

*Draft Order laid before the National Assembly for Wales under paragraph 14(5)(b) of Schedule 3 to the Flood and Water Management Act 2010, for approval by resolution of the National Assembly for Wales.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2018 No. (W.)**

**WATER INDUSTRY, WALES**

**The Sustainable Drainage  
(Enforcement) (Wales) Order 2018**

**EXPLANATORY NOTE**

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

This Order provides for the enforcement of breach of the approval required (“the requirement for approval”) under paragraph 7(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29) (“the Act”) in relation to drainage systems for construction work.

Article 3 provides that an approving body may agree with the local planning authority that that authority may exercise enforcement functions under this Order on behalf of the approving body.

Article 4 provides for powers of entry onto property of a person authorised by an approving body for the purpose of ascertaining whether there has been a breach of requirement for approval or whether a temporary stop notice, enforcement notice or stop notice has been complied with, including circumstances in which an application may be made to a court for a warrant.

Article 5 provides for the circumstances in which a developer or other person may recover compensation in relation to loss incurred as a result of the exercise of powers of entry pursuant to article 4.

Article 6 confers power on an approving body to give a temporary stop notice to a developer, where the body has reason to believe that a developer has breached the requirement for approval. The duration of such a notice is limited in accordance with that article.

Article 7 provides for the circumstances in which a developer may recover compensation in relation to loss incurred as a result of being given a temporary stop notice.

Article 8 confers power on an approving body, where a developer has breached the requirement for approval, to give a notice to the developer (an “enforcement notice”), specifying the steps to be taken by the developer to remedy the breach.

Article 9 specifies the steps to be taken by a developer, that must be included in an enforcement notice in specified circumstances, and provides for the steps the approving body may take in the event of non-compliance with the notice.

Article 10 confers power on an approving body to give a developer a stop notice, in circumstances where the developer has appealed against an enforcement notice and the approving body thinks it expedient that the construction work to which the enforcement notice relates, should stop immediately. Article 10 also provides for the circumstances in which such a notice ceases to have effect.

Article 11 requires the approving body to maintain a register of all stop notices, temporary stop notices and enforcement notices that it gives, and prescribes the information to be entered in the register.

Article 12 provides for a developer to appeal to the Welsh Ministers against an enforcement notice on grounds specified in the article.

Article 13 prescribes the period within which an appeal must be made.

Article 14 prescribes the content of a notice of appeal, and the actions that must be taken to make an appeal.

Articles 15 and 16 provide respectively, for the use of electronic communications and withdrawal of consent to the use of electronic communications in relation to appeals.

Article 17 makes provision for section 319B of the Town and Country Planning Act 1990 (c. 8) (“the 1990 Act”) and the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 (S.I. 2017/544 (W. 121)) to apply, with appropriate modifications, to an appeal against an enforcement notice under this Order, as if it was an appeal against a planning enforcement notice.

Article 18 provides that the Welsh Ministers are to determine an appeal under this Order.

Article 19 provides for the powers of the Welsh Ministers in determining an appeal against an enforcement notice.

Article 20 provides for procedure in relation to evidence in a hearing or inquiry, by applying, subject to appropriate modifications, subsections (2) and (3) of section 250 of the Local Government Act 1972 (c. 70) (local inquiries: evidence and costs), and in relation to costs, by applying section 322C of the 1990 Act (costs: Wales).

Article 21 provides for an offence of failure to comply with a temporary stop notice, enforcement notice or stop notice.

Article 22 provides for an offence of wilful obstruction of a person authorised by an approving body who is exercising powers of entry under Article 4.

Article 23 makes provision for liability of officers and members where an offence under this Order is committed by a body corporate.

Article 24 makes provision for liability of partnerships and partners, where an offence under this Order is committed by a partnership, and for the liability of unincorporated associations and their officers, where such an offence is committed by an unincorporated association.

A regulatory impact assessment in relation to Wales has been prepared on the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on [www.gov.wales](http://www.gov.wales).

*Draft Order laid before the National Assembly for Wales under paragraph 14(5)(b) of Schedule 3 to the Flood and Water Management Act 2010, for approval by resolution of the National Assembly for Wales.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2018 No. (W.)**

**WATER INDUSTRY, WALES**

**The Sustainable Drainage  
(Enforcement) (Wales) Order 2018**

*Made*

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*Coming into force*

*7 January 2019*

The Welsh Ministers, in exercise of the powers conferred by sections 32 and 48(2) of, and paragraphs 4(a) and 14 of Schedule 3 to, the Flood and Water Management Act 2010<sup>(1)</sup>, make the following Order.

In accordance with paragraph 14(5)(b) of Schedule 3 to that Act a draft of this instrument has been laid before and approved by, a resolution of the National Assembly for Wales.

**PART 1**

**Introduction**

**Title and commencement**

**1.**—(1) The title of this Order is the Sustainable Drainage (Enforcement) (Wales) Order 2018.

(2) This Order comes into force on 7 January 2019.

**Interpretation**

**2.**—(1) In this Order—

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<sup>(1)</sup> 2010 c. 29. Schedule 3 was amended by sections 21(3), 88(a) and 88(b) of the Water Act 2014 (c. 21) and S.I. 2012/1659 and 2013/755 (W. 90).

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990(1);

“appellant” (“*apelydd*”) means a developer who makes an appeal under this Order;

“approval” (“*cymeradwyaeth*”) means the approval required under paragraph 7(1) of Schedule 3 for a drainage system for construction work;

“authorised person” (“*person awdurdodedig*”) means a person authorised by an approving body;

“breach” (“*toriad*”), in relation to the requirement for approval, means—

- (a) construction work(2) is commenced without approval,
- (b) a condition of approval is breached, or
- (c) construction work does not conform to the approved proposals;

“construction area” (“*ardal adeiladu*”) means—

- (a) the area of land identified on a plan accompanying an application for planning permission, or
- (b) if an application for planning permission has not been made, the area of land on which construction work has commenced or is proposed to be commenced;

“developer” (“*datblygwr*”) means a person who commences or proposes to commence construction work;

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(3);

“enforcement notice” (“*hysbysiad gorfodi*”) has the meaning given in article 8;

“local planning authority” (“*awdurdod cynllunio lleol*”) has the meaning given in section 1(1B)(4) of the 1990 Act;

“notice of appeal” (“*hysbysiad apêl*”) means a notice under article 14;

“powers of entry” (“*pwerau mynediad*”) means the powers conferred by article 4;

“Schedule 3” (“*Atodlen 3*”) means Schedule 3 to the Flood and Water Management Act 2010;

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(1) 1990 c. 8.  
(2) “Construction work” is defined in paragraph 7(2)(a) of Schedule 3.  
(3) 2000 c. 7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).  
(4) Section 1(1B) was inserted by section 18(3) of the Local Government (Wales) Act 1994 (c. 19).

“stop notice” (*“hysbysiad stop”*) has the meaning given in article 10;

“temporary stop notice” (*“hysbysiad stop dros dro”*) has the meaning given in article 6;

“time limit for making an appeal” (*“terfyn amser ar gyfer gwneud apêl”*) has the meaning given in article 13.

(2) In this Order a reference to “construction work” is to be construed as a reference to construction work having drainage implications<sup>(1)</sup>.

## PART 2

### Exercise of enforcement functions

#### **Agreement to exercise enforcement function**

**3.**—(1) An approving body<sup>(2)</sup> may agree with the local planning authority (“the Authority”) that the Authority may exercise an enforcement function under this Order as if it were the approving body.

(2) The agreement—

- (a) may relate to any breach of the requirement for approval, and
- (b) may contain arrangements to reimburse the costs incurred by the Authority in exercising the enforcement function.

(3) In this article, “enforcement function” means any function exercisable by the approving body in relation to—

- (a) powers of entry;
- (b) a temporary stop notice, enforcement notice or stop notice.

#### **Powers of entry**

**4.**—(1) An authorised person may at any reasonable time enter a construction area (except any premises in the construction area used wholly or mainly as a private dwelling house) to determine if—

- (a) there has been a breach of the requirement for approval, or
- (b) a temporary stop notice, stop notice or enforcement notice has been complied with.

(2) Paragraph (1) is subject to paragraph (4).

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(1) “Drainage implications” is defined in paragraph 7(2)(b) of Schedule 3.

(2) “Approving body” is defined in paragraph 6 of Schedule 3.

(3) The authorised person must on request produce evidence of authorisation.

(4) In an emergency, powers of entry may be exercised at any time.

(5) An authorised person may not exercise powers of entry to determine if there has been a breach of the requirement for approval if a drainage system for the construction work has been adopted.

(6) A justice of the peace may, by signed warrant, permit an authorised person to enter any premises in a construction area, if necessary by reasonable force, if the justice on sworn information in writing is satisfied—

- (a) that there are reasonable grounds to enter the premises for the purposes of paragraph (1) of this article, and
- (b) that any of the conditions in paragraph (7) are met.

(7) The conditions are—

- (a) entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) entry is required urgently;
- (d) the premises are unoccupied or the occupier is temporarily absent.

(8) A warrant is valid for 3 months.

(9) An authorised person entering premises which are unoccupied or from which the occupier is temporarily absent must leave the premises as effectively secured against unauthorised entry as they were before entry.

### **Compensation for loss resulting from exercise of powers of entry**

**5.—**(1) A developer or other person is entitled to compensation if—

- (a) an authorised person enters a construction area or any premises in a construction area in exercise of powers of entry but finds no evidence of a breach of the requirement for approval, and
- (b) as a result of the exercise of those powers the developer or other person incurs loss.

(2) If an authorised person enters a construction area or any premises in a construction area in exercise of powers of entry and a breach of the requirement for approval is found, compensation is payable—

- (a) to the developer for any loss resulting only from an unreasonable exercise of those powers;
- (b) to any other person as if no evidence of a breach were found.

(3) Any claim for compensation must be made to the approving body within 12 months after the exercise of those powers.

(4) Disputes about compensation are to be determined by the Upper Tribunal.

## PART 3

### Notices

#### Temporary stop notices

**6.**—(1) An approving body may give a notice (“a temporary stop notice”) to a developer if the approving body has reason to believe that—

- (a) the developer has breached the requirement for approval, and
- (b) it is expedient that the construction work stop immediately.

(2) A temporary stop notice must be in writing and must—

- (a) specify the activity that is believed to be a breach,
- (b) give reasons for that view,
- (c) prohibit the developer from continuing with the activity, and
- (d) specify the consequences of non-compliance with the notice.

(3) An approving body may at any time withdraw a temporary stop notice by giving written notice to a developer setting out reasons for the decision to withdraw it.

(4) A temporary stop notice has effect from the time it is given and, unless it is earlier withdrawn, ceases to have effect at the end of—

- (a) the period of 4 weeks beginning with the day it is given, or
- (b) any shorter period specified in the notice, beginning with the day it is given.

(5) A second or subsequent temporary stop notice must not be given in respect of the same activity unless the approving body has first taken some other enforcement action in relation to the breach.

### **Compensation for loss resulting from temporary stop notice**

7.—(1) A developer who suffers loss as a result of being given a temporary stop notice is entitled to compensation if the approving body—

- (a) withdraws the notice, or
- (b) does not take any further enforcement action.

(2) Any claim for compensation must be made to the approving body within 12 months after the notice is withdrawn or ceases to have effect, whichever is the earlier.

(3) Disputes about compensation are to be determined by the Upper Tribunal.

### **Enforcement notices**

8.—(1) If a developer breaches the requirement for approval, the approving body may give a notice to the developer requiring the developer to take steps to remedy the breach (“an enforcement notice”).

(2) An enforcement notice may be given at any time before a drainage system for the construction work is adopted but not later than 4 years after the breach occurs.

(3) An enforcement notice must be in writing and must specify—

- (a) the construction area to which the notice relates,
- (b) details of the breach,
- (c) the steps which the developer must take to remedy the breach,
- (d) the date by which the steps must be taken,
- (e) rights of appeal, including the time limit for making an appeal, and
- (f) the consequences of non-compliance with the notice.

(4) An enforcement notice must not require the developer to take any steps until at least 4 weeks after the date on which the notice is given.

(5) An approving body may at any time by written notice to a developer—

- (a) withdraw an enforcement notice, giving reasons, or
- (b) vary an enforcement notice by—
  - (i) reducing the amount of work necessary to comply with the notice, or
  - (ii) extending the time for taking any step specified in the notice.

### **Steps required by an enforcement notice**

**9.**—(1) For construction work commenced without approval, the enforcement notice must require the developer—

- (a) to apply for approval (the application to be made as if construction work had not commenced), or
- (b) to restore the construction area to the condition it was in before the construction work began.

(2) For a breach of a condition of approval, the enforcement notice must require the developer—

- (a) to carry out work to ensure the drainage system complies with the conditions of approval, or
- (b) to restore the construction area to the condition it was in before the construction work began.

(3) For construction work that does not conform to the approved proposals, the enforcement notice must require the developer—

- (a) to carry out work to ensure the drainage system complies with the approved proposals, or
- (b) to restore the construction area to the condition it was in before the construction work began.

(4) If a developer fails to comply with an enforcement notice, the approving body—

- (a) may take the steps specified in the enforcement notice or authorise another person to take the steps, and
- (b) may require the developer to pay expenses incurred under sub-paragraph (a), such expenses to be recoverable as a debt.

(5) The approving body or a person authorised under paragraph (4)(a) may at any reasonable time enter a construction area to take the steps specified in the enforcement notice.

### **Stop notices**

**10.**—(1) An approving body may give a notice (“a stop notice”) to a developer if—

- (a) the developer has appealed against an enforcement notice, and
- (b) the approving body thinks it is expedient that construction work on the land to which the enforcement notice relates should stop immediately.

(2) A stop notice may prohibit a developer from continuing with the construction work specified in the notice until—

- (a) the appeal against the enforcement notice is determined or withdrawn, or
- (b) the approving body—
  - (i) withdraws the stop notice, or
  - (ii) takes further enforcement action.

(3) A stop notice must be in writing and must specify—

- (a) the date on which it takes effect,
- (b) the grounds on which it was served,
- (c) the consequences of not complying with it, and
- (d) the enforcement notice to which it relates.

(4) A copy of the enforcement notice must be annexed to the stop notice.

(5) An approving body may at any time withdraw a stop notice by giving written notice to a developer setting out reasons for the decision to withdraw it.

### **Register of notices**

**11.**—(1) An approving body must keep a register containing information relating to all temporary stop notices, enforcement notices and stop notices it gives.

(2) The register must contain the information prescribed for the purpose of section 188(1)(1) of the 1990 Act and by article 30 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(2) but with the modifications described in paragraph (3).

(3) The modifications are—

- (a) any reference to the authority is to be read as a reference to the approving body;
- (b) any reference to service of the notice or copies of the notice is to be read as a reference to the giving of the notice;
- (c) any reference to a breach of planning control is to be read as a reference to a breach of the requirement for approval;
- (d) any reference to a breach of condition notice is to be read as a reference to a stop notice or temporary stop notice.

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(1) Section 188(1) was amended by paragraph 30(a) of Schedule 7 and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34) and by paragraph 24(5) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19). There are other amendments not relevant to this Order.

(2) S.I. 2012/801 (W. 110).

(4) The information must be entered on the register as soon as is practicable but not more than 2 weeks after a notice is given.

(5) An entry relating to a notice must be removed from the register if the notice is withdrawn or ceases to have effect.

## PART 4

### Appeals against enforcement notices

#### Right of appeal

**12.**—(1) A developer who is given an enforcement notice may by notice appeal to the Welsh Ministers against the decision to give it.

(2) The grounds of appeal are that—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unreasonable;
- (d) there is no breach of the requirement for approval.

(3) An enforcement notice is suspended until an appeal is determined or withdrawn.

#### Time limit for making an appeal

**13.** An appeal must be made within the period of 4 weeks beginning with the day on which a developer is given an enforcement notice.

#### Making an appeal

**14.**—(1) Notice of an appeal against an enforcement notice must—

- (a) be in writing, on a form obtained from the Welsh Ministers,
- (b) state the grounds of appeal,
- (c) state the facts on which the appellant will rely in support of each of those grounds and any other particulars of the case the appellant intends to put forward in relation to the appeal, and
- (d) include the name, address (including any email address) and telephone number of the appellant and any agent acting for the appellant.

(2) The notice must be sent to the Welsh Ministers accompanied by—

- (a) a statement as to whether the appellant wishes to have the appeal dealt with by way of

written representations, a hearing or an inquiry,

- (b) a copy of the enforcement notice, and
- (c) a copy of any related stop notice or temporary stop notice.

(3) A developer who sends a notice of appeal to the Welsh Ministers must, at the same time, send a copy of the notice of appeal and accompanying documents to the approving body.

(4) In this article, “accompanying documents” means the documents mentioned in paragraph (2).

(5) Any notice or other document required in this article to be sent or provided, may be sent by post or electronic communication.

### **Use of electronic communications**

**15.**—(1) Paragraphs (2) to (6) of this article apply where an electronic communication is used by an appellant for the purpose of fulfilling any requirement in article 14.

(2) The requirement is taken to be fulfilled where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(3) In paragraph (2) “legible in all material respects” means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(4) Where the electronic communication is received by the recipient outside the recipient’s business hours, it will be taken to have been received on the next working day.

(5) A requirement in article 14 that any notice or other document should be in writing is fulfilled where that document meets the criteria in paragraph (2) and “written” and cognate expressions are to be construed accordingly.

(6) Where an appellant sends any notice or other document to the Welsh Ministers using electronic communications, they will be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically;
- (b) that the appellant’s address for the purpose of such communications is the address incorporated into or otherwise logically associated with, the notice or other document;

- (c) that the appellant’s deemed agreement under this paragraph will subsist until the appellant gives notice in accordance with article 16, of a wish to revoke the agreement.

**Withdrawal of consent to the use of electronic communications**

**16.**—(1) Where an appellant is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being effected electronically, the appellant must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to an approving body for that purpose, or
- (b) revoking any agreement entered into with the Welsh Ministers or with an approving body for that purpose.

(2) Withdrawal or revocation under paragraph (1) is final and takes effect on the later of—

- (a) the date specified by the appellant in the notice but that date must not be less than 1 week after the date on which the notice is given, or
- (b) the expiry of the period of 1 week beginning with the date on which the notice is given.

**Procedure for appeals**

**17.**—(1) Paragraphs (2) to (4) of this article apply where the Welsh Ministers are in receipt of a valid notice of appeal.

(2) Section 319B (determination of procedure for certain proceedings: Wales) of the 1990 Act and the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017<sup>(1)</sup> (“the 2017 Regulations”) apply to an appeal under this Order with the modifications described in paragraph (3), as if it was an appeal brought under section 174 (appeal against enforcement notice) of the 1990 Act.

(3) The modifications are—

- (a) any reference to an “appellant” has the meaning given in article 2;
- (b) any reference to an “appeal” under section 174 of the 1990 Act is to be read as a reference to an appeal under this Order;
- (c) any reference to an “appointed person” is a reference to a person appointed by the Welsh Ministers under this Order to report to the Welsh Ministers;

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(1) S.I. 2017/544 (W. 121).

- (d) any reference to an “enforcement appeal” is to be read as a reference to an appeal against an enforcement notice under this Order;
- (e) any reference to an “enforcement notice” under section 172(1) of the 1990 Act is to be read as a reference to an enforcement notice under this Order;
- (f) a reference to “full statement of case” is to be read as a reference to the statement in article 14(1)(c);
- (g) any reference to “interested persons” is to be read as a reference to the statutory consultees specified in paragraph 11(3) of Schedule 3;
- (h) any reference to a “local planning authority” is to be read as a reference to the approving body which gave an enforcement notice under this Order.

(4) In this article “valid notice of appeal” means a notice of appeal—

- (a) which complies with the requirements of article 14(1),
- (b) is sent to the Welsh Ministers—
  - (i) in accordance with article 14(2),
  - (ii) within the period specified in article 13, and
- (c) in relation to which the appellant certifies that a copy has been sent to the approving body in accordance with article 14(3).

### **Determination of an appeal**

**18.**—(1) An appeal under this Order is to be determined by the Welsh Ministers.

(2) For the purposes of paragraph (1), the Welsh Ministers may appoint a person (“the appointed person”) to report to the Welsh Ministers.

### **Powers of the Welsh Ministers when determining an appeal**

**19.** When determining an appeal against an enforcement notice, the Welsh Ministers may—

- (a) determine that the notice is to cease to have effect, or
- (b) confirm or vary the notice.

## **Evidence and costs**

**20.**—(1) Subsections (2) and (3) of section 250 of the Local Government Act 1972<sup>(1)</sup> (local inquiries: evidence and costs) apply with the modifications described in paragraph (2) to an inquiry under this Order as they apply to local inquiries under that section.

(2) The modifications are—

- (a) any reference to the person appointed to hold the inquiry is to be read as a reference to the person appointed by the Welsh Ministers under article 18(2);
- (b) any reference to a local authority is to be read as a reference to an approving body.

(3) Section 322C of the 1990 Act<sup>(2)</sup> (costs: Wales) applies in relation to a hearing or inquiry under this Order as it applies in relation to a hearing or local inquiry referred to in that section.

(4) Subject to paragraph (3), the costs of a hearing or inquiry held under this Order must be defrayed by the Welsh Ministers.

## **PART 5**

### **Offences**

#### **Offence of failure to comply with a notice**

**21.**—(1) A person who fails to comply with a temporary stop notice, enforcement notice or stop notice is guilty of an offence, and is liable—

- (a) on summary conviction, to a fine not exceeding £20,000, or
- (b) on conviction on indictment, to a fine.

(2) In determining the amount of the fine, the court must have regard in particular to any financial benefit which has accrued, or has appeared to accrue, to the person convicted in consequence of the offence.

#### **Offence of obstruction**

**22.** A person who wilfully obstructs an authorised person who is exercising powers of entry—

- (a) is guilty of an offence, and

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(1) 1972 c. 70. Section 250 has been amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 49(2) of and Schedule 12 to the Housing and Planning Act 1986 (c. 63) and by the Statute Law (Repeals) Act 1989 (c. 43).

(2) Section 322C was inserted by section 49 of the Planning (Wales) Act 2015 (anaw 4).

- (b) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

### **Offences by bodies corporate**

**23.**—(1) If an offence under this Order committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer—

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “officer” in relation to a body corporate, means—

- (a) a director, manager, secretary or other similar officer of the body, or
- (b) a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as it applies to an officer of a body corporate.

### **Offences by partnerships and unincorporated associations**

**24.**—(1) Proceedings for an offence under this Order alleged to have been committed by a partnership or an unincorporated association must be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate, and
- (b) the following provisions apply as they apply in relation to a body corporate—
  - (i) section 33 of the Criminal Justice Act 1925<sup>(1)</sup>;
  - (ii) Schedule 3 to the Magistrates’ Courts Act 1980<sup>(2)</sup>.

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(1) 1925 c. 86. Section 33 was amended by Schedule 6 to the Magistrates Courts Act 1952 (c. 55); paragraph 19 of Schedule 8 to the Courts Act 1971 (c. 23) and Schedule 10 to the Courts Act 2003 (c. 39).

(2) 1980 c. 43. Schedule 3 was amended by Schedule 13 to the Criminal Justice Act 1991 (c. 43) and paragraphs 51(13)(a) and (b) of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

(3) A fine imposed on a partnership or unincorporated association on its conviction of an offence under this Order is to be paid out of the funds of the partnership or association.

(4) If an offence under this Order committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner—

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4), “partner” includes a person purporting to act as a partner.

(6) If an offence under this Order committed by an unincorporated association (other than a partnership) is proved—

- (a) to have been committed with the consent or connivance of an officer of the association, or
- (b) to be attributable to any neglect on the part of such an officer—

the officer, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In paragraph (6), “officer” in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body, or
- (b) a person purporting to act in such a capacity.

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\*\*\* Minister for Environment under the authority of\*\*\*  
Cabinet Secretary for Energy, Planning and Rural Affairs, one of the Welsh Ministers