
WELSH STATUTORY INSTRUMENTS

2007 No. 203 (W.17)

AGRICULTURE, WALES

The Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) (Amendment) Regulations 2007

Made - - - - 30 January 2007

Coming into force - - 9 February 2007

The National Assembly for Wales being designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment and to the conservation of natural habitats and of wild fauna and flora, in exercise of the powers conferred upon it by the said section 2(2), makes the following Regulations:

Title, application and commencement

1.—(1) The title of these Regulations is the Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) (Amendment) Regulations 2007.

(2) These Regulations apply in relation to Wales and come into force on 9 February 2007.

Amendment of Regulations

2. The Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) Regulations 2002⁽³⁾ are amended as follows.

Interpretation

3.—(1) In regulation 2(1)—

(a) for the definition of “EEA State” substitute “ “EEA State” (“*Gwladwriaeth AEE*”) means a member State, Norway, Iceland or Liechtenstein”;

(1) S.I. [2001/2555](#) (in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment) and S.I. [2002/248](#) (in relation to measures relating to the conservation of natural habitats and of wild fauna and flora).

(2) [1972 c. 68](#). The enabling powers of section 2(2) of this Act were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act [1993 \(c. 51\)](#).

(3) S.I. [2002/2127 \(W. 214\)](#).

- (b) at the end of the definition of “the EIA Directive” add “as last amended by Directive [2003/35/EC](#)”(4);
- (c) at the end of the definition of “the Habitats Directive” add “as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded”.

(2) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended from time to time.

Application of Regulations

4. In regulation 3—

- (a) after “from” in paragraph (3) insert “regulations 4 to 26”; and
- (b) after paragraph (4) add—

“(5) Where the National Assembly proposes to give a direction under paragraph (3) it must—

- (a) consider whether any assessment of the project would be appropriate, other than an assessment of the kind which, if regulations 4 to 26 of these Regulations applied to the project, would be required prior to a screening decision under regulation 5(4) or a decision to grant or refuse consent under regulation 13(1); and
- (b) take such steps as it considers appropriate to bring to the attention of the public—
 - (i) the information considered in making the direction and the reasons for doing so, and
 - (ii) the information obtained from any assessment of the project under subparagraph (a).”.

Provision of information

5. In regulation 8, for paragraph (3) substitute—

“(3) Paragraph (1) does not require a consultation body to make available to the applicant any information which—

- (a) it may refuse to disclose under regulation 12(1) of the Environmental Information Regulations 2004(5); or
- (b) it is prevented from disclosing by regulation 13(1) of those Regulations.

(4) Where a consultation body is not a public authority within the meaning of regulation 2(2) of the Environmental Information Regulations 2004, paragraph (3) applies as if it were such a public authority.”.

The consent application

6. In regulation 9(3)(b)—

- (a) after “publish in a newspaper circulating in the locality of the relevant land” insert “and on an appropriate website”;

(4) OJ No. L156, 25.06.03, p. 17.

(5) S.I. [2004/3391](#).

- (b) in sub-paragraph (ii), after “publication of the notice” omit “and”;
- (c) after sub-paragraph (iii), add—
 - “(iv) stating that, if consent is granted, it must be subject to the conditions specified in regulation 13(11) and to any such additional conditions as the National Assembly may think fit; and
 - (v) stating, where relevant, which of the other EEA States, the authorities referred to in Article 6(1) of the EIA Directive and the public concerned in any such EEA State, will be consulted on the application.”.

Additional information

7. In regulation 10(3), after “publish in a newspaper circulating in the locality of the relevant land” insert “and on an appropriate website”.

Other EEA States

- 8. In regulation 11—
 - (a) in paragraph (2), for “additional environmental information”, substitute “further information it considers relevant to the application”;
 - (b) after paragraph (6), add—
 - “(7) Where another EEA State has taken a decision to grant or refuse development consent and has informed the National Assembly of that decision in accordance with Article 9(2) of the EIA Directive, the National Assembly must take such steps as it considers appropriate to bring to the attention of the public any information received from that EEA State in relation to that decision.”.

The consent decision

- 9. In regulation 13—
 - (a) in paragraph (12)(a), for “of its decision together with the full reasons and considerations on which the decision is based”, substitute—
 - “of—
 - (i) the decision;
 - (ii) the full reasons and considerations on which the decision is based; and
 - (iii) any representations made by the public concerned in relation to the application.”
 - (b) in paragraph (12)(c), at the end of sub-paragraph (ii), omit “and”;
 - (c) in paragraph (12)(c), at the end of sub-paragraph (iii), add—
 - “(iv) a summary of any representations made by the public concerned in relation to the application; and
 - (v) information regarding the right to challenge the decision and the procedures for doing so.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6).

30 January 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) Regulations 2002 (S.I.2002/2127) (“the principal Regulations”).

They implement Directive 2003/35/EC (OJNo. L156, 25.6.2003, p.17) providing for public participation in certain environmental decision making, which amends Council Directive 85/337/EEC (OJ No. L175, 5.7.85, p.40, as amended by Council Directive 97/11/EC, OJ No. L73, 14.3.97, p.5) (“the EIA Directive”) on the assessment of the effects of certain public and private projects on the environment, insofar as it affects environmental impact assessments of uncultivated land and semi-natural areas.

They also include amendments to reflect a change in the legislation relating to disclosure of environmental information.

Regulation 3 updates interpretations in the principal Regulations.

Regulation 4 requires the National Assembly, when exercising its power to direct that a particular project is exempt from regulations 4 to 26 of the principal Regulations, to consider whether any assessment of the project would be appropriate, other than an assessment of the kind which would take place under regulations 4 to 26 of the principal Regulations, and to bring certain information relating to the exercise of the power to the attention of the public.

Regulation 5 updates the reference in the principal Regulations to the Environmental Information Regulations 1992 (S.I. 1992/3240, as amended by S.I. 1998/1447), which are now revoked. It provides that a consultation body is not required to make available to an applicant for consent any information which it may refuse to disclose under the Environmental Information Regulations 2004 (S.I. 2004/3391) or which it is prevented from disclosing by those Regulations.

Regulation 6 requires the National Assembly to publish notice of an application for consent on an appropriate website, and requires certain additional information to be included in the notice.

Regulation 7 requires the National Assembly to publish any notice of additional environmental information on an appropriate website.

Regulation 8 amends the requirements in the principal Regulations relating to projects in Wales which may affect the environment in other EEA States and vice versa.

Regulation 9 requires certain additional information to be provided by the National Assembly when giving notice of a decision to grant or refuse consent.

A Regulatory Appraisal has been prepared in respect of these Regulations. Copies are available from the Department for Environment, Planning and Countryside, Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.