" of the minerals permissions relating to a mining site are the conditions determined under that Schedule to which the permissions are to be subject;

(c) the "existing conditions" of the minerals permissions are the conditions to which they were subject immediately before the final determination of the application under paragraph 7 of that Schedule,

and references to the conditions of a minerals permission do not include a restoration condition or an aftercare condition.

PART 3

INTERPRETATION

Meaning of references to restrictions on working rights

4 For the purposes of paragraphs 2 and 3, a restriction is imposed on working rights in respect of land if any of the following is restricted or reduced—

(a) the size of the area that may be used for mining operations or for depositing mineral waste;

(b) the maximum depth of any mining operations or maximum height of any deposit of mineral waste;

(c) the rate at which a particular mineral may be extracted or a particular mineral waste may be deposited;

(d) the period at the end of which any mining operations or depositing of mineral waste must cease;

(e) the total quantity of minerals that may be extracted from the land or of mineral waste that may be deposited on it.

SCHEDULE 12
(introduced by sections 110 and 213)

PURCHASE NOTICES

PART 1

INTRODUCTORY

Circumstances in which land is usable or unusable

1 (1) This paragraph applies for the purposes of sections 110 and 213 and this Schedule.

(2) References to whether land is usable are references to whether it is capable of reasonably beneficial use.

(3) In determining whether land is usable in its existing state, a prospective use of the land must be ignored if it would involve carrying out development for which planning permission has not been granted and for which neither a planning authority nor the Welsh Ministers have undertaken to grant permission.

(4) Land is not unusable in its existing state if—

(a) the existing state of the land was caused by a breach of planning control,

(b) an enforcement notice has been issued, or could be issued, requiring steps to be taken to remedy the breach or any injury to amenity caused by it, and

(c) the land would be usable if those steps were taken.

Interpretation

2 In this Schedule—

"purchase notice" ("*hysbysiad prynu*") means a notice served under section 110 or 213;

"relevant acquisition provisions" ("*darpariaethau caffael perthnasol*") means—

(a) in relation to a local authority, section 263 (compulsory acquisition of land for planning purposes);

(b) in relation to a statutory undertaker, any enactment under which it has power, or may be authorised, to acquire land compulsorily for the purposes of its undertaking;

"statutory undertaker" ("*ymgymerwr statudol*") includes an electronic communications code operator and a former public telecommunications operator.

PART 2

SERVICE OF PURCHASE NOTICE

Service of purchase notice in respect of Crown land

3 (1) The owner of a private interest in Crown land may not serve a purchase notice in respect of that interest unless—

(a) the owner has offered to dispose of the interest to the appropriate Crown authority for a price that is equal to (and if not agreed, is to be determined in the same way as) the compensation that would be payable for the interest if it were acquired in pursuance of a purchase notice, and

(b) the appropriate Crown authority has refused the offer.

(2) Only the appropriate Crown authority may serve a purchase notice in respect of a Crown interest or Duchy interest in land that—

(a) forms part of the Crown Estate,

(b) belongs to His Majesty in right of His private estates,

(c) belongs to His Majesty in right of the Duchy of Lancaster, or

(d) belongs to the Duchy of Cornwall.

(3) A purchase notice may not be served in respect of a Crown interest or Duchy interest in any other land.

Further provision about service of purchase notice

4 (1) A purchase notice must relate to all of the land to which the planning decision or order in consequence of which it is served relates, and not to any other land.

(2) A purchase notice must be served within 12 months beginning with—

(a) in the case of a notice relating to a decision to refuse planning permission or grant it subject to conditions, the day the decision is made;

(b) in the case of a notice relating to an order under section 102 modifying or revoking planning permission, the day the order takes effect;

(c) in the case of a notice relating to a discontinuance order, the day the order takes effect.

(3) In a case where the Welsh Ministers determine an appeal against a decision of a planning authority to refuse planning permission or to grant it subject to conditions, the reference in sub-paragraph (2)(a) to the day the decision is made is to be read as a reference to the day the Welsh Ministers determine the appeal.

(4) The Welsh Ministers may at any time extend the period for serving a purchase notice in a particular case, if they are satisfied that there are good reasons for doing so.

(5) Regulations may make provision about how a purchase notice must be served.

(6) A person who has served a purchase notice may not amend the notice; but that does not prevent the person serving a further purchase notice relating to the same decision or order.

(7) If the person serves a further purchase notice relating to the same decision or order, the earlier notice is to be treated as withdrawn unless the later notice states that the person does not intend to withdraw it.

PART 3

ACTION FOLLOWING SERVICE OF PURCHASE NOTICE AND EFFECT OF NOTICE

Response to purchase notice by planning authority

5 (1) Where a person has served a purchase notice on a planning authority, the authority must serve an acceptance notice or rejection notice on the person.

(2) An acceptance notice is a notice stating either—

(a) that the planning authority is willing to comply with the purchase notice, or

(b) that another local authority or statutory undertaker specified in the acceptance notice has agreed to comply with the purchase notice.

(3) A rejection notice is a notice stating—

(a) that for reasons specified in the notice, the planning authority is not willing to comply with the purchase notice and has not found any other local authority or statutory undertaker willing to comply with it, and

(b) that the planning authority has sent copies of the purchase notice and rejection notice to the Welsh Ministers.

(4) An acceptance notice or rejection notice must be served before the end of 3 months beginning with the day the purchase notice was served.

(5) Where the planning authority serves an acceptance notice on a person, that authority or (in the case of a notice falling within sub-paragraph (2)(b)) the other local authority or statutory undertaker specified in the notice is to be treated—

(a) as being authorised under the relevant acquisition provisions to acquire the person's interest compulsorily, and

(b) as having served a notice to treat in respect of that interest on the day the acceptance notice is served.

(6) Before serving a rejection notice on a person, the planning authority must send the Welsh Ministers—

(a) a copy of the purchase notice, and

(b) a copy of the rejection notice.

Action to be taken by the Welsh Ministers on rejection of purchase notice by planning authority

6 (1) This paragraph applies where a copy of a purchase notice is sent to the Welsh Ministers under paragraph 5(6).

(2) If the Welsh Ministers are satisfied that the conditions in section 110(3) or 213(3) (as appropriate) are met in relation to the land to which the purchase notice relates, they must confirm the notice; but this is subject to the following provisions of this paragraph and to paragraph 7.

(3) Instead of confirming the purchase notice, the Welsh Ministers may—

(a) in the case of a notice served in consequence of a refusal of planning permission for any development, grant planning permission for the development;

(b) in the case of a notice served in consequence of a grant of planning permission for any development subject to conditions, vary or remove those conditions so far as they consider necessary to enable the land to which the notice relates to be made usable by carrying out the development;

(c) in the case of a notice served in consequence of an order under section 102 revoking planning permission, revoke the order;

(d) in the case of a notice served in consequence of an order under that section modifying planning permission for any development by imposing conditions, vary or remove those conditions so far as they consider necessary to enable the land to which the notice relates to be made usable by carrying out the development;

(e) in the case of a notice served in consequence of a discontinuance order, revoke the order or amend the order so far as they consider necessary to prevent it making the land unusable.

(4) Sub-paragraph (5) applies if the Welsh Ministers consider that the land to which the purchase notice relates, or any part of it, could be made usable within a reasonable time by carrying out any other development for which planning permission ought to be granted.

(5) Instead of confirming the notice in relation to the land or that part of it, the Welsh Ministers may direct that, if an application is made for planning permission for that development, it must be granted.

(6) In considering whether to exercise any of the powers conferred by sub-paragraphs (3) and (5), the Welsh Ministers must—

(a) have regard to the development plan for the area in which the land to which the purchase notice relates is situated and any other relevant considerations, and

(b) make their decision in accordance with the development plan unless other relevant considerations indicate otherwise.

(7) The planning permission that may be granted under sub-paragraph (3) is any planning permission that could be granted on an application under Part 3 of this Act.

(8) Schedule 3 (conditions relating to mining operations and depositing of waste) applies, with any necessary modifications, in relation to a planning permission granted by the Welsh Ministers under that sub-paragraph as it applies in relation to a planning permission granted by a planning authority.

(9) See also Chapter 9 of Part 3 of this Act for provision requiring planning permission to be granted subject to conditions relating to the duration and implementation of the permission.

(10) In confirming a purchase notice the Welsh Ministers may, if they consider it appropriate having regard to the probable ultimate use of the land to which the notice relates, modify the notice in relation to all or any part of the land by substituting another local authority or statutory undertaker for the planning authority on which the notice was served.

(11) If the Welsh Ministers are not satisfied that the conditions in section 110(3) or section 213(3) (as appropriate) are met in relation to the land to which a purchase notice relates, they must refuse to confirm the notice.

No duty to confirm purchase notice relating to planning decision if land has restricted use

7 (1) This paragraph applies where—

(a) a purchase notice is served under section 110 in consequence of a decision to refuse planning permission or to grant permission subject to conditions, and

(b) all or any part of the land to which the notice relates is land that has a restricted use by virtue of a previous planning permission that continues to have effect.

(2) For the purposes of this paragraph, land has a restricted use by virtue of a previous planning permission if it is part of a larger area to which the previous planning permission relates and either—

(a) the permission is subject to a condition requiring that part to remain undeveloped or to be preserved or laid out in a particular way as amenity land in relation to the remainder, or

(b) the permission was granted on an application that contemplated (expressly or by necessary implication) that the part should not be included in the development for which permission was sought, or should be preserved or laid out as mentioned in paragraph (a).

(3) The Welsh Ministers may refuse to confirm the purchase notice if they consider that the land that has a restricted use should, in accordance with the previous planning permission, remain undeveloped or be preserved or laid out as amenity land in relation to the remainder of the larger area to which the permission relates.

Procedure before the Welsh Ministers take action in relation to purchase notice

8 (1) Before taking any action in relation to a purchase notice under paragraph 6 or 7, the Welsh Ministers must serve notice of their proposed action—

(a) on the person who served the purchase notice,

(b) on the planning authority on which the purchase notice was served, and

(c) if they propose to substitute any other local authority or statutory undertaker for the planning authority, on the other local authority or statutory undertaker.

(2) A notice under sub-paragraph (1) must specify the period within which any of the persons on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(3) If any of the persons on whom the notice was served makes a request within that period, the Welsh Ministers must give each of the persons on whom it was served such an opportunity before they take any action in relation to the purchase notice under paragraph 6 or 7.

(4) The period specified under sub-paragraph (2) must be at least 28 days beginning with the day after the day the notice under sub-paragraph (1) is served.

(5) If, after any persons have appeared before and been heard by an inspector, the Welsh Ministers consider it appropriate to take action under paragraph 6 or 7 otherwise than in accordance with the notice served under sub-paragraph (1), they may do so.

Effect of confirmation of purchase notice or failure to take action

9 (1) Where the Welsh Ministers confirm a purchase notice, the authority mentioned in sub-paragraph (2) is to be treated—

(a) as being authorised under the relevant acquisition provisions to acquire compulsorily the interest of the person who served the notice, and

(b) as having served a notice to treat in respect of that interest on the date that the Welsh Ministers direct.

(2) The authority referred to in sub-paragraph (1) is—

(a) the planning authority on which the purchase notice was served, or

(b) if the Welsh Ministers modified the purchase notice under paragraph 6(10) by substituting another local authority or statutory undertaker for the planning authority, the other local authority or statutory undertaker.

(3) If a purchase notice is sent to the Welsh Ministers under paragraph 5(6) and they do not take any action in relation to it under paragraph 6 or 7 by the end of the relevant period—

(a) the purchase notice is to be treated as having been confirmed by them at the end of the relevant period, and

(b) the planning authority on which the purchase notice was served is to be treated—

(i) as being authorised under section 263 (compulsory acquisition of land for planning purposes) to acquire compulsorily the interest of the person who served the notice, and

(ii) as having served a notice to treat in respect of that interest at the end of the relevant period.

(4) In sub-paragraph (3) "the relevant period" means whichever of the following ends earlier—

(a) 9 months beginning with the day the purchase notice was served on the planning authority;

(b) 6 months beginning with the day a copy of the notice was sent to the Welsh Ministers under paragraph 5(6).

(5) But the relevant period does not include any time when the Welsh Ministers have before them both—

(a) a copy of the purchase notice sent to them under paragraph 5(6), and

(b) a notice of appeal under any of the following provisions relating to any of the land to which the purchase notice relates—

(i) section 73 (appeal against refusal etc. of planning application), 131 (appeal against enforcement notice) or 160 (appeal against refusal etc. of application for certificate of lawfulness),

(ii) section 100 (appeal against refusal etc. of application relating to listed building consent or conservation area consent) or 127 (appeal against enforcement notice) of the Historic Environment Act, or

(iii) section 21 of the Hazardous Substances Act (appeal against refusal etc. of application relating to hazardous substances consent) or regulations that make provision under section 25(1B)(b) of that Act (appeal against hazardous substances contravention notice).

Legal challenge to action taken by the Welsh Ministers in relation to purchase notice

10 (1) If a decision of the Welsh Ministers to take any action under paragraph 6 or 7 in relation to a purchase notice is quashed in proceedings under section 376, the purchase notice is to be treated as cancelled, but the person who served it may serve a further purchase notice.

(2) For the purpose of determining whether the further purchase notice has been served within the period specified in paragraph 4(2), the planning decision to which the notice relates is to be treated as having been made, or the order to which it relates is to be treated as having taken effect, on the day the Welsh Ministers' decision was quashed.

No withdrawal of notice to treat deemed to have been served under this Part

11 (1) A notice to treat that is treated as having been served by virtue of paragraph 5(5) or paragraph 9(1) or (3)(b) may not be withdrawn under section 31 of the Land Compensation Act 1961 (c. 33).

(2) But if the purchase notice is withdrawn or is treated as cancelled, any notice to treat that is treated as having been served in consequence of it is to be treated as having been withdrawn.

Deduction of compensation for changes to planning permission

12 Where compensation is payable under section 105 or 106 for expenditure incurred in carrying out works on land, any compensation that becomes payable for the acquisition of an interest in the land in pursuance of a purchase notice must be reduced by the amount of the compensation relating to the works.

PART 4

SEVERANCE OF AGRICULTURAL LAND: RIGHT TO REQUIRE PURCHASE OF REMAINDER

Service of counter-notice requiring purchase of remainder of agricultural unit

13 (1) This paragraph applies where—

(a) a purchase notice has been served by a person who has a qualifying interest in agricultural land ("the claimant"),

(b) an acquiring authority is treated as having served a notice to treat in respect of that interest by virtue of paragraph 5(5) or paragraph 9(1) or (3)(b), and

(c) the claimant has a qualifying interest in other agricultural land ("the unaffected area") that forms part of the same agricultural unit as the land to which the notice to treat relates.

(2) The claimant may serve a counter-notice on the acquiring authority—

(a) claiming that the unaffected area is not reasonably capable of being farmed as a separate agricultural unit, either by itself or in conjunction with other relevant land, and

(b) requiring the acquiring authority to purchase the claimant's interest in all of the unaffected area.

(3) The claimant must also serve a copy of the counter-notice on any other person who has an interest in the unaffected area (but failure to do so does not affect the validity of the notice).

(4) The counter-notice and any copies of it must be served within 2 months beginning with the day the notice to treat is treated as having been served.

(5) In this paragraph—

"agricultural land" ("*tir amaethyddol*") means land which, immediately before the making of the planning decision or order in consequence of which the purchase notice was served, was agricultural land within the meaning given by section 109(1) of the Agriculture Act 1947 (c. 48);

"other relevant land" ("*tir perthnasol arall*") means—

(a) land that forms part of the same agricultural unit as the agricultural land to which the notice to treat relates, and in which the claimant does not have a qualifying interest, or

(b) land that consists of or forms part of any other agricultural unit occupied by the claimant on the day the notice to treat is treated as having been served, and in which the claimant has a qualifying interest on that day;

"qualifying interest" ("*buddiant cymhwysol*") means a greater interest in land than as a tenant for a year or from year to year (whether or not the person with the interest is in occupation of the land).

(6) Where a notice to treat has been served or is treated by this Schedule or Part 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66) as having been served in respect of any land, that land does not form part of the unaffected area or constitute other relevant land unless and until the notice to treat is withdrawn (or treated as having been withdrawn).

(7) This paragraph does not limit the rights conferred by section 8(2) and (3) of the Compulsory Purchase Act 1965 (c. 56) (provisions as to divided land).

Effect of counter-notice

14 (1) Sub-paragraph (2) applies if—

(a) a counter-notice is served on an acquiring authority, and

(b) the authority does not, by the end of the period of 2 months beginning with the day the notice was served, notify the claimant in writing that it accepts the notice.

(2) The claimant or the authority may, within 2 months after the end of that period, refer the counter-notice to the Upper Tribunal.

(3) On a reference of a counter-notice, the Upper Tribunal must—

(a) determine whether the land to which the notice relates is reasonably capable of being farmed as a separate agricultural unit, either by itself or in conjunction with other relevant land (within the meaning given by paragraph 13(5)), and

(b) confirm or reject the notice.

(4) If the counter-notice is accepted or confirmed, the acquiring authority is to be treated—

(a) as being authorised under the relevant acquisition provisions to acquire compulsorily the interest to which the notice relates, and

(b) as having served a notice to treat in respect of that interest on the day the authority is treated as having served a notice to treat in respect of the other land in the agricultural unit in question by virtue of paragraph 5(5) or paragraph 9(1) or (3)(b).

(5) If a dispute about the compensation payable for the acquisition of the interest to which the counter-notice relates is referred to and determined by the Upper Tribunal, the claimant may not withdraw the notice after the end of 6 weeks beginning with the day the Tribunal determines the compensation.

(6) If the claimant withdraws the counter-notice, any notice to treat that is treated as having been served in consequence of it is to be treated as having been withdrawn.

(7) A notice to treat that is treated as having been served by virtue of this paragraph may not be withdrawn under section 31 of the Land Compensation Act 1961 (c. 33).

(8) In determining the compensation payable for the acquisition of an interest in land in pursuance of a counter-notice, the value of the interest is to be assessed—

(a) on the assumption that planning permission would not be granted for any development of the land, and

(b) ignoring any planning permission that has been granted for development of the land, so far as the development to which it relates has not been carried out.

Acquisition and surrender of tenant's interest under lease

15 (1) This paragraph applies where, by virtue of paragraph 14, an acquiring authority acquires or will acquire a lease of land but not the interest of the lessor.

(2) The authority must offer to surrender the lease to the lessor on terms the authority considers reasonable.

(3) The authority or the lessor may refer the question of what terms of surrender are reasonable to the Upper Tribunal.

(4) The authority must refer that question to the Tribunal if by the end of 3 months after the day the authority offered to surrender the lease—

(a) the authority and the lessor have not agreed what terms are reasonable, and

(b) the lessor has not referred the question to the Tribunal.

(5) If the question of what terms are reasonable is referred to and determined by the Upper Tribunal, the lessor is to be treated—

(a) as having accepted the surrender of the lease—

(i) at the end of 1 month after the day the Tribunal makes its determination, or

(ii) on another day that the Tribunal directs, and

(b) as having agreed with the authority on the terms of surrender that the Tribunal has held to be reasonable.

(6) In determining what terms of surrender are reasonable, any terms of the lease relating to surrender must be ignored.

(7) Where an amount is payable to a lessor by virtue of this paragraph and the lessor—

(a) refuses to accept the amount, or

(b) refuses or fails to establish title to the satisfaction of the acquiring authority,

the authority may pay the amount into court.

(8) Subsections (2) and (5) of section 9 of the Compulsory Purchase Act 1965 (c. 56) (application of money paid into court) apply to an amount paid into court under sub-paragraph (7) as they apply to compensation paid into court under that section.

(9) Where the acquiring authority is a body incorporated by or under an enactment, its powers include (if they would not otherwise do so) the power to farm the land to which the lease relates.

SCHEDULE 13

(as introduced by section 183(2))

COMMUNITY INFRASTRUCTURE LEVY: CHARGING SCHEDULES

Preparation of charging schedule: setting rates or other criteria

1 (1) A charging authority, in setting rates or other criteria for its charging schedule, must have regard, to the extent and in the way specified in CIL regulations, to—

(a) actual and expected costs of infrastructure (whether by reference to lists prepared by virtue of section 196 or otherwise),

(b) matters specified in CIL regulations relating to the economic viability of development (which may include, in particular, actual or potential economic effects of CIL planning permission or of imposing CIL), and

(c) other actual and expected sources of funding for infrastructure.

(2) CIL regulations may make other provision about setting rates or other criteria.

(3) The regulations may, in particular, permit or require a charging authority in setting rates or other criteria—

(a) to have regard, to the extent and in the way specified in the regulations, to—

(i) actual or expected administrative costs in connection with CIL (including enforcement costs);

(ii) actual and expected costs of anything, other than infrastructure, that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 196 or otherwise);

(iii) other actual and expected sources of funding for anything, other than infrastructure, that is concerned with addressing demands that development places on an area;

(iv) values used or documents produced for other statutory purposes;

(b) to integrate the process, to the extent and in the way specified in the regulations, with processes undertaken for other statutory purposes.

(4) The regulations may also provide, or permit or require provision, for differential rates which may include provision for supplementary charges, a nil rate, increased rates or reductions.

Preparation of charging schedule: methods of calculation

2 (1) CIL regulations may permit or require charging schedules to adopt methods of calculation specified in the regulations.

(2) In particular, the regulations may permit or require charging schedules to operate by reference to—

(a) descriptions or purposes of chargeable development;

(b) any measurement of the amount or nature of chargeable development;

(c) the nature or existing use of the place where chargeable development is carried out;

(d) an index used for determining a rate of inflation;

(e) values used or documents produced for other statutory purposes.

Preparation of charging schedule: when it applies

3 CIL regulations may permit or require a charging authority to produce charging schedules that apply in relation to periods specified in the regulations.

Preparation of charging schedule: consultation etc.

4 CIL regulations may require a charging authority to consult, or take other steps, in connection with the preparation of a charging schedule.

Preparation of charging schedule: evidence

5 (1) A charging authority must use appropriate available evidence to inform its preparation of a charging schedule.

(2) CIL regulations may make provision about the effect of sub-paragraph (1).

Preparation of draft and appointment of examiner

6 (1) A charging authority must prepare a draft of its charging schedule.

(2) The charging authority may withdraw the draft of its charging schedule.

(3) The charging authority must appoint a person ("the examiner") to examine the draft of its charging schedule.

(4) The authority must appoint someone who, in its opinion—

(a) is independent of the authority, and

(b) has appropriate qualifications and experience.

(5) The authority may, with the agreement of the examiner, appoint persons to assist the examiner.

Examination of charging schedule

7 (1) The examiner must consider whether the drafting requirements have been complied with.

(2) In this paragraph and in paragraph 8, "the drafting requirements" means the requirements of this Schedule and CIL regulations so far as relevant to the drafting of a charging schedule.

(3) CIL regulations must require a charging authority to allow anyone who makes representations about the draft of its charging schedule to be heard by the examiner; and the regulations may make provision about the timing of, and procedure for, the hearings.

(4) CIL regulations may make provision for the examiner to reconsider a decision with a view to correcting errors (before or after approval of the charging schedule).

Examiner's recommendations

8 (1) The examiner must make recommendations in accordance with this paragraph and must give reasons for the recommendations.

(2) The examiner may not recommend that a draft of a charging schedule be approved if the examiner considers—

(a) that there is any respect in which the drafting requirements have not been complied with, and

(b) that the non-compliance with the drafting requirements could not be remedied by the making of modifications to the draft.

(3) Sub-paragraphs (4) and (5) apply if the examiner considers—

(a) that there is any respect in which the drafting requirements have not been complied with, and

(b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.

(4) The examiner must—

(a) specify the respects in which the drafting requirements have not been complied with,

(b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and

(c) recommend that the draft be approved with those modifications or other modifications sufficient and necessary to remedy that non-compliance.

(5) The examiner may also recommend other modifications with which the draft should be approved in the event that it is approved.

(6) If sub-paragraphs (2) to (5) do not apply, the examiner—

(a) must recommend that the draft be approved, and

(b) may also recommend modifications with which the draft should be approved in the event that it is approved.

(7) The charging authority must publish the examiner's recommendations and reasons.

Approval of charging schedule

9 (1) A charging authority may approve a charging schedule only if—

(a) the examiner recommends that it be approved under paragraph 8(4) or (6), and

(b) the charging authority has had regard to the examiner's recommendations and reasons for them.

(2) If the examiner makes recommendations under paragraph 8(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified by the examiner (although those modifications need not be the ones recommended by the examiner).

(3) If a charging authority approves a charging schedule, it may do so with or without any of the modifications recommended under paragraph 8(5) or (6)(b).

(4) The modifications with which a charging schedule may be approved include only—

(a) modifications required by sub-paragraph (2), and

(b) modifications allowed by sub-paragraph (3).

(5) Where the charging authority approves a charging schedule in respect of which the examiner made recommendations under paragraph 8(4), the charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under paragraph 8(4)(a).

(6) CIL regulations may make further provision about the form and content of that report.

(7) A charging schedule must be approved—

(a) at a meeting of the charging authority, and

(b) by a majority of votes of members present.

(8) CIL regulations may make provision for the correction of errors in a charging schedule after approval.

Publication and taking effect of charging schedule

10 (1) CIL regulations may make provision about publication of a charging schedule after approval.

(2) A charging schedule approved under paragraph 9 may not take effect before it is published by the charging authority.

Revising a charging schedule

11 (1) A charging authority may revise a charging schedule.

(2) Paragraphs 1 to 10 apply in relation to a revision of a charging schedule as they apply in relation to a charging schedule.

Charging schedule ceasing to have effect

12 (1) A charging authority may determine that a charging schedule is to cease to have effect.

(2) CIL regulations may provide that a charging authority may only make a determination under sub-paragraph (1) in circumstances specified in the regulations.

(3) A determination under sub-paragraph (1) must be made—

(a) at a meeting of the charging authority, and

(b) by a majority of votes of members present.

SCHEDULE 14
(introduced by section 206)

DISCONTINUANCE ORDERS

PART 1

PROCEDURE FOR DISCONTINUANCE ORDERS MADE BY PLANNING AUTHORITIES

Requirement for confirmation by the Welsh Ministers

1 (1) A discontinuance order made by a planning authority does not take effect unless it is confirmed by the Welsh Ministers.

(2) Where a planning authority submits an order to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on—

(a) every owner and occupier of the land to which the order relates, and

(b) any other person it thinks will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

(6) The Welsh Ministers may confirm the order with or without modifications.

(7) The power of the Welsh Ministers to confirm the order with modifications includes power to add, remove or vary a provision granting planning permission.

(8) Where the Welsh Ministers confirm the order, the planning authority must serve a copy of the order on—

(a) every person who was served with notice under sub-paragraph (2), and

(b) any other person who falls within sub-paragraph (2)(a) or (b) when the order is confirmed.

PART 2

PROCEDURE FOR DISCONTINUANCE ORDERS MADE BY THE WELSH MINISTERS

Consultation and notification in connection with making order

2 (1) The Welsh Ministers must not make a discontinuance order without consulting the planning authority in whose area the land to which the order relates is situated.

(2) Before making a discontinuance order, the Welsh Ministers must serve notice of the proposed order on—

(a) the planning authority;

(b) every owner and occupier of the land to which the order relates, and

(c) any other person they think will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and (if that person is not the planning authority) to the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

(6) Where the Welsh Ministers make the order, they must serve a copy of the order on—

(a) every person who was served with notice under sub-paragraph (2), and

(b) any other person who falls within sub-paragraph (2)(b) or (c) when the order is made.

PART 3

DISCONTINUANCE ORDERS RELATING TO MINING OPERATIONS AND DEPOSITING OF WASTE

Power to include restoration condition and aftercare condition in discontinuance order

3 (1) A discontinuance order that relates to a use of land for carrying out mining operations or depositing waste may impose one or more restoration conditions.

(2) If the order imposes one or more restoration conditions, or if one or more restoration conditions have previously been imposed under this Act in relation to the land to which the order relates, the order may also impose one or more aftercare conditions.

(3) Paragraphs 1(3) to (9) and 2 to 5 of Schedule 3 apply in relation to an aftercare condition imposed by a discontinuance order as they apply in relation to an aftercare condition imposed on the grant of planning permission, but—

(a) as if the reference in paragraph 2(1)(b) of that Schedule to the time when the planning permission was granted were a reference to the time immediately before the mining operations or depositing of waste started, and

(b) in the case of a discontinuance order made by the Welsh Ministers, with any other necessary modifications.

SCHEDULE 15

(introduced by section 208)

PROHIBITION ORDERS AND PROTECTION ORDERS

PART 1

PROHIBITION ORDERS

Power to make prohibition order

1 (1) A planning authority may make a prohibition order in relation to any land in its area.

(2) The Welsh Ministers may make a prohibition order in relation to any land in Wales.

(3) A prohibition order may only be made if the planning authority considers or (as the case may be) the Welsh Ministers consider that—

(a) the land to which the order relates has been used for carrying out mining operations or depositing mineral waste, but

(b) the operations or depositing have permanently ceased.

(4) The planning authority or the Welsh Ministers may infer that the operations or depositing have permanently ceased only if—

(a) no mining operations or depositing of mineral waste have been carried out to any substantial extent on the land for at least 2 years, and

(b) the authority considers, on the evidence available to it, or the Welsh Ministers consider, on the evidence available to them, that the operations or depositing are unlikely to be resumed to any substantial extent.

(5) A prohibition order is an order prohibiting the resumption of the mining operations or depositing of mineral waste.

(6) A prohibition order may also impose one or more of the following requirements—

(a) a requirement to take steps for the alteration or removal of plant or machinery that was used for the purpose of the mining operations or depositing of mineral waste to which the order relates or for a purpose ancillary to that purpose;

(b) a requirement to take steps specified in the order, within a period specified in the order, for the purpose of removing or alleviating an injury to amenity that has been caused by the operations or depositing, other than an injury due to subsidence caused by underground mining operations;

(c) a requirement that a condition subject to which planning permission for the operations or depositing was granted, or which has been imposed under this Act, must be complied with;

(d) a restoration condition.

(7) If a prohibition order imposes one or more restoration conditions, or if one or more restoration conditions have previously been imposed under this Act in relation to the land to which the order relates, the order may also impose one or more aftercare conditions.

(8) Paragraphs 1(3) to (9) and 2 to 5 of Schedule 3 apply in relation to an aftercare condition imposed by a prohibition order as they apply in relation to an aftercare condition imposed by a discontinuance order (see paragraph 3 of Schedule 14).

Prohibition order made by planning authority: requirement for confirmation by the Welsh Ministers

2 (1) A prohibition order made by a planning authority does not take effect unless it is confirmed by the Welsh Ministers.

(2) Where a planning authority submits an order to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on—

(a) every owner and occupier of the land to which the order relates, and

(b) any other person the authority thinks will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

(6) The Welsh Ministers may confirm the order with or without modifications.

(7) Where the Welsh Ministers confirm the order, the planning authority must serve a copy of the order on—

(a) every person who was served with notice under sub-paragraph (2), and

(b) any other person who falls within sub-paragraph (2)(a) or (b) when the order is confirmed.

Prohibition order made by the Welsh Ministers: consultation and notification in connection with making order

3 (1) The Welsh Ministers must not make a prohibition order without consulting the planning authority in whose area the land to which the order relates is situated.

(2) Before making an order, the Welsh Ministers must serve notice of the proposed order on—

(a) the planning authority;

(b) every owner and occupier of the land to which the order relates, and

(c) any other person they think will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and (if that person is not the planning authority) to the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

(6) Where the Welsh Ministers make the order, they must serve a copy of the order on—

(a) every person who was served with notice under sub-paragraph (2), and

(b) any other person who falls within sub-paragraph (2)(b) or (c) when the order is made.

Effect of prohibition order on planning permission

4 (1) When a prohibition order takes effect, any planning permission for the mining operations or depositing of mineral waste to which the order relates ceases to have effect.

(2) Sub-paragraph (1) does not affect planning permission for mining operations or depositing of mineral waste carried out before the prohibition order takes effect.

(3) Sub-paragraph (1) does not limit the power of the planning authority or the Welsh Ministers, if the order is revoked, to make a further grant of planning permission for mining operations or depositing of mineral waste.

PART 2

PROTECTION ORDERS

Power to make protection order

5 (1) A planning authority may make a protection order in relation to any land in its area.

(2) The Welsh Ministers may make a protection order in relation to any land in Wales.

(3) A protection order may only be made if the planning authority considers or (as the case may be) the Welsh Ministers consider that—

(a) the land to which the order relates has been used for carrying out mining operations or depositing mineral waste, but

(b) the operations or depositing have been temporarily suspended.

(4) The planning authority or the Welsh Ministers may infer that the operations or depositing have been temporarily suspended only if—

(a) no mining operations or depositing of mineral waste have been carried out to any substantial extent on the land for at least 12 months, and

(b) the authority considers, on the evidence available to it, or the Welsh Ministers consider, on the evidence available to them, that the operations or depositing are likely to be resumed to a substantial extent.

(5) A protection order is an order requiring steps to be taken for the protection of the environment.

(6) In this Part "steps for the protection of the environment" means steps for one or more of the following purposes—

(a) preserving the amenity of the area in which the land to which the order relates is situated during the period while the operations or depositing are suspended,

(b) protecting that area from damage during that period, or

(c) preventing any deterioration in the condition of the land during that period.

(7) A protection order must specify a period, beginning with the date on which the order is to take effect, within which any required step for the protection of the environment must be taken, and it may specify different periods for taking different steps.

Protection order made by planning authority: requirement for confirmation by the Welsh Ministers

6 (1) A protection order made by a planning authority does not take effect unless it is confirmed by the Welsh Ministers.

(2) But a protection order made by a planning authority takes effect without being confirmed by the Welsh Ministers if the order—

(a) revokes an earlier protection order, and

(b) does not require any fresh steps to be taken for the protection of the environment.

(3) Where a planning authority submits an order to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on—

(a) every owner and occupier of the land to which the order relates, and

(b) any other person the authority thinks will be affected by the order.

(4) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(5) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and the planning authority.

(6) The period specified under sub-paragraph (4) must be at least 28 days beginning with the day after the day the notice is served.

(7) The Welsh Ministers may confirm the order with or without modifications.

(8) Where the Welsh Ministers confirm the order, the planning authority must serve a copy of the order on—

(a) every person who was served with notice under sub-paragraph (3), and

(b) any other person who falls within sub-paragraph (3)(a) or (b) when the order is confirmed.

(9) Where a protection order made by a planning authority takes effect without being confirmed by the Welsh Ministers by virtue of sub-paragraph (2), the planning authority must serve notice of the making of the order on—

(a) every owner and occupier of the land to which the earlier protection order that is being revoked relates, and

(b) any other person the authority thinks will be affected by the revocation of the earlier protection order.

Protection order made by the Welsh Ministers: consultation and notification in connection with making order

7 (1) The Welsh Ministers must not make a protection order without consulting the planning authority in whose area the land to which the order relates is situated.

(2) Before making an order, the Welsh Ministers must serve notice of the proposed order on—

(a) the planning authority,

(b) every owner and occupier of the land to which the order relates, and

(c) any other person they think will be affected by the order.

(3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector.

(4) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and (if that person is not the planning authority) to the planning authority.

(5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

(6) Where the Welsh Ministers make the order, they must serve a copy of the order on—

(a) every person who was served with notice under sub-paragraph (2), and

(b) any other person who falls within sub-paragraph (2)(b) or (c) when the order is made.

(7) Sub-paragraphs (2) and (6) do not apply to an order that—

(a) revokes an earlier protection order, and

(b) does not require any fresh steps to be taken for the protection of the environment.

(8) But where the Welsh Ministers make such an order, they must serve a copy of the order on—

(a) the planning authority, and

(b) every person who falls within sub-paragraph (2)(b) or (c) when the order is made.

Registration of protection order as local land charge

8 A protection order is a local land charge.

Review of protection order

9 (1) A planning authority must—

(a) carry out reviews in accordance with this paragraph of protection orders that have effect in its area (whether they were made by the planning authority or the Welsh Ministers), and

(b) decide, in relation to any land to which such an order applies, whether or not to do any of the following—

(i) revoke the order or any part of the order;

(ii) make a new protection order (whether in place of or in addition to an earlier order);

(iii) make a prohibition order.

(2) The first review of a protection order must be completed within 5 years after the day the order takes effect.

(3) Each subsequent review must be completed within 5 years after the day the previous review was completed.

(4) If two or more protection orders have effect wholly or partly in relation to the same land, the orders must be reviewed together.

Resumption of operations or depositing after protection order takes effect

10 (1) A protection order does not prevent mining operations or depositing of mineral waste being resumed, in accordance with planning permission, on the land to which the order relates.

(2) But a person may not resume mining operations or depositing mineral waste without first giving notice of the person's intention to do so to the planning authority in whose area the land is situated.

(3) The notice must specify the date on which the person intends to resume the operations or depositing.

(4) The planning authority must revoke the protection order if mining operations or depositing of mineral waste have resumed to a substantial extent on the land.

(5) If the planning authority revokes the order, it must give notice of its revocation to—

(a) the person who gave the notice under sub-paragraph (2),

(b) every owner and occupier of the land to which the order relates, and

(c) any other person the authority thinks will be affected by the revocation.

(6) If the planning authority does not revoke the order before the end of 2 months after the date specified under sub-paragraph (3), the person who gave the notice under sub-paragraph (2) may apply to the Welsh Ministers for the revocation of the order.

(7) A person who makes an application to the Welsh Ministers must give notice of the application to the planning authority.

(8) If the applicant or the planning authority makes a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by an inspector, the Welsh Ministers must give such an opportunity to the applicant and the authority before deciding whether to revoke the order.

(9) If the Welsh Ministers are satisfied that mining operations or depositing of mineral waste have resumed to a substantial extent on the land to which the order relates, they must revoke the order.

(10) If the Welsh Ministers revoke the order, they must give notice of its revocation to—

(a) the planning authority,

(b) the applicant,

(c) every owner and occupier of the land to which the order relates, and

(d) any other person the Welsh Ministers think will be affected by the revocation.

SCHEDULE 16

(introduced by section 212)

COMPENSATION FOR EFFECTS OF ORDERS RELATING TO MINERALS

PART 1

COMPENSATION FOLLOWING MAKING OF DISCONTINUANCE ORDER

Compensation where discontinuance order relates to minerals

1 (1) Where a discontinuance order relates to a use of land for carrying out mining operations or depositing mineral waste, compensation is payable under section 211 only if one or more of the following conditions are met.

(2) The first condition is that the order—

(a) imposes a restriction on working rights, or

(b) modifies or replaces a restriction on working rights, other than one imposed by a restoration condition or aftercare condition.

(3) The second condition is that the order does not—

(a) impose a condition on the continuance of the use of the land for carrying out mining operations or depositing mineral waste, or

(b) require the alteration or removal of any buildings, works, plant or machinery used in connection with the operations or depositing to which the order relates.

(4) The third condition is that the operations or depositing to which the order relates started less than 5 years before the day the order was made.

(5) The fourth condition is that, in relation to the land to which the order relates, any of the following happened in the 5 years before the day the order was made—

(a) another discontinuance order was made relating to a use of the land for carrying out mining operations or depositing mineral waste;

(b) a prohibition order was made;

(c) an order was made under section 102 modifying a minerals permission;

(d) an application under paragraph 1 of Schedule 8 was finally determined (within the meaning given by paragraph 5(2) of that Schedule);

(e) an application under paragraph 7 of Schedule 9 was finally determined (within the meaning given by paragraph 12(2) of that Schedule).

(6) For the purposes of sub-paragraph (2), a restriction is imposed on working rights in respect of land if any of the following is restricted or reduced—

(a) the size of the area that may be used for mining operations or for depositing mineral waste;

(b) the maximum depth of any mining operations or maximum height of any deposit of mineral waste;

(c) the rate at which a particular mineral may be extracted or a particular mineral waste may be deposited;

(d) the period at the end of which any mining operations or depositing of mineral waste must cease;

(e) the total quantity of minerals that may be extracted from the land or of mineral waste that may be deposited on it.

PART 2

COMPENSATION FOLLOWING MAKING OF PROHIBITION ORDER OR PROTECTION ORDER

Compensation under section 211 following making of prohibition order

2 (1) Subsections (2) to (5) of section 211 apply where a prohibition order is made in relation to land in the area of a planning authority and either or both of the following conditions are met.

(2) The first condition is that the mining operations or depositing of mineral waste to which the order relates started less than 5 years before the day the order was made.

(3) The second condition is that, in relation to the land to which the order relates, any of the following happened in the 5 years before the day the order was made—

(a) another prohibition order was made;

(b) a discontinuance order was made relating to a use of the land for carrying out mining operations or depositing mineral waste;

(c) an order was made under section 102 modifying a minerals permission.

Compensation in other cases

3 (1) This paragraph applies where—

(a) a prohibition order is made in relation to land in the area of a planning authority and neither of the conditions in paragraph 2 is met, or

(b) a protection order is made in relation to land in the area of a planning authority.

(2) Any person interested in the land is entitled, on making a claim to the planning authority, to be paid compensation by the authority for—

(a) any expenditure incurred by the person in carrying out works that become abortive because of the order;

(b) any other loss or damage suffered by the person that is directly attributable to the order.

(3) A claim for compensation under this paragraph must be made in writing within 12 months beginning with the day the order takes effect.

(4) For the purposes of this paragraph—

(a) expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works;

(b) the loss or damage that is directly attributable to an order includes expenditure incurred in carrying out works for the purpose of removing or alleviating any injury to amenity caused by mining operations on the land to which the order relates, unless that expenditure is included in another claim for compensation.

(5) In calculating the amount of any loss or damage attributable to an order, no account is to be taken of—

(a) the value of any mineral that cannot be won or worked in consequence of the order,

(b) the value of any mineral waste that cannot be deposited in consequence of the order,

(c) the value of any void that cannot be filled in consequence of the order, or

(d) in the case of a prohibition order, the cost of complying with a restoration condition or aftercare condition in consequence of the order.

(6) Compensation payable under this paragraph must be reduced by the value to the claimant of any timber, apparatus or other materials removed for the purpose of complying with the order in question.

Deduction from compensation under paragraph 3

4 (1) A planning authority must deduct the amount determined in accordance with this paragraph from any compensation that it pays under paragraph 3 in consequence of a prohibition order or protection order.

(2) If the planning authority is satisfied at the time when it assesses the compensation that the claimant is the only person entitled to claim compensation in consequence of the order, it must deduct the amount specified in regulations.

(3) If the planning authority is not satisfied that the claimant is the only person entitled to claim compensation, it must deduct that amount multiplied by the appropriate fraction.

(4) The appropriate fraction is—

$$\frac{\mathrm{CI}}{\mathrm{AV}}$$

where—

CI is the authority's assessment of the value of the claimant's interest in the land to which the order relates;

AV is the authority's assessment of the aggregate value of all of the interests in the land if they were held by a single person.

SCHEDULE 17

(introduced by sections 280, 281, 288, 294, 297 and 300)

ORDERS RELATING TO HIGHWAYS

PART 1

PROCEDURE FOR ORDERS MADE BY THE WELSH MINISTERS

Application of this Part

1 This Part applies to orders under sections 280, 281, 286, 287 and 297.

Publication of notice of proposed order

2 (1) Before making an order, the Welsh Ministers must publish notice that they propose to make the order in—

(a) at least one newspaper circulating in the relevant area, and

(b) the London Gazette.

(2) The notice must—

(a) state the general effect of the order,

(b) name a place in the relevant area where copies of the draft order and of any map or plan relevant to it will be available for public inspection during the objection period, and

(c) state that any person may object to the making of the order by giving notice to the Welsh Ministers within the objection period.

(3) The documents mentioned in sub-paragraph (2)(b) must be made available for inspection free of charge at all reasonable times.

(4) In this Part—

"the objection period" ("*y cyfnod gwrthwynebu*") means 28 days beginning with the day after the day the notice is published;

"the relevant area" ("*yr ardal berthnasol*") means the area in which any highway or land to which the order relates is situated.

Service and display of notice of proposed order

3 (1) On or before the day they publish a notice under paragraph 2, the Welsh Ministers must serve on the persons mentioned in sub-paragraph (2) copies of—

(a) the notice,

(b) the draft order, and

(c) any relevant map or plan.

(2) The persons are—

(a) every relevant local authority in whose area any highway or land to which the order relates is situated,

(b) any relevant statutory undertaker that has cables, mains, sewers, pipes or wires laid along, across, under or over any highway that is to be stopped up or diverted, or any land over which a right of way is to be extinguished, by virtue of the order, and

(c) in the case of an order under section 281 that includes provision under section 284 authorising the stopping up of a private means of access to any land, every owner and occupier of that land.

(3) On or before the day they publish the notice, the Welsh Ministers must also cause a copy of the notice to be displayed in a prominent position at the ends of so much of any highway as is to be stopped up or diverted, or so much of any right of way as is to be extinguished, by virtue of the order.

(4) In sub-paragraph (2)—

"owner" ("*perchennog*") means—

(a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple, whether in possession or in reversion;

(b) a person holding or entitled to the rents and profits of the land under a lease whose term has more than 3 years left to run;

"relevant local authority" ("*awdurdod lleol perthnasol*") means—

(a) in relation to an area in Wales—

(i) a county council or county borough council;

(ii) a National Park authority;

(iii) a joint planning board;

(iv) a community council;

(v) a police and crime commissioner;

(b) in relation to an area in England—

(i) a county council;

(ii) a district council;

(iii) a National Park authority;

(iv) a joint planning board constituted under section 2 of the Town and Country Planning Act 1990 (c. 8);

(v) a parish council or the parish meeting of a parish that does not have a separate council;

(vi) a police and crime commissioner;

(vii) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 (c. 21);

(viii) an economic prosperity board or combined authority established under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (c. 20), or a combined county authority established under Chapter 1 of Part 2 of the Levelling-up and Regeneration Act 2023 (c. 55);

(ix) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50);

"relevant statutory undertaker" ("*ymgymerwr statudol perthnasol*") means—

(a) an electricity licensee that is entitled to exercise a power conferred by paragraph 1 of Schedule 4 to the Electricity Act 1989 (c. 29) (street works);

(b) a gas transporter;

(c) a statutory undertaker carrying on an undertaking for the supply of hydraulic power;

(d) a water undertaker or sewerage undertaker;

(e) Natural Resources Wales;

(f) the Environment Agency.

Consideration of objections and making of order

4 (1) The Welsh Ministers must cause a local inquiry to be held if—

(a) before the end of the objection period, they receive an objection to the proposed order from—

(i) a person on whom they were required to serve a notice under paragraph 3, or

(ii) any other person they consider to be affected by the order, and

(b) the objection is not withdrawn.

(2) But the Welsh Ministers are not required to cause a local inquiry to be held if—

(a) the objection is made by a person mentioned in sub-paragraph (1)(a)(ii), and

(b) they are satisfied that in the special circumstances of the case it is unnecessary to hold a local inquiry.

(3) Before making the order, the Welsh Ministers must consider—

(a) any objections to the order that are not withdrawn, and

(b) where a local inquiry is held, the report of the person who held the inquiry.

(4) The Welsh Ministers may make the order with or without modifications.

Certain orders to be subject to special Senedd procedure

5 An order under section 280, 281, 286 or 287 is subject to special Senedd procedure if—

(a) it contains a provision under section 283(5)(a) or 288(3)(a) requiring a person to make a payment or contribution,

(b) a person who would be required to make the payment or contribution objects to the provision before the end of the objection period, and

(c) the objection is not withdrawn.

Notice of making of order

6 (1) Immediately after making an order, the Welsh Ministers must publish notice that they have made the order in—

(a) at least one newspaper circulating in the relevant area, and

(b) the London Gazette.

(2) The notice must name a place where a copy of the order is available for public inspection free of charge at all reasonable times.

(3) Paragraph 3 applies to a notice under this paragraph as it applies to a notice under paragraph 2.

Interpretation

7 (1) In this Part "the objection period" and "the relevant area" have the meanings given by paragraph 2(4).

(2) Where publication of a notice under paragraph 2 or 6 takes place on more than one day, references in this Part to the day the notice is published are references to the latest of those days.

PART 2

PROCEDURE FOR ORDERS MADE BY PLANNING AUTHORITIES AND OTHER LOCAL AUTHORITIES

Application of this Part

8 This Part applies to orders made under sections 293 and 300.

Duties of planning authority or local authority

9 Before submitting an order to the Welsh Ministers for confirmation or confirming an order as an unopposed order, the authority that made the order must comply with paragraphs 10 and 11.

Publication of notice of order

10 (1) The authority must publish in at least one newspaper circulating in the relevant area notice that it has made the order and that it intends to submit the order for confirmation or confirm it as an unopposed order.

(2) The notice must—

(a) state the general effect of the order;

(b) name a place in the relevant area where—

(i) a copy of the order is available for public inspection free of charge at all reasonable times, and

(ii) copies of the order may be obtained for a reasonable charge at all reasonable times;

(c) specify the period within which, and the way in which, representations or objections may be made in relation to the order.

(3) The period specified in the notice must be at least 28 days beginning with the day after the day the notice is first published.

(4) In this Part "the relevant area" means the area in which the land to which the order relates is situated.

Service and display of notice of order

11 (1) At least 28 days before the end of the period specified in the notice published under paragraph 10, the authority must—

(a) serve copies of the notice and order on the persons mentioned in sub-paragraph (2), and

(b) serve a copy of the notice on every person who has made a request under sub-paragraph (3) that applies to the order.

(2) The persons on whom copies of the notice and order must be served under sub-paragraph (1)(a) are—

(a) every owner, occupier and tenant of any of the land to which the order relates;

(b) every relevant local authority (other than the authority that made the order) whose area includes any of that land;

(c) any statutory undertaker to which any apparatus on that land belongs, or that uses any such apparatus, for the purposes of its undertaking;

(d) any other persons specified in regulations;

(e) any other persons the authority considers appropriate.

(3) Any person may, on paying any reasonable charge made by the authority, request the authority to give the person notice of all orders under sections 293 and 300 that—

(a) are made by the authority in a specified period,

(b) are of a specified description, and

(c) relate to land in a specified area,

and in this sub-paragraph "specified" means specified in the request.

(4) At least 28 days before the end of the period specified in the notice published under paragraph 10, the authority must cause a copy of the notice to be displayed in a prominent position—

(a) at the ends of so much of any footpath, bridleway or restricted byway as is to be stopped up or diverted, or so much of any right of way as is to be extinguished, by virtue of the order,

(b) at local government offices in the locality of the land to which the order relates, and

(c) at any other places the authority considers appropriate.

(5) With each copy of the notice that is displayed under sub-paragraph (4)(a) at the ends of so much of a way as is affected by the order, there must be displayed a plan showing the general effect of the order so far as it relates to that way.

(6) In this paragraph—

"local government offices" ("*swyddfeydd llywodraeth leol*") means offices or buildings of a relevant local authority;

"relevant local authority" ("*awdurdod lleol perthnasol*") means—

(a) in relation to an area in Wales—

(i) a county council or county borough council;

(ii) a National Park authority;

(iii) a joint planning board;

(iv) a community council;

(b) in relation to an area in England—

(i) a county council;

(ii) a district council;

(iii) a National Park authority;

(iv) a joint planning board constituted under section 2 of the Town and Country Planning Act 1990 (c. 8);

(v) a parish council or the parish meeting of a parish that does not have a separate council;

(vi) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 (c. 21);

(vii) an economic prosperity board or combined authority established under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (c. 20), or a combined county authority established under Chapter 1 of Part 2 of the Levelling-up and Regeneration Act 2023 (c. 55);

"tenant" ("*tenant*") does not include—

(a) a tenant for a month or less;

(b) a statutory tenant within the meaning of the Rent Act 1977 (c. 42) (see section 2 of that Act).

Confirmation of order as unopposed order

12 (1) This paragraph applies if—

(a) no representations or objections are made in relation to an order in accordance with the notice published under paragraph 10, or

(b) representations or objections are made but they are all withdrawn.

(2) The authority that made the order may confirm the order itself instead of submitting it to the Welsh Ministers.

(3) The authority must confirm the order without any modifications.

Consideration of objections

13 (1) This paragraph applies if—

(a) any representation or objection is made in relation to an order in accordance with the notice published under paragraph 10, and

(b) the representation or objection is not withdrawn.

(2) If the representation or objection was made by a local authority, the Welsh Ministers must cause a local inquiry to be held before confirming the order.

(3) If the representation or objection was made by any other person, the Welsh Ministers must, before confirming the order, either—

(a) cause a local inquiry to be held, or

(b) give an opportunity to be heard by an inspector to any person by whom a representation or objection has been made in accordance with the notice published under paragraph 10 and not withdrawn.

(4) Before confirming the order, the Welsh Ministers must consider the report of the person appointed under sub-paragraph (2) or (3) to hold the inquiry or to hear representations or objections.

(5) The Welsh Ministers may confirm the order with or without modifications.

(6) But they may not modify an order so that it affects land that was not affected by the order as submitted to them unless they have complied with the following provisions of this paragraph.

(7) The Welsh Ministers must give such notice as they consider appropriate of their proposal to modify the order.

(8) The notice must specify the period within which, and the way in which, representations or objections may be made in relation to the proposed modification.

(9) The period specified in the notice must be at least 28 days beginning with the day after the day the notice is first published.

(10) If any representation or objection is made in relation to the proposed modification in accordance with the notice and is not withdrawn, the Welsh Ministers must either—

(a) cause a local inquiry to be held, or

(b) give an opportunity to be heard by an inspector to any person by whom a representation or objection has been made in accordance with the notice and not withdrawn.

(11) Before confirming the order with the proposed modification, the Welsh Ministers must consider the report of the person appointed to hold the inquiry or hear representations or objections.

(12) In sub-paragraph (2) "local authority" includes—

(a) a local authority, within the meaning given by section 336(1) of the Town and Country Planning Act 1990 (c. 8), for an area in England, and

(b) a National Park authority for a National Park in England.

Decisions to be made by inspectors

14 (1) A decision under paragraph 13 is to be made by an inspector instead of by the Welsh Ministers unless—

(a) the case is of a description specified in regulations, or

(b) the Welsh Ministers direct that the decision is to be made by them instead of by an inspector.

(2) A decision made by an inspector is to be treated as the decision of the Welsh Ministers.

(3) A direction under sub-paragraph (1)(b) must state the reasons for which it is given and must be served on—

(a) the inspector (if any) appointed to make the decision,

(b) the authority that made the order, and

(c) any person by whom a representation or objection has been made in accordance with the notice published under paragraph 10 and not withdrawn.

(4) At any time before an inspector has made a decision, the Welsh Ministers may—

(a) revoke the inspector's appointment, and

(b) appoint another inspector (a "new inspector") to make the decision.

(5) Where by virtue of sub-paragraph (1)(b) or (4) a decision is to be made by the Welsh Ministers or a new inspector instead of by the inspector who was first appointed to make it, anything done by or in relation to the first inspector is to be treated as having been done by or in relation to the Welsh Ministers or the new inspector (as the case may be).

Special provision about orders under section 293 affecting statutory undertakers

15 (1) An order under section 293 is subject to special Senedd procedure if—

(a) a statutory undertaker objects to the order in accordance with the notice published under paragraph 10, or objects to a modification in accordance with a notice published under paragraph 13, and the objection is not withdrawn, and

(b) the undertaker makes the objection on the ground that the order provides (or as modified would provide) for the creation of a public right of way over land covered by works used for the purposes of its undertaking or over the curtilage of such land.

(2) The Welsh Ministers may not confirm an order under section 293 that extinguishes a right of way over land on which there is any apparatus belonging to or used by a statutory undertaker for the purposes of its undertaking, unless the undertaker has consented to the confirmation of the order.

(3) Consent must not be unreasonably withheld.

(4) Consent may be given subject to the condition that the order must include provisions that the undertaker reasonably requires for its protection.

(5) If a question arises under this paragraph about whether the withholding of consent is unreasonable, or whether any requirement of a statutory undertaker is reasonable, the question is to be determined by the appropriate Minister.

Notice of confirmation of order

16 (1) As soon as possible after an order is confirmed, the authority that made the order must comply with the following provisions of this paragraph.

(2) The authority must publish notice that the order has been confirmed in at least one newspaper circulating in the relevant area.

(3) The notice must—

(a) state the general effect of the order;

(b) name a place in the relevant area where—

(i) a copy of the confirmed order is available for public inspection free of charge at all reasonable times, and

(ii) copies of the order may be obtained for a reasonable charge at all reasonable times.

(4) The authority must serve a copy of the notice on every person who—

(a) was entitled to be served with a copy of a notice under paragraph 11, and

(b) has sent the authority a request to be served, specifying an address for service.

(5) The authority must include a copy of the confirmed order with each copy of the notice that sub-paragraph (4) requires it to serve on—

(a) a person on whom it was required to serve a copy of a notice by virtue of paragraph 11(2)(a), (b) or (c), and

(b) in the case of an order that has been confirmed with modifications, a person on whom it was required to serve a copy of a notice by virtue of paragraph 11(2)(d) or (e).

(6) The authority must cause copies of the notice that the order has been confirmed to be displayed in the ways described in paragraph 11(4).

Notice of decision not to confirm order

17 As soon as possible after a decision is made not to confirm an order, the authority that made the order must serve notice of the decision on every person on whom paragraph 11 required it to serve a notice.

Notice that order has come into force

18 (1) This paragraph applies where an order comes into force otherwise than—

(a) on the day it is confirmed, or

(b) at the end of a period specified in the order that begins with that day.

(2) As soon as possible after the order comes into force, the authority that made the order must publish notice that it has come into force in at least one newspaper circulating in the relevant area.

Power to make further provision about procedure

19 Regulations may make further provision about the procedure to be followed in connection with the making, submission and confirmation of orders under sections 293 and 300.

Interpretation

20 In this Part "the relevant area" has the meaning given by paragraph 10(4).

SCHEDULE 18

(introduced by sections 315(7), 317(8) and 318(5))

ORDERS RELATING TO STATUTORY UNDERTAKERS AND NETWORK OPERATORS

PART 1

SUPPLEMENTARY PROVISION ABOUT ORDERS TO END RIGHTS OVER LAND ETC. OF STATUTORY UNDERTAKERS AND NETWORK OPERATORS

Supplementary provision about orders under section 315(3)

1 (1) This paragraph makes provision about orders under section 315(3).

(2) Before making an order, the Ministers must give the undertaker or operator on whom the removal notice was served an opportunity to object to the application for the order.

(3) Where the undertaker or operator makes an objection, before making the order the Ministers must—

(a) consider the objection;

(b) give the undertaker or operator an opportunity to appear before and be heard by a person appointed by the Ministers;

(c) give the local authority or statutory undertaker that served the removal notice an opportunity to be heard on the same occasion.

(4) The order may be made either on the terms set out in the application for the order or with modifications.

(5) In this paragraph "the Ministers" means the Welsh Ministers and the appropriate Minister.

Supplementary provision about orders under section 315(4)

2 (1) This paragraph makes provision about orders under section 315(4).

(2) Before making an order, the Ministers must—

(a) prepare a draft of the order, and

(b) give the undertaker or operator on whom the removal notice was served an opportunity to object to the proposal to make the order.

(3) Where the undertaker or operator makes an objection, before making the order the Ministers must—

(a) consider the objection;

(b) give the undertaker or operator an opportunity to appear before and be heard by a person appointed by the Ministers.

(4) The order may be made either on the terms set out in the draft order or with modifications.

(5) In this paragraph "the Ministers" means the government department that served the removal notice and the appropriate Minister.

PART 2

PROCEDURE FOR MAKING ORDERS TO EXTEND OR MODIFY STATUTORY UNDERTAKERS' FUNCTIONS

Requirement to publicise a representation made under section 317(1)

3 (1) As soon as possible after making a representation mentioned in section 317(1), a statutory undertaker, a local authority or a government department—

(a) must publish notice of the representation, and

(b) if directed to do so by the Welsh Ministers and the appropriate Minister, must serve a copy of the notice on each person specified, or of a description specified, in the direction.

(2) A notice under this paragraph must—

(a) be published in such a form and way as may be specified in a direction given by the Welsh Ministers and the appropriate Minister,

(b) give such information about the matters to which the representation relates as may be specified in such a direction,

(c) state that an objection to the making of an order on the representation may be made to the Welsh Ministers and the appropriate Minister, and

(d) specify the way in which, and the period within which, an objection may be made.

Requirements for objection to making of order

4 An objection to the making of an order under section 317 must—

(a) be made in the way, and within the period, specified in the notice under paragraph 3, and

(b) include a statement of the grounds of the objection (either in the objection or in a document included with it).

Effect of objection being made to making of order

5 (1) This paragraph applies where an objection to the making of an order under section 317 has been made in accordance with paragraph 4 and not withdrawn.

(2) In considering whether to make an order, the Welsh Ministers and the appropriate Minister—

(a) must consider the grounds of the objection set out in the statement that was included in the objection or in a document included with it ("the original statement"), and

(b) may require the objector to submit within a specified period a further statement relating to any of the matters to which the objection relates (a "further statement").

(3) But sub-paragraph (2) does not apply if—

(a) the Welsh Ministers and the appropriate Minister decide, without having regard to the objection, not to make the order, or

(b) the Welsh Ministers and the appropriate Minister decide to make a modification that the objector agrees meets the objection.

(4) In so far as the Welsh Ministers and the appropriate Minister are satisfied, after considering the grounds of the objection set out in the original statement and in any further statement, that the objection relates to a matter that can be dealt with in the assessment of compensation, they may disregard the objection.

(5) If—

(a) the Welsh Ministers and the appropriate Minister are satisfied, after considering the grounds of the objection set out in the original statement and in any further statement, that they are sufficiently informed about the matters to which the objection relates, or

(b) an objector fails to submit a further statement within a specified period as required by the Welsh Ministers and the appropriate Minister,

the Welsh Ministers and the appropriate Minister may decide whether to make the order without carrying out further investigation into the matters to which the objection relates.

(6) If neither sub-paragraph (4) nor (5) applies, before deciding whether to make the order, the Welsh Ministers and the appropriate Minister must give the objector an opportunity to appear before and be heard by a person appointed by them.

(7) If the objector takes that opportunity, the Welsh Ministers and the appropriate Minister must give each of the following persons the opportunity to be heard on the same occasion—

(a) the authority that made the representation mentioned in section 317(1), and

(b) any other person they consider appropriate.

(8) Despite the previous provisions of this paragraph, if the Welsh Ministers and the appropriate Minister consider that the matters to which the objection relates require investigation at a local inquiry before they decide whether to make an order, they must cause a local inquiry to be held.

(9) Where the Welsh Ministers and the appropriate Minister decide to cause a local inquiry to be held, they are not required to comply with any of the requirements of sub-paragraphs (2), (6) and (7) that have not been complied with at the time of that decision.

Procedure for approving order

6 An order under section 317—

(a) where made by the Welsh Ministers and a Minister of the Crown, is subject to special Senedd procedure and special parliamentary procedure, and

(b) where made by the Welsh Ministers alone (see section 308(2)(b)), is subject to special Senedd procedure.

PART 3

PROCEDURE FOR MAKING ORDERS TO RELIEVE STATUTORY UNDERTAKERS OF IMPRACTICABLE OBLIGATIONS

Requirement to publicise a representation made under section 318(1)

7 (1) The appropriate Minister may direct a statutory undertaker that makes a representation mentioned in section 318(1) to publicise the representation in either or both of the following ways—

(a) by publishing a notice;

(b) by serving a copy of the notice on each person specified, or of a description specified, in the direction.

(2) A statutory undertaker must comply with any direction given to it under sub-paragraph (1) as soon as possible after making the representation to which the direction relates.

(3) A notice under this paragraph must—

(a) be published in such a form and way as may be specified in a direction given by the appropriate Minister,

(b) give such information about the matters to which the representation relates as may be specified in such a direction,

(c) state that an objection to the making of an order on the representation may be made to the appropriate Minister, and

(d) specify the way in which, and the period within which, an objection may be made.

Requirements for objection to making of order

8 An objection to the making of an order under section 318 must—

(a) be made in the way, and within the period, specified in the notice under paragraph 7, and

(b) include a statement of the grounds of the objection (either in the objection or in a document included with it).

Effect of objection being made to making of order

9 (1) This paragraph applies where an objection to the making of an order under section 318 has been made in accordance with paragraph 8 and not withdrawn.

(2) In considering whether to make an order, the appropriate Minister—

(a) must consider the grounds of the objection set out in the statement that was included in the objection or in a document included with it ("the original statement"), and

(b) may require the objector to submit within a specified period a further statement relating to any of the matters to which the objection relates (a "further statement").

(3) But sub-paragraph (2) does not apply if—

(a) the appropriate Minister decides, without having regard to the objection, not to make the order, or

(b) the appropriate Minister decides to make a modification that the objector agrees meets the objection.

(4) In so far as the appropriate Minister is satisfied, after considering the grounds of the objection set out in the original statement and in any further statement, that the objection relates to a matter that can be dealt with in the assessment of compensation, the Minister may disregard the objection.

(5) If—

(a) the appropriate Minister is satisfied, after considering the grounds of the objection set out in the original statement and in any further statement, that the appropriate Minister is sufficiently informed about the matters to which the objection relates, or

(b) an objector fails to submit a further statement within a specified period as required by the appropriate Minister,

the appropriate Minister may decide whether to make the order without carrying out further investigation into the matters to which the objection relates.

(6) If neither sub-paragraph (4) nor (5) applies, before deciding whether to make the order, the appropriate Minister must give the objector an opportunity to appear before and be heard by a person appointed by the appropriate Minister.

(7) If the objector takes that opportunity, the appropriate Minister must give each of the following persons the opportunity to be heard on the same occasion—

(a) the undertaker that made the representation mentioned in section 318(1), and

(b) any other person the appropriate Minister considers appropriate.

(8) Despite the previous provisions of this paragraph, if the appropriate Minister considers that the matters to which the objection relates require investigation at a local inquiry before the Minister decides whether to make the order, the Minister must cause a local inquiry to be held.

(9) Where the appropriate Minister decides to cause a local inquiry to be held, the Minister is not required to comply with any of the requirements of sub-paragraphs (2), (6) and (7) that have not been complied with at the time of that decision.

Procedure in Senedd Cymru or UK Parliament where objection is made

10 (1) Where an objection to the making of an order under section 318 has been made in accordance with paragraph 8 and has not been withdrawn before the relevant time, the order is—

(a) where it is to be made by the Welsh Ministers, subject to special Senedd procedure, and

(b) where it is made by a Minister of the Crown, subject to special parliamentary procedure.

(2) In sub-paragraph (1) "the relevant time" means—

(a) in relation to orders to be made by the Welsh Ministers, the time at which the Welsh Ministers comply with the final requirement that applies under paragraph 9;

(b) in relation to orders made by a Minister of the Crown, the time at which the order is made.

Publicising order once made

11 Immediately after making an order under section 318, the appropriate Minister must—

(a) publish a notice—

(i) stating that the order has been made, and

(ii) naming a place where a copy of it is available for public inspection at all reasonable times, and

(b) serve a copy of the notice—

(i) on any person who made an objection in accordance with paragraph 8 and has sent a request for notice to the appropriate Minister, specifying an address for service, and

(ii) on any other person the appropriate Minister considers appropriate.

Date order takes effect

12 (1) An order under section 318 takes effect on the day the notice is first published in accordance with paragraph 11(a).

(2) But sub-paragraph (1)—

(a) does not apply where the order is subject to special parliamentary procedure, and

(b) is subject to any interim order made by the High Court under section 377(7) to suspend the operation of the order.

SCHEDULE 19
(introduced by section 323)

BLIGHTED LAND

PART 1

CATEGORIES OF BLIGHTED LAND

Land allocated for public functions in plans etc.

1 (1) Land identified for the purposes of public functions by a relevant development plan for the area where the land is situated.

(2) In this paragraph—

"public functions" ("*swyddogaethau cyhoeddus*") means—

(a) the functions of a government department, a local authority or a statutory undertaker;

(b) the provision by an electronic communications code operator of an electronic communications code network or the provision by a former public telecommunications operator of a public electronic communications network or a public electronic communications service;

"relevant development plan" ("*cynllun datblygu perthnasol*") means—

(a) a strategic development plan or local development plan that has been adopted or approved for the purposes of Part 2 of this Act;

(b) a revision of a strategic development plan or local development plan under section 33 that has been adopted or approved for the purposes of that Part;

(c) a strategic development plan or local development plan—

(i) that has been submitted to the Welsh Ministers for independent examination under section 23 (and not withdrawn under section 27 or 28), or

(ii) in respect of which the Welsh Ministers are causing an independent examination to be held under section 26(2)(b) or 29(3);

(d) a revision of a strategic development plan or local development plan under section 33—

(i) that has been submitted to the Welsh Ministers for independent examination under 23 (and not withdrawn under section 27 or 28), or

(ii) in respect of which the Welsh Ministers are causing an independent examination to be held under section 26(2)(b) or 29(3).

(3) In sub-paragraph (2), in paragraph (b) of the definition of public functions, "public electronic communications network" and "public electronic communications service" have the same meanings as in Chapter 1 of Part 2 of the Communications Act 2003 (c. 21) (see section 151 of that Act).

2 (1) Land identified for the purposes of public functions by the National Development Framework for Wales.

(2) This paragraph does not apply to land falling within paragraph 1.

(3) In this paragraph—

"the National Development Framework for Wales" ("*Fframwaith Datblygu Cenedlaethol Cymru*") means—

(a) the National Development Framework for Wales, or a revised Framework, published under sections 12 to 15;

(b) a draft of the Framework that has been laid before Senedd Cymru under section 14(4);

(c) a draft of a revised Framework that has been laid before Senedd Cymru under section 14(4) as applied by section 15(3), but not if the Welsh Ministers lay before Senedd Cymru a copy of a notice under section 15(5)(b) that they have decided not to proceed with the revision;

"public functions" ("*swyddogaethau cyhoeddus*") has the meaning given by paragraph 1(2).

3 (1) Land indicated in an approved plan as land that may be required for the purposes of public functions.

(2) In this paragraph—

"approved plan" ("*cynllun a gymeradwywyd*") means a plan (other than a relevant development plan) approved by a resolution of a planning authority for the purpose of the exercise of its powers under Part 3 (planning permission) or Chapter 1 of Part 6 (planning obligations) of this Act;

"public functions" ("*swyddogaethau cyhoeddus*") and "relevant development plan" ("*cynllun datblygu perthnasol*") have the meanings given by paragraph 1(2).

4 Land in respect of which a planning authority—

(a) has resolved to take action in order to safeguard it for development for the purposes of public functions (within the meaning given by paragraph 1(2)), or

(b) has been directed by the Welsh Ministers or the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.

New towns

5 (1) Land within an area described as the site of a proposed new town in the draft of an order about which a notice has been published under paragraph 2 of Schedule 1 to the New Towns Act 1981 (c. 64).

(2) This paragraph ceases to apply if—

(a) the order comes into operation (whether in the form of the draft or with modifications), or

(b) the Welsh Ministers decide not to make the order.

6 Land within an area designated as the site of a proposed new town by an order under section 1 of the New Towns Act 1981 (c. 64) that has come into operation.

Urban development areas

7 Land within an area designated as an urban development area by an order that has been made under section 134 of the Local Government, Planning and Land Act 1980 (c. 65) (whether or not the order has come into effect).

Clearance and renewal areas

8 Land within an area declared to be a clearance area by a resolution under section 289 of the Housing Act 1985 (c. 68).

9 Land that a local housing authority has determined to purchase under section 290 of the Housing Act 1985 (c. 68) as being land surrounded by or adjoining an area declared to be a clearance area by a resolution under section 289 of that Act.

10 Land indicated by information published under section 92 of the Local Government and Housing Act 1989 (c. 42) as land that a local housing authority proposes to acquire in exercise of its powers under Part 7 of that Act (renewal areas).

General improvement areas

11 Land indicated by information published under section 257 of the Housing Act 1985 (c. 68) as land that a local housing authority proposes to acquire in the exercise of its powers under Part 8 of that Act (general improvement areas).

Highways

12 (1) Land indicated in a development plan as—

(a) land on which a highway is proposed to be constructed, or

(b) land to be included in a highway proposed to be improved or altered.

(2) This paragraph does not apply to land falling within paragraph 1 or 2.

(3) In this paragraph "development plan" means—

(a) a relevant development plan within the meaning given by paragraph 1(2), or

(b) the National Development Framework for Wales within the meaning given by paragraph 2(3).

13 (1) Land—

(a) that is on or adjacent to the line of a highway proposed to be constructed, improved or altered, as indicated in an order or scheme, and

(b) in relation to which a power of compulsory acquisition conferred by Part 12 of the Highways Act (including a power compulsorily to acquire any right by virtue of section 250 of that Act) may become exercisable because it is required for purposes of the proposed construction, improvement or alteration.

(2) In sub-paragraph (1)(a) the reference to an order or scheme is to—

(a) an order or scheme that has come into operation under Part 2 of the Highways Act (trunk roads, classified roads and special roads), or

(b) an order or scheme that has been submitted for confirmation to, or been prepared in draft by, the Welsh Ministers under Part 2 of the Highways Act and in respect of which a notice has been published under paragraph 1, 2 or 10 of Schedule 1 to that Act.

(3) Sub-paragraph (2)(b) ceases to apply if—

(a) the order or scheme comes into operation (whether in its original form or with modifications), or

(b) the Welsh Ministers decide not to confirm or make the order or scheme.

(4) In this paragraph the reference to land required for purposes of construction, improvement or alteration includes land required for the purposes of section 246(1) of the Highways Act (mitigating adverse effects of constructing or improving highway).

14 (1) Land shown on an approved plan as land consisting of the site of a highway that a local highway authority proposes to construct, improve or alter.

(2) In this paragraph "approved plan" means a plan approved by a resolution of the local highway authority.

15 (1) Land consisting of the site of a highway that a relevant highway authority proposes to construct, improve or alter, if that authority has given written notice of the proposal to the planning authority, together with maps or plans sufficient to identify the land in question.

(2) In this paragraph "relevant highway authority" means the Welsh Ministers, the Secretary of State or a strategic highways company.

16 (1) Land shown on an approved plan as land that a local highway authority proposes to acquire under section 246(1) of the Highways Act.

(2) In this paragraph "approved plan" means a plan approved by a resolution of the local highway authority.

17 Land indicated in a written notice given by a relevant highway authority (within the meaning given by paragraph 15(2)) to the planning authority as land that the relevant highway authority proposes to acquire under section 246(1) of the Highways Act in connection with a highway it proposes to provide.

Compulsory purchase etc.

18 Land that is—

(a) authorised by a special enactment to be compulsorily acquired, or

(b) within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable.

19 Land in respect of which—

(a) a compulsory purchase order is in force and the appropriate authority has power to serve, but has not served (and is not treated by virtue of any enactment as having served), a notice to treat, or

(b) there is in force a compulsory purchase order providing for the acquisition of a right over it and the appropriate authority has power to serve, but has not served (and is not treated by virtue of any enactment as having served), a notice to treat in respect of the right.

20 (1) Land in respect of which a compulsory purchase order has been—

(a) submitted for confirmation to the Welsh Ministers or a Minister of the Crown, or

(b) prepared in draft by the Welsh Ministers or a Minister of the Crown and a notice has been published under paragraph 3(1)(a) of Schedule 1 to the Acquisition of Land Act 1981 (c. 67).

(2) This paragraph ceases to apply if—

(a) the relevant compulsory purchase order comes into force (whether in its original form or with modifications),

(b) the Welsh Ministers or a Minister of the Crown decide not to confirm or make the order, or

(c) the order (having been confirmed or made conditionally) expires by virtue of section 13BA(2)(b) of, or paragraph 4AA(2) of Schedule 1 to, the Acquisition of Land Act 1981 (c. 67).

21 Land—

(a) the compulsory acquisition of which is authorised by an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42), or

(b) that is within the limits of deviation within which powers of compulsory acquisition conferred by an order under either of those sections are exercisable.

22 Land that is the subject of a proposal that it should be land within paragraph 21 where that proposal is contained in—

(a) an application made in accordance with rules under section 6 of the Transport and Works Act 1992 (c. 42), or

(b) a draft order prepared under section 7(3) of that Act.

23 Land—

(a) the compulsory acquisition of which is authorised by an infrastructure consent order, or

(b) that is within the limits of deviation within which powers of compulsory acquisition conferred by an infrastructure consent order are exercisable.

24 Land that an application for infrastructure consent seeks authority to compulsorily acquire.

25 Land—

(a) the compulsory acquisition of which is authorised by an order granting development consent, or

(b) that is within the limits of deviation within which powers of compulsory acquisition conferred by an order granting development consent are exercisable.

26 Land that an application for an order granting development consent seeks authority to compulsorily acquire.

27 Land the temporary possession of which is authorised under section 18(2) of the Neighbourhood Planning Act 2017 (c. 20).

Land identified in infrastructure policy statement

28 (1) Land in a location identified in an infrastructure policy statement as suitable (or potentially suitable) for a kind of development specified in the statement.

(2) This paragraph ceases to apply when the infrastructure policy statement—

(a) ceases to have effect, or

(b) ceases to identify the land as suitable or potentially suitable for that kind of development.

Land identified in national policy statement

29 (1) Land in a location identified in a national policy statement as suitable (or potentially suitable) for a description of development specified in the statement.

(2) This paragraph ceases to apply when the national policy statement—

(a) ceases to have effect, or

(b) ceases to identify the land as suitable or potentially suitable for that description of development.

PART 2

MEANING OF "OWNER-OCCUPIER", "RESIDENT OWNER-OCCUPIER" AND "ANNUAL VALUE"

Introduction

30 This Part of the Schedule provides for the meanings of "owner-occupier", "resident owner-occupier" and "annual value" for the purposes of Part 13 of this Act.

Owner-occupier of a hereditament

31 "Owner-occupier" in relation to a hereditament means—

(a) a person who—

(i) occupies the whole or a substantial part of the hereditament in right of an owner's interest in it, and

(ii) has done so for the whole of the period of 6 months ending with the relevant day, or

(b) if the whole or a substantial part of the hereditament has been unoccupied for not more than 12 months ending with the relevant day, a person who—

(i) occupied the whole or a substantial part of the hereditament in right of an owner's interest in it, and

(ii) did so for the whole of the period of 6 months ending immediately before the period when it was not occupied.

Resident owner-occupier of a hereditament

32 "Resident owner-occupier" in relation to a hereditament means an owner-occupier within paragraph 31 who—

(a) is an individual, and

(b) occupies or occupied (as referred to in paragraph 31(a) or (b)) the whole or a substantial part of the hereditament as a dwelling.

Owner-occupier of an agricultural unit

33 "Owner-occupier" in relation to an agricultural unit means—

(a) a person who—

(i) occupies the whole of that unit and has done so for the whole of the period of 6 months ending with the relevant day, and

(ii) at all times during that occupation has been entitled to an owner's interest in the whole or part of that unit, or

(b) a person who—

(i) occupied the whole of that unit for the whole of the period of 6 months ending not more than 12 months before the relevant day, and

(ii) at all times during that occupation has been entitled to an owner's interest in the whole or part of that unit.

Interpretation of paragraphs 31 to 33

34 (1) In paragraphs 31 to 33 "owner's interest", in relation to a hereditament or agricultural unit, means—

(a) a freehold interest in the hereditament or agricultural unit, or

(b) a lease of the hereditament or agricultural unit granted or extended for a fixed term that has at least 3 years left to run on the relevant day.

(2) In paragraphs 31 to 33 and sub-paragraph (1), "relevant day", in relation to a hereditament or agricultural unit, means the day a notice is served in respect of it under section 324.

Annual value

35 (1) "Annual value" means—

(a) in the case of a hereditament that is shown in a local non-domestic rating list ("the list"), the value mentioned in sub-paragraph (2) or (3);

(b) in the case of any other hereditament, the value attributable to that hereditament under sub-paragraphs (4) and (5).

(2) If the hereditament does not include domestic property or property exempt from local non-domestic rating, the value is that shown in the list as the rateable value of that hereditament.

(3) If the hereditament includes domestic property or property exempt from local non-domestic rating, the value is the sum of—

(a) the value shown in the list as the rateable value of that hereditament, and

(b) the value attributable to the non-rateable part of that hereditament in accordance with sub-paragraphs (4) and (5).

(4) In the case of domestic property, the value attributable to a hereditament, or to the non-rateable part of it, is the value certified by the relevant valuation officer as being 5% of the compensation that would be payable in respect of the value of that property if—

(a) it were acquired compulsorily in the exercise of a statutory power with vacant possession, and

(b) the compensation payable were calculated in accordance with Part 2 of the Land Compensation Act 1961 (c. 33).

(5) In the case of property exempt from local non-domestic rating, the value attributable to a hereditament, or to the non-rateable part of it, is the value certified by the relevant valuation officer as being the value that would have been shown as the rateable value of that property if it were a relevant non-domestic hereditament consisting entirely of non-domestic property, none of which was exempt from local non-domestic rating.

(6) In sub-paragraphs (4) and (5), "relevant valuation officer" means the valuation officer appointed under section 61 of the Local Government Finance Act 1988 (c. 41) for the billing authority in whose area the hereditament is situated.

(7) Expressions used in this paragraph have the same meaning as in Part 3 of the Local Government Finance Act 1988.

PART 3

MEANING OF "THE APPROPRIATE AUTHORITY"

Introduction

36 This Part of the Schedule provides for the meaning of "the appropriate authority" for the purposes of Part 13 of this Act.

Appropriate authority: general

37 (1) "The appropriate authority", in relation to blighted land, means the person who—

(a) according to the circumstances by virtue of which the land falls within a paragraph of Part 1 of this Schedule—

(i) could acquire an interest in the land or a right over the land, or

(ii) proposes to acquire an interest in the land or a right over the land, or

(b) is authorised to take temporary possession of the land as mentioned in paragraph 27.

(2) This paragraph is subject to paragraphs 38 to 41, which make provision about the meaning of "the appropriate authority" in relation to certain land.

Appropriate authority: new towns

38 In relation to land falling within paragraph 5 or 6, "the appropriate authority" is the Welsh Ministers until a development corporation is established for the new town.

Appropriate authority: urban development areas

39 In relation to land falling within paragraph 7, "the appropriate authority" is the Welsh Ministers until an urban development corporation is established for the urban development area.

Appropriate authority: land identified in infrastructure policy statements

40 In relation to land falling within paragraph 28, "the appropriate authority" is—

(a) if the infrastructure policy statement identifies a statutory undertaker as an appropriate person to carry out the specified kind of development in the location, the statutory undertaker;

(b) in any other case, the Welsh Ministers.

Appropriate authority: land identified in national policy statements

41 In relation to land falling within paragraph 29, "the appropriate authority" is—

(a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;

(b) in any other case, the Secretary of State.

Appropriate authority: blight notice including claim in respect of unaffected area

42 References to the appropriate authority, in relation to a blight notice that includes the claim and requirement mentioned in section 335(2), have effect as if the unaffected area of an agricultural unit were part of the affected area.

Questions about appropriate authority

43 (1) Sub-paragraph (2) applies if a question arises about—

(a) whether the appropriate authority in relation to any land is the Welsh Ministers, the Secretary of State, a strategic highways company or a local highway authority;

(b) which of two or more local authorities is the appropriate authority in relation to any land;

(c) whether the appropriate authority in relation to land falling within paragraph 28 is the Welsh Ministers or a statutory undertaker;

(d) which of two or more statutory undertakers is the appropriate authority in relation to land falling within paragraph 28.

(2) The question is to be referred to the Welsh Ministers, whose decision is final.

(3) Sub-paragraph (4) applies if a question arises about—

(a) whether the appropriate authority in relation to land falling within paragraph 29 is the Secretary of State or a statutory undertaker, or

(b) which of two or more statutory undertakers is the appropriate authority in relation to land falling within paragraph 29.

(4) The question is to be referred to the Secretary of State, whose decision is final.

(5) If a question is referred under sub-paragraph (2) or (4)—

(a) the reference to the day the blight notice is served in section 325(3) has effect as if it were to that day or, if it is later, the day on which the question is decided;

(b) the reference to 6 months in section 348(3)(d)(ii) has effect as if it were to that period extended by so long as it takes to obtain a decision on the question;

(c) the references to 12 months in paragraphs 31(b) and 33(b) have effect as if they were to that period extended by so long as it takes to obtain a decision on the question.

PART 4

MEANING OF "THE APPROPRIATE ENACTMENT"

Introduction

44 This Part of the Schedule provides for the meaning of "the appropriate enactment" for the purposes of Part 13 of this Act.

Appropriate enactment: general

45 (1) "The appropriate enactment", in relation to land falling within a paragraph of Part 1 of this Schedule, means the enactment providing for the compulsory acquisition of land falling within that paragraph.

(2) This paragraph is subject to paragraphs 46 to 56, which make provision about the meaning of "the appropriate enactment" in relation to certain land.

Appropriate enactment: development plans etc.

46 (1) For the purposes of paragraph 45(1), an enactment is to be taken as providing for the compulsory acquisition of land falling within paragraph 1, 2, 3 or 4 if it provides for the compulsory acquisition of land for the purposes of—

(a) the functions indicated in the plan as the functions for the purposes of which the land is allocated or is proposed to be developed, or

(b) where no particular functions are indicated in the plan, any of the public functions for the purposes of which the land is allocated or is defined as the site of proposed development.

(2) In this paragraph—

"the plan" ("*y cynllun*") means—

(a) a relevant development plan within the meaning given by paragraph 1(2);

(b) the National Development Framework for Wales within the meaning given by paragraph 2(3);

(c) an approved plan within the meaning given by paragraph 3(2);

(d) a resolution or direction as referred to in paragraph 4;

"public functions" ("*swyddogaethau cyhoeddus*") has the meaning given by paragraph 1(2).

Appropriate enactment: new towns

47 In relation to land falling within paragraph 5 or 6, "the appropriate enactment" is section 353(1) until a development corporation is established for the new town.

Appropriate enactment: urban development areas

48 In relation to land falling within paragraph 7, "the appropriate enactment" is section 354(1) until an urban development corporation is established for the urban development area.

Appropriate enactment: clearance areas

49 In relation to land falling within paragraph 8 or 9, "the appropriate enactment" is section 290 of the Housing Act 1985 (c. 68).

Appropriate enactment: compulsory purchase etc.

50 (1) In relation to land falling within paragraph 19, "the appropriate enactment" is the enactment providing for the compulsory acquisition of the interest in the land or of the rights over the land.

(2) In relation to land falling within paragraph 20, "the appropriate enactment" is the enactment that would provide for the compulsory acquisition of the interest in the land or of the rights over the land if the compulsory purchase order were confirmed or made.

51 (1) In relation to land falling within paragraph 23, "the appropriate enactment" is the infrastructure consent order.

(2) In relation to land falling within paragraph 24, "the appropriate enactment" is an infrastructure consent order in the terms of the order applied for.

52 (1) In relation to land falling within paragraph 25, "the appropriate enactment" is the order granting development consent.

(2) In relation to land falling within paragraph 26, "the appropriate enactment" is an order in the terms of the order applied for.

53 In relation to land falling within paragraph 27, "the appropriate enactment" is the instrument mentioned in section 19(2) of the Neighbourhood Planning Act 2017 (c. 20) under which the acquiring authority mentioned in section 18(1) of that Act is authorised to take temporary possession of the land.

Appropriate enactment: land identified in infrastructure policy statements

54 In relation to land falling within paragraph 28, "the appropriate enactment" is section 355.

Appropriate enactment: land identified in national policy statements

55 In relation to land falling within paragraph 29, "the appropriate enactment" is section 356.

Appropriate enactment: highway purposes

56 (1) This paragraph applies where, in accordance with the circumstances by virtue of which land falls within Part 1 of this Schedule, it is indicated that the land is proposed to be acquired for highway purposes.

(2) For the purposes of paragraph 45(1), an enactment is to be taken as providing for the compulsory acquisition of the land if a highway authority is authorised under the enactment to acquire the land compulsorily for highway purposes, or could be so authorised if the relevant conditions were met.

(3) In sub-paragraph (2) "the relevant conditions" means whichever of the following are applicable—

(a) the coming into operation of any requisite order or scheme made, or having effect as if made, under Part 2 of the Highways Act (trunk roads, classified roads and special roads);

(b) the coming into operation of any requisite scheme made, or having effect as if made, under section 106(3) of that Act (construction of bridges over, and tunnels under, navigable waters);

(c) the making or approval of any requisite plans.

Appropriate enactment: blight notice including claim in respect of unaffected area

57 References to the appropriate enactment, in relation to a blight notice that includes the claim and requirement mentioned in section 335(2), have effect as if the unaffected area of an agricultural unit were part of the affected area.

Appropriate enactment: two or more enactments

58 If, apart from this paragraph, two or more enactments would be the appropriate enactment in relation to any land, the appropriate enactment for the purposes of this Part is the enactment under which, in the circumstances in question, it is most likely that (apart from this Part) the land would have been acquired by the appropriate authority.

Questions about appropriate enactment

59 (1) Sub-paragraphs (2) to (4) apply if a question arises about which enactment is the appropriate enactment in relation to any land for the purposes of this Part.

(2) If the appropriate authority is a government department other than the Welsh Ministers, the question is to be referred to a Minister of the Crown, whose decision is final.

(3) If the appropriate authority is a statutory undertaker, the question is to be referred to the appropriate Minister, whose decision is final.

(4) In any other case, the question is to be referred to the Welsh Ministers, whose decision is final.

(5) In sub-paragraph (3) "statutory undertaker" includes an electricity licensee only if the licensee is entitled to exercise a power conferred by Schedule 3 to the Electricity Act 1989 (c. 29) (compulsory acquisition of land by licensees).

SCHEDULE 20
(introduced by section 365)

DETERMINATION OF APPEALS BY INSPECTORS OR THE WELSH MINISTERS

Powers and duties of inspector

1 (1) An inspector has the same powers and duties in relation to an appeal to which section 365 applies as the Welsh Ministers have, other than—

(a) functions conferred on the Welsh Ministers by section 365 and this Schedule;

(b) functions of making regulations.

(2) Sub-paragraph (3) applies where any enactment (other than section 365 or this Schedule) refers or is to be read as referring—

(a) to the Welsh Ministers in a context relating or capable of relating to an appeal to which section 365 applies, or

(b) to anything done or authorised or required to be done by, to or before the Welsh Ministers in connection with any such appeal.

(3) So far as the context permits, the enactment is to be read, in relation to an appeal determined or to be determined by an inspector, as if the reference to the Welsh Ministers were or included a reference to an inspector.

Local inquiry, hearing or written representations

2 (1) An inspector may hold a local inquiry or a hearing in connection with an appeal if a determination under section 366 provides for the appeal to be considered in that way.

(2) The costs of the local inquiry or hearing are to be met by the Welsh Ministers; but this is subject to section 372.

(3) The Welsh Ministers or an inspector may appoint an assessor to advise the inspector on any matters that arise—

(a) at a local inquiry or hearing held by the inspector in connection with an appeal or in consequence of such an inquiry or hearing, or

(b) in written representations made to the inspector in connection with an appeal or in consequence of such representations.

Replacement of inspector

3 (1) At any time before an inspector has determined an appeal, the Welsh Ministers may—

(a) revoke the inspector's appointment, and

(b) appoint another inspector to determine the appeal.

(2) Where a new appointment is made, the consideration of the appeal, and any local inquiry or hearing in connection with it, must start afresh.

(3) Sub-paragraph (2) does not require any person to be given an opportunity to—

(a) make fresh representations, or

(b) modify or withdraw representations the person has already made.

Direction that appeal is to be determined by the Welsh Ministers

4 (1) This paragraph applies where the Welsh Ministers give a direction under section 365(3)(b) that an appeal which would otherwise be determined by an inspector is instead to be determined by them.

(2) The direction must state the reasons for which it is given and must be served on—

(a) the inspector (if any) appointed to determine the appeal,

(b) the appellant,

(c) the planning authority in whose area the land to which the appeal relates is situated, and

(d) in the case of an appeal under section 73, any person who has made representations relating to the subject matter of the appeal which regulations under section 63 require the authority to take into account.

(3) The Welsh Ministers must give the persons mentioned in sub-paragraph (2)(b) to (d) an opportunity to make further representations if the reasons for the direction raise matters about which any of those persons have not made representations.

(4) Except as provided by sub-paragraph (3), the Welsh Ministers need not give any person an opportunity to—

(a) make fresh representations, or

(b) modify or withdraw any representations the person has already made.

(5) In determining the appeal the Welsh Ministers may take into account any report made to them by an inspector previously appointed to determine it.

(6) Subject to this paragraph, the provisions of this Act that are relevant to the appeal apply to it as if this Schedule had never applied.

Revocation of direction

5 (1) The Welsh Ministers may by a further direction revoke a direction under section 365(3)(b) at any time before the determination of the appeal.

(2) The further direction must state the reasons for which it is given and must be served on the persons on whom paragraph 4(2) required the direction under section 365(3)(b) to be served.

(3) Where a further direction is given under this paragraph, section 365 and this Schedule apply as if no direction had been given under section 365(3)(b) (and accordingly the Welsh Ministers must appoint an inspector under that section to determine the appeal).

(4) But anything done by or on behalf of the Welsh Ministers in connection with the appeal which might have been done by the inspector (including any arrangements made for the holding of a local inquiry or hearing) is, unless the inspector directs otherwise, to be treated as having been done by the inspector.

Supplementary

6 (1) It is not a ground of application to the High Court for statutory review under section 376, or of appeal to the High Court under section 378 or 379, that an appeal ought to have been determined by the Welsh Ministers instead of an inspector, unless the appellant or the planning authority challenges the inspector's power to determine the appeal before the decision on the appeal is given.

(2) An inspector's functions of determining an appeal and doing anything in connection with it are to be treated for the purposes of the Public Services Ombudsman (Wales) Act 2019 (anaw 3) as functions of the Welsh Government.