
WELSH STATUTORY INSTRUMENTS

2016 No. 58

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.

(2) These Regulations come into force on 1 March 2016 except for regulation 38, Schedule 5 (local development orders) and Schedule 9, paragraph 8(3) which come into force on the date on which the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 comes into force.

(3) These Regulations apply in relation to Wales.

(4) In relation to an application for planning permission made to the Welsh Ministers, Parts 2 to 7 of these Regulations apply only to the extent and in the way set out in Part 8.

Interpretation

2.—(1) In these Regulations—

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

“the 1991 Act” (“*Deddf 1991*”) means the Planning and Compensation Act 1991(1);

“the 1995 Act” (“*Deddf 1995*”) means the Environment Act 1995(2);

“the 2012 Order” (“*Gorchymyn 2012*”) means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(3);

“the 2016 Order” (“*Gorchymyn 2016*”) means the Developments of National Significance (Procedure) (Wales) Order 2016(4);

“any other information” (“ *unrhyw wybodaeth arall*”) means any other substantive information relating to the environmental statement and provided by the applicant or the appellant as the case may be;

“any particular person” (“ *unrhyw berson penodol*”) includes any non-governmental organisation promoting environmental protection;

“by local advertisement” (“ *drwy hysbyseb lleol*”), in relation to a notice, means—

(1) 1991 c. 34.

(2) 1995 c. 25.

(3) S.I. 2012/801 (W. 110); amended by S.I. 2015/1330 (W. 123); there are other amending instruments but none is relevant.

(4) S.I. 2016/55 (W. 25).

- (a) by publication of the notice in a newspaper circulating in the locality in which the land is situated; and
- (b) where the relevant planning authority maintains a website for the purpose of advertisement of applications, by publication of the notice on the website;

“commencement date” (“*dyddiad cychwyn*”) means 1 March 2016;

“the consultees” (“*yr ymgynghoreion*”) means—

- (a) in respect of an application for planning permission made to the Welsh Ministers, any authority, body or person which they are required to consult by virtue of article 22 of the 2016 Order and the bodies referred to in sub-paragraph (c) if not already within this sub-paragraph;
- (b) any body which the relevant planning authority is required to consult, or would, if an application for planning permission for the development in question were before them, be required to consult by virtue of article 14 of the 2012 Order (consultations before the grant of permission) or of any direction under that article and the bodies referred to in sub-paragraph (c) if not already within this sub-paragraph;
- (c) the following bodies—
 - (i) any principal council for the area where the land is situated, if not the relevant planning authority;
 - (ii) the Natural Resources Body for Wales⁽⁵⁾;
 - (iii) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Welsh Ministers, as the case may be, consider are likely to have an interest in the application;

“the Directive” (“*y Gyfarwydddeb*”) means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment, as adopted on 13 December 2011;

“dwellinghouse” (“*ty annedd*”) means a building or part of a building which is used as a single private dwelling and for no other purpose;

“EIA application” (“*cais AEA*”) means—

- (a) an application for planning permission for EIA development; or
- (b) a subsequent application in respect of EIA development;

“EIA development” (“*datblygiad AEA*”) means development which is either—

- (a) Schedule 1 development; or
- (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“environmental information” (“*gwybodaeth amgylcheddol*”) means the environmental statement, including any further information and any other information, any representations made by any consultee and any representations duly made by any other person about the environmental effects of the development;

“environmental statement” (“*datganiad amgylcheddol*”) means a statement—

- (a) that includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant or initiating body can reasonably be required to compile, having regard in particular to current knowledge and methods of assessment, but
- (b) that includes at least the information referred to in Part 2 of Schedule 4;

(5) See S.I. 2012/1903 (W. 230).

“exempt development” (“*datblygiad esempt*”) means development in respect of which the Welsh Ministers have made a direction under regulation 4(4);

“further information” (“*gwybodaeth bellach*”) has the meaning given in regulation 22(1);

“the General Regulations” (“*y >Rheoliadau Cyffredinol*”) means the Town and Country Planning General Regulations 1992(6);

“inspector” (“*arolygydd*”) means a person appointed by the Welsh Ministers to determine an appeal;

“the land” (“*y tir*”) means the land on which the development would be carried out or, in relation to development already carried out, has been carried out;

“local development order” (“*gorchymyn datblygu lleol*”) means a local development order made pursuant to section 61A of the 1990 Act(7);

“principal council” (“*prif gyngor*”) has the meaning given by section 270(1) (general provisions as to interpretation) of the Local Government Act 1972(8);

“register” (“*cofrestr*”) means a register kept pursuant to section 69 of the 1990 Act (registers of applications etc.)(9) and “appropriate register” (“*cofrestr briodol*”) means the register on which particulars of an application for planning permission for the relevant development have been placed or would be placed if such an application were made;

“relevant planning authority” (“*awdurdod cynllunio perthnasol*”) means the body to whom it falls, fell, or would fall, to determine an application for planning permission for the development in question, but for—

- (a) the development being a development of national significance for the purposes of section 62D of the 1990 Act(10); or
- (b) a direction under section 77 of the 1990 Act (reference of applications to Secretary of State)(11);

“Schedule 1 application” (“*cais Atodlen 1*”) and “Schedule 2 application” (“*cais Atodlen 2*”) mean an application for planning permission for Schedule 1 development and Schedule 2 development respectively;

“Schedule 1 development” (“*datblygiad Atodlen 1*”) means development, other than exempt development, of a description mentioned in Schedule 1;

“Schedule 2 development” (“*datblygiad Atodlen 2*”) means development, other than exempt development, of a description mentioned in Column 1 of the table in Schedule 2 where—

- (a) any part of that development is to be carried out in a sensitive area; or
- (b) any applicable threshold or criterion in the corresponding part of Column 2 of that table is respectively met or exceeded in relation to that development;

“scoping direction” (“*cyfarwyddyd cwmpasu*”) means a written direction of the Welsh Ministers as to the information to be provided in the environmental statement;

“scoping opinion” (“*barn gwmpasu*”) means a written opinion of the relevant planning authority as to the information to be provided in the environmental statement;

(6) S.I. 1992/1492. Relevant amending instruments are S.I. 1992/1892 and S.I. 1997/3006.

(7) Section 61A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 40(1); sub-section (1) was repealed by the Planning Act 2008, sections 188(1), (2), 238 and Schedule 13; sub-section (2) was amended by the Planning Act 2008, section 188(1) and (3).

(8) 1972 c. 70. “Principal council” means a council elected for a county borough.

(9) Section 69 was substituted by the Planning and Compulsory Purchase Act 2004, section 188(1) and Schedule 6, paragraphs 1 and 3; section 69 was amended by the Planning Act 2008 (c. 29), section 190(1) and (4); the Localism Act 2011 (c. 20), section 237 and Part 18 of Schedule 25. There are other amendments which are not relevant to this instrument.

(10) Section 62D was inserted by section 19 of the Planning (Wales) Act 2015 (anaw 4).

(11) Section 77 was amended by the 1991 Act, Schedule 7, paragraph 18.

“screening direction” (“*cyfarwyddyd sgrinio*”) means a direction made by the Welsh Ministers as to whether development is EIA development;

“screening opinion” (“*barn sgrinio*”) means a written opinion of the relevant planning authority as to whether development is EIA development;

“sensitive area” (“*ardal sensitif*”) means any of the following—

- (a) land notified under section 28(1) (sites of special scientific interest) of the Wildlife and Countryside Act 1981(12);
- (b) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949(13);
- (c) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage(14);
- (d) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979(15);
- (e) an area of outstanding natural beauty designated as such by an order made under section 82(2) (areas of outstanding natural beauty) of the Countryside and Rights of Way Act 2000(16);
- (f) a European site within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010(17);

“subsequent application” (“*cais dilynol*”) means an application for consent, agreement or approval of a matter where the approval—

- (a) is required by or under a condition to which a planning permission is subject; and
- (b) must be obtained before all or part of the development permitted by the planning permission may be begun;

“subsequent consent” (“*caniatâd dilynol*”) means consent, agreement or approval granted pursuant to a subsequent application.

(2) Subject to paragraph (3), expressions used both in these Regulations and in the 1990 Act have the same meaning for the purposes of these Regulations as they have for the purposes of the 1990 Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the 1990 Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations references to the Welsh Ministers must not be construed as references to an inspector.

(5) Where a body may, or is required to, state, notify, request, confirm, inform or make representations, that body must do so in writing.

(6) Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 329 of the 1990 Act (service of notices)(18).

(12) 1981 c. 69. Section 28(1) was substituted by the Countryside and Rights of Way Act 2001 (c. 37), section 75(1) and Schedule 9, paragraph 1, and amended by the Natural Environment and Rural Communities Act 2006 (c. 16) section 105(1), Schedule 11, Part 1, paragraph 79, and by the Marine and Coastal Access Act 2009 (c. 23) section 148, Schedule 13, Part 2, paragraph 2(1).

(13) 1949 (c. 97), see section 5(3). See section 27AA for the application of section 28 in relation to land in Wales.

(14) See Command Paper 9424 and <http://whc.unesco.org/en/list>.

(15) 1979 c. 46. See the definition in section 1(11).

(16) 2000 c. 37. Section 82(2) was amended by S.I. 2013/755.

(17) S.I. 2010/490. There are amendments to regulation 8 which are not relevant to these Regulations.

(18) Section 329 was amended by the Town and Country Planning (Electronic Communications) (Wales) (No. 1) Order 2004 (S.I. 2004/3156 (W. 273)).

Prohibition on granting planning permission or subsequent consent without consideration of environmental information

3.—(1) This regulation applies—

- (a) to every application for planning permission for EIA development received on or after the commencement date;
- (b) to every application for planning permission for EIA development lodged by an authority pursuant to regulation 3 (applications for planning permission) of the General Regulations on or after the commencement date;
- (c) to every subsequent application in respect of EIA development received on or after the commencement date; and
- (d) to every subsequent application in respect of EIA development lodged by an authority pursuant to regulation 11 of the General Regulations on or after the commencement date.

(2) For the purposes of paragraph (1), the date of receipt of an application by an authority is—

- (a) in respect of an application made under section 62D of the 1990 Act, the date of acceptance of the application in accordance with article 15 of the 2016 Order; and
- (b) determined in accordance with article 22(3) (time periods for decisions) of the 2012 Order in respect of other applications.

(3) The relevant planning authority or the Welsh Ministers or an inspector must not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have taken the environmental information into consideration, and they must state in their decision that they have done so.