

Infrastructure (Wales) Bill

Bill Summary

September 2023



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1. Introduction

The Welsh Government introduced the **Infrastructure (Wales) Bill** into the Senedd on 12 June 2023.

The Bill reforms how infrastructure is consented in Wales by establishing a unified process, known as an **infrastructure consent**, for specific types of major infrastructure called **significant infrastructure projects (SIPs)**. These include energy, transport, waste, water and gas projects above certain size or capacity thresholds on land and in the sea around Wales (known as the **Welsh marine area**).

Infrastructure consent replaces existing statutory regimes and reduces the number of authorisations needed to construct and operate a SIP by incorporating them in a single consent.

Introducing the Bill, the **Minister for Climate Change, Julie James, said** it was an important step towards the **Welsh Government's 2050 'net zero' emissions target**, and:

... ensures a transparent, and consistent, process which enables local communities to better understand and engage in decisions that affect them, whilst providing certainty in decision-making which is underpinned by clear policy.

The Welsh Government estimates the **new process will reduce costs** for developers, Local Planning Authorities (LPAs), statutory consultees and itself. It says costs to communities are not quantifiable because communities and their responses to particular projects vary.

The Bill follows a **2018 consultation**. You can read more on this in our **previous article**.

The Bill is currently subject to the **Senedd's legislative process**. The Minister appeared before the Climate Change, Environment and Infrastructure Committee on **6 July 2023**. The Committee **consulted on the Bill over summer** and will be holding **evidence sessions** in the autumn.

How to use this Bill Summary

This document isn't an exhaustive summary of every aspect of the Bill. It's designed to be used electronically and signpost to further detail.

In the summary of provisions section, the section number text (e.g. **Section 1**)

links to the relevant section of the bill. The text that follows contains a link to the explanatory notes where further detail can be found (e.g. **[development is a significant infrastructure project \(SIP\)](#)**). There are also links to other relevant information.

2. The Bill at a glance

The Bill has 144 sections, arranged into nine parts, and has three schedules:

- **[Part 1 - Significant infrastructure projects](#)**
- **[Part 2 - Requirement for infrastructure consent](#)**
- **[Part 3 - Applying for infrastructure consent](#)**
- **[Part 4 - Examining applications](#)**
- **[Part 5 - Deciding applications for infrastructure consent](#)**
- **[Part 6 - Infrastructure consent orders](#)**
- **[Part 7 - Enforcement](#)**
- **[Part 8 - Supplementary functions](#)**
- **[Part 9 - General provisions](#)**
- **[Schedule 1 - Provision relating to, or to matters ancillary to, development](#)**
- **[Schedule 2 - Compensation for changing or revoking infrastructure consent orders](#)**
- **[Schedule 3 - Consequential amendments and repeals](#)**

The Bill includes a large number of powers to make subordinate legislation.

The **[Explanatory Memorandum](#)** includes tables setting out these powers and the Welsh Government's justification for them – **[subordinate legislation table, directions and published criteria table](#)**.

The Welsh Government has also published a **[statement of policy intent](#)** for the subordinate legislation to be made under the Bill.

3. Summary of provisions

Part 1 - Significant infrastructure projects

Key term

Section 1 states **development is a significant infrastructure project (SIP)** if it:

- falls within one of the definitions specified in Part 1 (sections 2 to 16) of the Bill;
- is specified as such in a direction made by the Welsh Ministers under section 22; or
- is specified as a SIP in the **National Development Framework for Wales** (NDF).

Energy

Section 2 specifies when **electricity infrastructure** is a SIP.

Section 3 specifies when development related to **liquified natural gas facilities** is a SIP.

Section 4 specifies when development related to **gas reception facilities** is a SIP.

Section 5 specifies when **hydraulic fracturing for oil and gas and coal gasification** is a SIP.

Section 6 states that the creation of an **open cast coal mine** or the winning and working of coal from an open cast coal mine is a SIP.

Transport

Section 7 specifies when the construction and alteration or improvement of a **highway** is a SIP.

Section 8 specifies when the construction or alteration of a **railway** is a SIP.

Section 9 specifies when the construction or alteration of a **rail freight interchange** is a SIP.

Section 10 specifies when the construction or alteration of a **harbour facility** is a SIP.

Section 11 specifies when the construction or alteration of an **airport** is a SIP.

Water

Section 12 specifies when development relating to **dams and reservoirs** is a SIP.

Section 13 specifies when the **transfer of water resources** is a SIP.

Waste water

Section 14 specifies when the construction or alteration of a **waste water treatment plant** is a SIP. It also specifies when the construction or alteration of infrastructure for the transfer or storage of waste water is a SIP.

Waste

Section 15 specifies when the construction or alteration of a **hazardous waste facility** is a SIP.

Section 16 specifies when development relating to a **radioactive waste geological disposal facility** is a SIP.

A table showing the qualifying thresholds and criteria for the infrastructure types specified as a SIP in sections 2 to 16 can be found in the **annex to this summary**.

Power to amend

Section 17 allows the Welsh Ministers to **amend Part 1 by regulations** to add a new type of project to the definition of a SIP or to vary or remove the existing SIPs defined in the Bill. Projects may only be added or varied if they're in the fields of energy, flood prevention, minerals, transport, water, waste water and waste.

Interpretation

Section 18 clarifies that where a **cross-border project** is partly in Wales or the **Welsh marine area**, infrastructure consent is only required for the part of the development that will take place in Wales or the Welsh marine area.

Part 2 – Requirement for infrastructure consent

The requirement

Section 19 requires that **the Welsh Ministers' consent (an "infrastructure consent")** be obtained for development which is, or forms part of, a SIP.

Section 20 lists the existing consents, orders and authorisations **replaced by infrastructure consent**.

These include planning permission, and various consents, orders and authorisations under the **Electricity Act 1989, Historic Environment (Wales) Act 2023, Harbours Act 1964, Transport and Works Act 1992, Highways Act 1980** and **New Roads and Street Works Act 1991**.

Powers to change the requirement or its effect

Section 21, amongst other things, allows the Welsh Ministers by regulations to amend section 20 to **add or remove a type of consent** or to vary the cases in which a type of consent falls within section 20.

Section 22 enables the Welsh Ministers to give a **direction specifying that a specific development is a SIP**, if they deem it to be of national significance and is of a description specified in regulations.

This section also empowers the Welsh Ministers to require an authority to which an application has been made to provide certain information to enable them to make the direction.

Section 23 states that, if the Welsh Ministers give a direction under section 22, they have the power to direct an **application to be treated as an application for infrastructure consent** or to direct a person proposing an application to treat it as an application for infrastructure consent.

Section 24 enables the Welsh Ministers to give a **direction specifying that a development that would otherwise be a SIP should not be classed as one**.

Section 25 says a direction made under sections 22 to 24 may be given **subject to conditions and may specify the period of time** for which it has effect.

A direction made by the Welsh Ministers under these sections can be given at the request of a developer or unilaterally. The Welsh Ministers must give reasons for their decision to give or not give a requested direction, to the person who made the request.

Section 26 gives the Welsh Ministers power to **make regulations about procedural matters relating to directions** under sections 22 to 24.

Part 3 – Applying for infrastructure consent

Assistance for applicants

Section 27 gives the Welsh Ministers a **power to make regulations about pre-application services** by the Welsh Ministers or Local Planning Authorities (LPAs) in Wales. Pre-application services are intended to assist prospective applicants before submission of an application for infrastructure consent.

Section 28 enables the Welsh Ministers to authorise an **applicant for infrastructure consent to serve notice on certain specified persons** to obtain the name and address of any person the recipient of the notice believes is an owner or occupier of the land or has some interest in or power over the land.

The purpose of this is to enable the applicant to comply with provisions of, or made under, section 29 (provisions about notice of proposed application), 30 (provisions about pre-application consultation and publicity), and sections 61 to 69 (provisions in orders authorising compulsory purchase).

This section also enables the Welsh Ministers to make relevant regulations, and makes it an offence where a person has failed to comply with a notice given under the section. The offence is a summary offence punishable following conviction by a fine.

Pre-application procedure

Section 29 sets out the process for **notification of a new application for infrastructure consent**. The prospective applicant must notify the Welsh Ministers, each LPA for the area in which the proposed development is located, and any other persons prescribed in regulations.

If the proposed development is in the Welsh marine area the prospective applicant is required to notify each LPA they consider appropriate.

This section also sets out the process the Welsh Ministers must follow when responding to the notification from the prospective applicant.

Section 30 requires a person who proposes to submit an application for infrastructure consent to carry out **consultation on a proposed application prior to its submission**. It also provides the Welsh Ministers with a power to make regulations relating to how the consultation should be carried out.

Application procedure

Section 31 requires an **application for infrastructure consent to be made to the Welsh Ministers**. An application for infrastructure consent must include a pre-application consultation report and a draft infrastructure order.

This section also enables the Welsh Ministers to make regulations about, among other things, the form, content and processing of an application.

Section 32 requires the Welsh Ministers, on receiving an application for infrastructure consent, to **decide whether or not to accept it as a valid application**. They must give the applicant notice of their decision. If they don't accept it as valid they must give reasons.

Section 33 requires the **Welsh Ministers to notify certain parties** where they accept an application as valid.

Notice must be given to each LPA and community council in which the proposed development is located. Where development is in the Welsh marine area, notice must be given to any LPA or community council the Welsh Ministers consider appropriate, and to the Natural Resources Body for Wales (i.e. Natural Resources Wales (NRW)).

This section also requires the Welsh Ministers to publicise an application as specified in regulations, including the date by which any representations must be received. A minimum representation period (which can be extended) must be specified in regulations.

Section 34 enables the Welsh Ministers to make **regulations about notice and publicity** required under sections 32 and 33.

Section 35 makes provision about **local impact reports** which give details of the likely impact of a proposed development within the area of an LPA and community council. It makes provision for LPAs and community councils preparing and submitting local impact reports to the Welsh Ministers.

This section also gives the Welsh Ministers a regulation-making power to prescribe the form and content of a local impact report.

Section 36 makes provision about **marine impact reports**, which must give details of the likely impact of a proposed development on the marine environment. It makes provision for the Natural Resources Body for Wales (NRW) preparing and

submitting marine impact reports to the Welsh Ministers.

This section also provides the Welsh Ministers with a regulation-making power to prescribe the form and content of a marine impact report.

Section 37 states that where the Welsh Ministers have accepted an application for infrastructure consent that includes a request for authorisation of the compulsory acquisition of land or an interest in or right over land, **the applicant must give the Welsh Ministers names and other prescribed information about persons** with an interest in the land.

Section 38 gives the Welsh Ministers a power to make regulations requiring an applicant to **consult on an application for infrastructure consent** where it includes a request for the compulsory acquisition of land. The regulations may make detailed provision about the information required and the consultation timetable.

Part 4 - Examining applications

Appointing an examining authority

Section 39 requires the Welsh Ministers to **appoint an “examining authority” to examine each valid application** for infrastructure consent.

The Welsh Ministers may appoint an examining authority to examine an application to revoke or change an infrastructure consent order. In deciding whether to do so, the Welsh Ministers must apply any criteria set out in a document they've published under this section.

The examining authority will likely be **Planning and Environment Decisions Wales**.

Examining applications

Section 40 states an **examining authority has the function of examining an application** for which it's been appointed.

Section 41 requires the examining authority to **determine how each application is to be examined**. Examination can take place via written representations, at a hearing, at a local inquiry, or by any combination of these procedures.

The examining authority is required to notify persons specified in regulations of its determination, and if it varies its determination. The Welsh Ministers are also

required to publish a document setting the criteria the examining authority applies in determining how an application is to be examined.

Section 42 gives the Welsh Ministers a power to make regulations **about the procedure to be followed for examination** of an application.

Section 43 gives the Welsh Ministers a power to make regulations relating to **authorising entry onto land for the purpose of inspecting the land** as part of the examination of an application. This includes land the applicant doesn't own or occupy.

Section 44 allows an **examining authority to hold a local inquiry** to examine an application. It may, by summons, require any person to attend to give evidence, and produce any documents which relate to any matter in question at the inquiry.

Where a person refuses or deliberately fails to comply with a summons or deliberately alters, suppresses, conceals or destroys a document they're required to produce, they'll have committed an offence and can be tried in the magistrates court or in the Crown Court. They will be liable to an unlimited fine on conviction.

Section 45 requires all **oral evidence in a local inquiry to be heard in public**, and all documentary evidence to be available for public inspection.

The Welsh Ministers or the Secretary of State (a "ministerial authority") may direct that oral evidence is to be heard and documents are to be inspected by specific persons only (and not the public) if they're satisfied public disclosure would be against the national interest.

If such a direction is being considered, the Counsel General may appoint a person ("an appointed representative") to represent the interests of persons prevented from hearing or inspecting evidence.

This section also provides the Welsh Ministers with a power to make regulations about the procedure to be followed by a ministerial authority before a direction is given where there is an appointed representative and about the functions of an appointed representative.

Section 46 makes provision about **paying the appointed representative** whether or not an inquiry takes place.

Section 47 allows the examining authority or the Welsh Ministers to **appoint an assessor to assist in the examination** of an application on a particular specialist

matter or specific topic.

Section 48 allows the examining authority or the **Welsh Ministers to appoint a barrister or solicitor to provide legal advice** and assistance to the examining authority in connection with an examination.

Section 49 states that where the Welsh Ministers are the decision-maker on an application, the **examining authority must make a report to the Welsh Ministers after the examination**. The report must set out the examining authority's findings and recommendations for the decision to be made on the application.

Section 50 allows the Welsh Ministers to **direct the examining authority to re-open its examination** of an application following receipt of its report. The examining authority will be required to make a further report to the Welsh Ministers on conclusion of the re-opened examination.

Section 51 allows the Welsh Ministers to make **orders about the costs of parties to examination proceedings**, about who must pay these costs, and how they're recoverable.

Part 5 - Deciding applications for infrastructure consent

Decision maker

Section 52 states that the **examining authority decides applications for infrastructure consent** of a description specified in regulations and that the Welsh Ministers decide any other application for infrastructure consent.

The Welsh Ministers have a power to direct an examining authority to decide an application instead of the Welsh Ministers, or the Welsh Ministers can decide an application instead of an examining authority.

Statutory policies and other relevant matters

Section 53 states **applications for infrastructure consent must be decided in accordance** with any relevant infrastructure policy statement ("relevant policy statement"), the NDF and the **Marine Plan**.

Where there's incompatibility between the relevant policy statement and the NDF or Marine Plan, the application must be decided in accordance with the relevant policy statement.

The Minister for Climate Change, Julie James, has said that the purpose of an infrastructure policy statement is to **respond swiftly to an emerging issue** until such time as the issue can be taken account of fully in the next scheduled review of the NDF or Marine Plan.

The Welsh Ministers are required to produce the NDF under the **Planning and Compulsory Purchase Act 2004**. The first NDF - **Future Wales: the National Plan 2040 - was published in 2019**. It's a development plan setting out the Welsh Government's strategy for addressing national priorities through the planning system.

The **Marine Plan** was first published by the Welsh Ministers in 2019. It sets out the Welsh Government's policies for the sustainable development of the **Welsh marine area**.

Section 54 places a duty on the examining authority or the Welsh Ministers (as the case may be) to have **regard to the following when deciding an application** for infrastructure consent:

- Local Impact Report or Marine Impact Report;
- any examination carried out under Part 4;
- any matters specified in regulations; and
- any other material considerations.

Section 55 gives the Welsh Ministers a power to make regulations to specify **matters the examining authority and the Welsh Ministers may disregard** in deciding an application for infrastructure consent.

Timetable

Section 56 states the examining authority or **the Welsh Ministers must decide an application within 52 weeks** of accepting a valid application or any other period agreed between the applicant and the Welsh Ministers.

The Welsh Ministers can extend, by direction, the period for deciding an application and may do this multiple times.

The Welsh Ministers must provide the Senedd with annual reports on their compliance with the duty imposed, and the exercise of the functions conferred, by this section.

This section also allows the 52 week period to be amended by regulations which are subject to the **affirmative procedure** (meaning the Senedd must vote in favour of the regulations for them to become law).

The decision

Section 57 requires that when the Welsh Ministers have decided an application, they must either **make an order granting infrastructure consent or refuse infrastructure consent**. When an examining authority has decided an application, this section requires it to either notify the Welsh Ministers of its decision that an order granting infrastructure consent is to be made or refuse infrastructure consent.

Where the Welsh Ministers receive notification from the examining authority that an infrastructure consent order is to be made, the Welsh Ministers must make the order.

Section 58 specifies **that infrastructure consent may be granted for development** for which infrastructure consent is required (see section 19) as well as development associated with it, known as “associated development”.

If infrastructure consent is granted for associated development, none of the consents mentioned in section 20 need to be obtained for the associated development.

Section 59 requires the Welsh Ministers to prepare a **statement of their reasons** to either make an order granting infrastructure consent or refuse infrastructure consent.

The section also requires the examining authority to prepare a statement of its reasons for deciding that an order granting infrastructure consent is to be made or refuse infrastructure consent.

Part 6 – Infrastructure consent orders

Provision in orders: general

Section 60 sets out **what may be included in an infrastructure consent order**. This includes, amongst other things:

- imposing requirements which could have been imposed by any of the regimes replaced by the infrastructure consent process set out in the Bill; and

- making provision relating to, or to matters ancillary to, the development for which consent is granted. This includes any of the matters specified in Part 1 of Schedule 1.

This section also sets out what an infrastructure consent order may not do, including creating certain offences.

Provision in infrastructure consent orders authorising compulsory acquisition

Section 61 sets out the circumstances in which an infrastructure consent order may include the **authorisation of the compulsory acquisition of land**.

Section 62 defines the **land to which authorisation of compulsory acquisition can relate**.

Section 63 provides that **Part 1 of the Compulsory Purchase Act 1965** applies (with specified modifications) to any infrastructure consent order authorising compulsory acquisition of land, but the order itself may make contrary provision.

The Compulsory Purchase Act 1965 sets out the **procedure for transferring ownership of the land to the “acquiring authority”** (the public authority or other person authorised by the infrastructure consent order).

Section 64 restricts the provision that may be made about **compensation for compulsory acquisition** in an infrastructure consent order, in particular compensation under existing Acts, such as the **Land Compensation Act 1961**.

Section 65 sets out the circumstances in which an infrastructure consent order may include the authorisation of the **compulsory acquisition of “statutory undertakers’ land”** or of a right over statutory undertakers’ land.

Section 66 states that an infrastructure consent order authorising the compulsory acquisition of **land held inalienably by the National Trust** will, if the National Trust objects, be subject to special Senedd procedure (further consideration by the Senedd).

Section 67 states that an infrastructure consent order authorising the compulsory acquisition of **land forming part of a common, open space** or fuel or field garden allotment must be subject to special Senedd procedure, unless the Welsh Ministers are satisfied that one from a list of criteria set out in the Bill applies.

Section 68 requires that an infrastructure consent order authorising the compulsory acquisition of a **new right over a common, open space** or fuel or field garden allotment be subject to special Senedd procedure, unless the Welsh Ministers are satisfied that it meets one or more specified criteria.

Section 69 requires the Welsh Ministers to make regulations requiring a person authorised by an infrastructure consent order to compulsorily acquire land or to benefit from the creation of a new right to give, publish or display a **“compulsory acquisition notice”**.

Provision in infrastructure consent orders: specific limitations and powers

Section 70 specifies that an infrastructure consent order can't extinguish a **public right of way** unless the Welsh Ministers are satisfied an alternative right of way will be provided or isn't required.

Section 71 amends **section 205 the Housing and Planning Act 2016** so the power to **override easements and other rights** for carrying out building or maintenance work applies where infrastructure consent has been granted.

Section 72 states that an infrastructure consent order may require **extinguishment of certain rights, restrictive covenants or removal of apparatus** of statutory undertakers only if the Welsh Ministers are satisfied that doing so is necessary.

Section 73 specifies the circumstances in which an infrastructure consent order can authorise **compulsory acquisition in relation to Crown land**, including when consent is required from the appropriate Crown authority.

Section 74 states that an infrastructure consent order may authorise the **operation of an electricity generating station** only if the development to which the order relates is, or includes, the construction or extension of the generating station.

Section 75 states that an infrastructure consent order may authorise an **electric line to be kept installed above ground** only if the development to which the order relates is, or includes, the installation of the line above ground.

Section 76 states that an infrastructure consent order may authorise **diversion of a navigable watercourse** only if the proposed new length of watercourse is navigable in a reasonably convenient manner by vessels familiar with using the watercourse being diverted.

Section 77 states that an infrastructure consent order may authorise the **charging of tolls relating to a highway** only if such a request was included in the application for the order.

Section 78 sets out the circumstances in which an infrastructure consent order may provide for the creation of a **harbour authority** or the modification of the powers or duties of a harbour authority, and authorise the transfer of property, rights or liabilities from one harbour authority to another.

Section 79 states that where an infrastructure consent order authorises the **discharge of water**, the person to whom infrastructure consent is granted doesn't acquire a general power to take water from the sources from which the discharge authorised by the order is intended to be made.

Section 80 states that an infrastructure consent order may **deem a marine licence** to have been issued under **Part 4 of the Marine and Coastal Access Act 2009** for any activity for which the Welsh Ministers are the appropriate licensing authority.

Section 81 sets out the circumstances when an infrastructure consent order can **remove the requirement for a certain consent to be granted** or deems a certain consent to have been granted.

Procedure for infrastructure consent orders

Section 82 requires the Welsh Ministers to **publish an infrastructure consent order** in a manner they consider appropriate. It sets out the circumstances when an order must be contained in a statutory instrument. Where this is the case the Welsh Ministers must lay a copy of it and other specified documents before the Senedd.

Changing and revoking infrastructure consent orders etc

Section 83 sets out **definitions** for the purposes of sections 84 and 85.

Section 84 gives the Welsh Ministers a **power to correct errors in a “decision document”** (i.e. the infrastructure consent order or the notice notifying the applicant that their application has been refused). It also sets out when and how corrections can be made.

Section 85 gives the Welsh Ministers a power to make **regulations about the procedure for correcting an error** in a decision document.

Making changes to, and revoking, infrastructure consent orders

Section 86 sets out **definitions** for the purposes of sections 87 and 88.

Section 87 gives the Welsh Ministers a **power, by order, to make a change to and revoke an infrastructure consent order**. It also sets out the circumstances when a change or revocation can take place, and gives examples of the things this power can be used to do.

Section 88 gives the Welsh Ministers a power to make **regulations about the procedure for changing and revoking** infrastructure consent orders.

Section 89 requires the Welsh Ministers to **publish an order** made under section 84 or 87 or a notice given under section 84 in a manner they think appropriate, but if the order is required to be contained in a statutory instrument, the Welsh Ministers must lay a copy of it before the Senedd.

Section 90 introduces Schedule 2 which makes provision about **compensation for changing or revoking an infrastructure consent order**.

Effect of infrastructure consent orders

Section 91 sets out details about the commencement and **duration of infrastructure consent order**. Specific provisions apply where an order authorises the compulsory acquisition of land.

Section 92 states that **development is taken to begin** when a “material operation” relevant to development begins to be carried out. “Material operation” means any operation, but there’s a power in this section for the Welsh Ministers to set out in regulations the kind of operations that aren’t a “material operation”.

Section 93 sets out that certain elements of the infrastructure consent process may only be **challenged via judicial review**.

Section 94 provides that an **infrastructure consent order will have effect** for the benefit of the land in respect of which the order is made and all those for the time being interested in the land, unless the order makes provision to the contrary.

Section 95 amends the **Town and Country Planning Act 1990** (TCPA) to allow the applicant to enter into **agreements with LPAs**, in the same way a developer seeking planning permission under the TCPA is able to. These agreements are called **“infrastructure consent obligations”**.

Section 96 amends the TCPA to allow an owner-occupier adversely affected by “**blighted land**” to benefit from the existing provisions of the TCPA.

The TCPA provides a procedure enabling persons with certain interests in the blighted land to require an “appropriate authority” to purchase their interest. The appropriate authority can be a statutory undertaker or the Welsh Ministers depending on the circumstances.

‘Blight’ means a reduction of economic activity, marketability or property values in a particular area resulting from expected or possible future development or restriction of development as a result of public sector actions. Blighted land is defined for planning purposes in **Schedule 13** to the TCPA

Section 97 confers **statutory authority** for carrying out development for which consent is granted by an infrastructure consent order and for doing anything else authorised by the order. It provides that statutory authority is conferred for the purpose of providing a defence in civil and criminal proceedings for nuisance.

Section 98 confers a right to **compensation in cases where there’s a defence** of statutory authority in civil or criminal proceedings for nuisance in respect of any authorised works. It also imposes a duty on the person who carries out the authorised works to pay compensation to any person whose land is injuriously affected by the carrying out of those works.

Relevant provisions in the **Compulsory Purchase Act 1965** and **Land Compensation Act 1973** apply as specified in the Bill.

Interpretation

Section 99 states that, in Part 6, “**land**” includes any interest in or right over land.

Part 7 - Enforcement

Section 100 states it’s an offence to carry out development requiring infrastructure consent **without that consent being in place**. A person may be tried in the magistrates’ court or Crown Court and where found guilty, will be liable to an unlimited fine.

Section 101 states that it’s an offence to carry out **development that doesn’t comply with the terms of an infrastructure consent order**. A person may be tried in the magistrates’ court or Crown Court and where found guilty, will be liable to an unlimited fine.

Section 102 sets out **time limits for bringing charges** in relation to the offences created by sections 100 and 101.

Section 103 allows a person authorised by a relevant LPA or the Welsh Ministers to **enter land to assess whether an offence under section 100 or 101 is being, or has been committed**. This section also specifies certain requirements the person entering the property must adhere to.

Section 104 enables a justice of peace to issue a **warrant to enter land** if they're satisfied there are reasonable grounds for entry for a purpose mentioned in section 103 and that admission to the land has been refused or is reasonably expected to be refused, or the case is urgent.

This section also specifies certain requirements the person entering the property must adhere to.

Section 105 creates an **offence where a person intentionally obstructs** a person exercising a power of entry under section 103 or 104. A person may be tried in the magistrates' court and, where found guilty, will be liable to an unlimited fine.

This section also states that if damage is caused in the exercise of the power to enter land, the person suffering damage may recover compensation from the relevant LPA or the Welsh Ministers (whichever authorised entry). Disputes are determined by the Upper Tribunal in accordance with **section 4 of the Land Compensation Act 1961**.

Section 106 states that the power to enter land with or without a warrant under sections 103 and 104 **doesn't apply to Crown land**.

Section 107 amends the **Marine and Coastal Access Act 2009** (the 2009 Act) by **inserting new section 243A**. This gives the Welsh Ministers a power to appoint persons to enforce the Infrastructure (Wales) Act 2024 in Wales and the Welsh inshore region (with the exception of any British warship). The appointed person will have the 'common enforcement powers' set out in **Chapter 2 of Part 8 of the 2009 Act**.

Information notices

Section 108 allows the relevant LPA or the Welsh Ministers to **serve an information notice on a relevant person** (for an offence in relation to land), and allows the Welsh Ministers to serve an information notice on a relevant person (for an offence

in relation to the Welsh marine area), where they consider an offence under section 100 or section 101 may have been committed.

This section also specifies details about the notice including what information the person receiving it must provide.

Section 109 makes **failure to comply with a requirement of an information notice** within 21 days a summary offence punishable by a fine. This section also makes it an offence to knowingly or recklessly provide information which is false or misleading (an **either way offence** punishable by a fine).

Notices of unauthorised development

Section 110 provides the relevant LPA or the Welsh Ministers with the power to issue a **notice of unauthorised development** when a person is found guilty of an offence under sections 100 and 101 in respect of land.

This section also sets out what a notice may require the person to do to remedy the situation, and gives the Welsh Ministers a power to make regulations to prescribe additional matters which must be specified in a notice of unauthorised development.

Compliance with notices of unauthorised development

Section 111 allows a landowner to apply to a magistrates' court for an **order to require another person with an interest in the land permit** the owner to take the steps required by a notice of unauthorised development.

Section 112 provides that where any **steps required to be taken by a notice of unauthorised development haven't been taken** within the specified period, the LPA or the Welsh Ministers (whichever issued the notice), may enter the land and take the step(s) themselves.

A person who intentionally obstructs a person exercising their power under this section commits an offence and may be tried in the magistrates' court and, where found guilty, will be liable to an unlimited fine.

Section 113 states that where an LPA or the Welsh Ministers exercise the power under section 112, they may **recover their costs from the landowner**. Costs aren't recoverable from the Crown.

Temporary stop notices

Section 114 gives the **relevant LPA power to issue a temporary stop notice** where it considers an activity has been, or is being, carried out, which constitutes an offence under section 100 or section 101 and the activity ought to be stopped immediately.

Section 115 states a **temporary stop notice may not prohibit** the use of a building as a dwelling or prohibit an activity that has been carried out for at least four years before the date on the notice (with exceptions).

Section 116 states a **temporary stop notice ceases to have effect** after 28 days, or a specified shorter time period if the court grants an injunction under section 119. An LPA can't issue a second or subsequent notice for the same activity, unless it's issued a notice of unauthorised development or issued an injunction.

Section 117 states it's an **offence to carry out an activity prohibited by a temporary stop notice**. A person may be tried in the magistrates' court or the Crown Court and where found guilty, will be liable to an unlimited fine.

Section 118 states that where an activity specified in a temporary stop notice is authorised by an infrastructure consent order granted before the day the notice takes effect, or the relevant LPA withdraws the notice, any person with an interest in land may make a **claim for compensation to the LPA for any loss or damage suffered**.

Section 119 states that a relevant LPA or the Welsh Ministers may apply to the High Court or county court for an **injunction to restrain an activity** which constitutes an offence under either section 100 or section 101 in relation to land. An injunction may not be issued under this section against the Crown.

General

Section 120 specifies that in Part 7, the relevant 'planning authority' (LPA) in relation to any land **is the planning authority (LPA) for the area** in which the land is situated.

Part 8 – Supplementary functions

Fees

Section 121 gives the Welsh Ministers a power to make **regulations about charging fees** by a specified public authority for performing an infrastructure consent function and for providing an infrastructure consent service.

Right of entry

Section 122 provides a **power for a person with authorisation from the Welsh Ministers to enter land to survey** or take levels in connection with:

- an application for infrastructure consent (or a proposed application); or
- an infrastructure consent order that authorised the compulsory acquisition of that land or an interest in it or a right over it.

This section states that an offence is committed if a person authorised to enter land is wilfully obstructed from doing so. Compensation for any damage caused to the land or property may be recovered from the person authorised to enter the land.

Section 123 states the **powers set out in section 122 also apply to Crown land**, subject to the person exercising the power gaining permission to enter the land from either a person who appears to have the authority to give it or from the appropriate Crown authority (which is defined in section 131).

Specified subsections of section 122 don't apply in relation to Crown land.

Infrastructure policy statements

Section 124 gives the Welsh Ministers the power, by published notice, to **designate a document as an infrastructure policy statement**, if it's a document issued by them and sets out policy to guide decision-making on significant infrastructure projects. They may also withdraw the designation by published notice.

The significance of designating a document in this way is that an examining authority or the Welsh Ministers (as the case may be) must decide an application for infrastructure consent in accordance with any relevant infrastructure policy statement (see section 53).

Register of applications and pre-application services

Section 125 requires the **Welsh Ministers to maintain a published register** of:

- applications for infrastructure consent;
- applications they've received for pre-application services; and
- pre-application services they've provided.

The Welsh Ministers may, by regulations, require an LPA to do the same for its area. They may also make regulations about the form and content of any register and other provision about public access to documents.

Statutory consultees

Section 126 gives the Welsh Ministers or an examining authority power to **consult a public authority specified in regulations as part of the examination process** with the result that the public authority has a duty to give a substantive response to that consultation within a specified timeframe.

Regulations may specify the form and requirements of consultations. Regulations may also require a public authority consulted under this section to give a report to the Welsh Ministers about its compliance with the consultation requirements.

Welsh Ministers' directions

Section 127 allows the Welsh Ministers to give a **direction to an LPA, the Natural Resources Body for Wales (NRW) or a devolved Welsh authority** specified in regulations, to do things in respect of an application.

Regulations may relate to the recovery of costs incurred by public authorities when carrying out a direction of the Welsh Ministers.

Section 128 enables the Welsh Ministers to make regulations that give them a power to **direct that requirements imposed by this Bill may be disapplied** in a case specified in the regulations. The regulations must specify the requirements that may be disapplied and require the Welsh Ministers to publish any direction.

Regulations about Crown applications

Section 129 gives the Welsh Ministers a power to make **regulations which may modify or exclude any enactments** relating to the procedure to be followed before a Crown application is made, the making of a Crown application and the

decision-making process for such an application.

Part 9 – General provisions

Development

Section 130 sets out the **meaning of “development” for the purposes of the Bill**. Everything that is “development” for the purposes of the TCPA is also development for the purposes of the Bill, but the scope of “development” is extended beyond this in a few respects.

Development under the TCPA relates to development of land and not development in the sea. This section provides that development under the Bill includes operations and changes of use in the sea (i.e. the Welsh marine area) and other areas covered with waters.

Crown land

Section 131 defines the terms “Crown land”, “Crown interest”, “Duchy interest” and “the appropriate Crown authority” for the purposes of the Bill. It also requires that any question about who the appropriate Crown authority in relation to any land is must be referred to the Treasury, whose decision is final.

Offences

Section 132 states that where an **offence is committed under section 28, 100, 101, 109 or 117 by a body corporate**, in certain circumstances, a relevant senior officer of the body will be guilty of an offence (as well as the body corporate) and liable to prosecution.

Giving notices and other documents

Section 133 contains provision about **how notices, directions and other documents are to be served**.

Section 134 makes further provision about **servicing a notice or a document on a person interested in land or occupying land**. Section 133 applies in addition to this section.

Section 135 specifies that any notice or document required by or under the Bill to be served on the Crown must be **served on the appropriate Crown authority**, and the rules about giving notices set out in sections 133 and 134 do not apply.

General

Section 136 requires that where the Bill imposes a duty to publish something, it **must be published electronically**. Nothing in this section prevents the person subject to the duty from publishing in another way as well as publishing electronically.

Section 137 sets out that regulations made under sections 30, 33, 45(6), 60(5), 121 and 126 of the Bill, an infrastructure consent order, or an order under section 87, may include provision that would require **the consent of, or consultation with, the UK Government** if they were to be included in an Act of the Senedd.

Section 138 states that that the **power to make regulations is exercisable by statutory instrument** and provides that a statutory instrument containing regulations made under specified sections of the Bill are to be made under the **affirmative procedure** (meaning the Senedd must vote in favour for the statutory instrument to become law).

Section 139 requires a **direction given under or by virtue of the Bill to be in writing**.

Section 140 defines **certain terms used in the Bill**.

Section 141 gives **the Welsh Ministers a regulation-making power** which may be used to make supplementary, incidental, and consequential provision and transitional or saving provision.

Section 142 refers to **Schedule 3 which makes provisions in consequence** of this Bill.

Section 143 makes **provisions about when the provisions of the Bill come into force**.

Section 144 states that the **short title of the Act** will be the Infrastructure (Wales) Act 2024.

Schedule 1 - Provision relating to, or to matters ancillary to, development

Schedule 1 is introduced by section 60 and lists the **matters that an infrastructure consent order may make provisions for**.

Schedule 2 - Compensation for changing or revoking infrastructure consent orders

Schedule 2 is introduced by section 90 and makes provision about **compensation for changing or revoking an infrastructure consent order**.

Schedule 3 - Consequential amendments and repeals

Schedule 3 is introduced by section 142 and sets out **consequential amendments and repeals**.

4. Annex: Significant Infrastructure Projects, qualifying thresholds and criteria

The table below sets out the qualifying thresholds and criteria for the infrastructure types specified as a SIP in sections 2 to 16.

Project type	Compulsory threshold
Energy (on and offshore)	50MW+ (Onshore wind) 50MW – 350MW (All other projects)
Overhead electric lines	132KV and a minimum length of 2KM
Highways promoted by Welsh Government	Continuous length of more than 1KM
Ports and harbours	Annual capacity of handling above: - 50,000 twenty-foot equivalent unit container ships, - 25,000 roll-on roll-off ships, or - 500,000 tonne cargo ships
Radioactive waste geological disposal	All works, including investigation and preparation
Open cast coal, underground coal gasification and unconventional oil and gas	All exploitation works
Liquefied natural gas facilities and gas reception facilities	Storage capacity above 43 million cu.m per day, or flow rate above 4.5 million cu.m per day
Railways	2KM+ (Continuous stretch)
Rail freight interchanges	At least 60ha when constructed and handling at least 4 goods trains per day

Project type	Compulsory threshold
Airports	1m+ passengers per year; or 5,000+ cargo movements per year
Dams and reservoirs	10m+ cu.m of water
Transfer of water resources	100m+ cu.m of water per year
Waste water treatment plants	Capacity exceeding a population of 500,000
Hazardous waste facilities	100,000+ tonnes per year (Landfill or deep storage facility) 30,000+ tonnes per year (Any other case)