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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1794 (W. 254)**

**TOWN AND COUNTRY PLANNING, WALES**

**The Town and Country Planning (Power to Override Easements and Applications by Statutory Undertakers) (Wales) Order 2015**

*Made - - - - 13 October 2015*

*Coming into force in accordance with article 1(2)*

The Welsh Ministers, in exercise of the powers conferred by section 203 of the Planning Act 2008<sup>(1)</sup>, make the following Order:

In accordance with section 203(9) of that Act a draft of this Order was laid before and approved by a resolution of the National Assembly for Wales.

**Title, commencement and interpretation**

1.—(1) The title of this Order is The Town and Country Planning (Power to Override Easements and Applications by Statutory Undertakers) (Wales) Order 2015.

(2) This Order comes into force on the day after the day on which it is made.

(3) In this Order “the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990<sup>(2)</sup>.

**Power to override easements and other rights**

2. In paragraph 6(1A) of Schedule 28 to the Local Government, Planning and Land Act 1980<sup>(3)</sup> after “in England” insert “or Wales”.

3. In section 19(1A) of the New Towns Act 1981<sup>(4)</sup> omit “in England”.

4. In paragraph 5(1A) of Schedule 10 to the Housing Act 1988<sup>(5)</sup> after “in England” insert “or Wales”.

5. In section 237(1A) of the 1990 Act<sup>(6)</sup> omit “in England”.

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(1) 2008 c. 29.

(2) 1990 c. 8.

(3) 1980 c. 65; sub-paragraph 6(1A) of Schedule 28 was inserted by section 194(1) of, and paragraph 1 of Schedule 9 to, the Planning Act 2008.

(4) 1981 c. 64; section 19(1A) was inserted by section 194(1) of, and paragraph 2 of Schedule 9 to, the Planning Act 2008.

(5) 1988 c. 50; sub-paragraph 5(1A) of Schedule 10 was inserted by section 194(1) of, and paragraph 3 of Schedule 9 to, the Planning Act 2008.

(6) 1990 c. 8; section 237(1A) was inserted by section 194(1) of, and paragraph 4 of Schedule 9 to, the Planning Act 2008.

### **Applications for planning permission by statutory undertakers**

6. In section 266 of the 1990 Act<sup>(7)</sup> after subsection (1A) insert—

“(1B) Subsection (1) has effect in relation to an application or appeal relating to land in Wales only if the Welsh Ministers or the appropriate Minister have given a direction for it to have effect in relation to the application or appeal (and the direction has not been revoked).”

### **Transitional provision**

7. The amendment made by article 6 applies only in relation to applications and appeals made on or after the day on which this Order comes into force.

13 October 2015

*Carl Sargeant*  
Minister for Natural Resources, one of the Welsh  
Ministers

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(7) 1990 c. 8; section 266(1A) was inserted by section 195 of the Planning Act 2008.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order confers powers on local authorities and other bodies to override easements and other rights which would otherwise restrict their use of land that has been acquired or appropriated for planning purposes. They can do this only if the use is in accordance with planning permission. It makes provision in relation to Wales which corresponds to section 194(1) of, and Schedule 9 to, the Planning Act 2008 (“the 2008 Act”).

This Order also disapplies the requirement for the Welsh Ministers and the appropriate Minister to decide jointly certain planning applications and appeals where the application has been made by a statutory undertaker. The Welsh Ministers or the appropriate Minister may however direct that the requirement for joint decisions continues to apply in relation to the relevant application or appeal. The Order makes provision in relation to Wales which corresponds to section 195 of the 2008 Act.

Article 7 makes transitional provision. It provides that section 266(1B) of the Town and Country Planning Act 1990 applies where an application or appeal is made after the Order comes into force.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.