
WELSH STATUTORY INSTRUMENTS

2017 No. 567

**The Town and Country Planning (Environmental
Impact Assessment) (Wales) Regulations 2017**

PART 2

Screening

General provisions relating to screening

5.—(1) Subject to paragraphs (3) and (4), the occurrence of an event mentioned in paragraph (2) determines for the purpose of these Regulations that development is EIA development.

(2) The events referred to in paragraph (1) are—

- (a) the submission by the applicant or appellant in relation to that development of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these Regulations; or
- (b) the adoption by the relevant planning authority of a screening opinion to the effect that the development is EIA development.

(3) A direction of the Welsh Ministers determines for the purpose of these Regulations whether development is or is not EIA development.

(4) The Welsh Ministers may direct that these Regulations do not apply in relation to a particular proposed development specified in the direction—

- (a) in accordance with Article 2(4) of the Directive (without prejudice to Article 7 of the Directive) where in the opinion of the Welsh Ministers the application of these Regulations would adversely affect the purpose of the development;
- (b) if the development comprises or forms part of a project having the response to civil emergencies as its sole purpose and in the opinion of the Welsh Ministers compliance with these Regulations would adversely affect those purposes.

(5) Where a direction is given under paragraph (4)(a) or (4)(b) the Welsh Ministers must send a copy of any such direction to the relevant planning authority.

(6) Where a direction is given under paragraph (4)(a) the Welsh Ministers must—

- (a) make available to the public the information considered in making the direction and the reasons for making the direction;
- (b) consider whether another form of assessment would be appropriate; and
- (c) take such steps they consider appropriate to bring the information obtained under the other form of assessment to the attention of the public.

(7) In cases where development is adopted⁽¹⁾ under an Act of the National Assembly for Wales or a measure made under powers contained in such an Act, the Welsh Ministers may (without

⁽¹⁾ See Article 2(5) of the Directive.

prejudice to Article 7 of the Directive) exempt that development from the provisions relating to public consultation in the Directive provided the objectives of the Directive are met.

(8) Where a local planning authority or the Welsh Ministers have to decide under these Regulations whether Schedule 2 development is EIA development, the authority or the Welsh Ministers must take into account in making that decision—

- (a) any information provided by the person minded to carry out development;
- (b) the available results of other environmental assessments carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive; and
- (c) such of the selection criteria set out in Schedule 3 as are relevant to the development.

(9) Where a local planning authority adopt a screening opinion, or the Welsh Ministers make a screening direction—

- (a) that opinion or direction must state the main reasons for the conclusion of the authority or the Welsh Ministers, as appropriate, with reference to the relevant criteria listed in Schedule 3;
- (b) if it is determined that proposed development is not EIA development, that opinion or direction must state any features of the proposed development and measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(10) The authority or the Welsh Ministers, as appropriate, must send a copy of the opinion or direction to the person who proposes to carry out, or who has carried out, the development in question.

(11) The Welsh Ministers may make a screening direction either—

- (a) of their own volition; or
- (b) if requested to do so by any person.

(12) The Welsh Ministers may direct that particular development of a description mentioned in Column 1 of the table in Schedule 2 is EIA development in spite of the fact that neither of sub-paragraphs (a) and (b) of the definition of “Schedule 2 development” is satisfied in relation to that development.

(13) If the Welsh Ministers make a screening direction in accordance with paragraph (11), they must—

- (a) take such steps as appear to be reasonable to them in the circumstances, having regard to the requirements of regulation 6(2) and (4), to obtain information about the proposed development to inform a screening direction;
- (b) take into account in making that direction—
 - (i) the information gathered in accordance with sub-paragraph (a);
 - (ii) the available results of other environmental assessments carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive; and
 - (iii) such of the selection criteria set out in Schedule 3 as are relevant to the development; and
- (c) issue a screening direction within 90 days from the date on which the Welsh Ministers have obtained sufficient information to make a direction.

(14) Where the Welsh Ministers consider that due to exceptional circumstances relating to the circumstances of the proposed development that it is not practicable for them to adopt a screening direction within the period specified in paragraph (13)(c), the Welsh Ministers may extend that period by notice given to the person who made the request for a screening direction.

(15) The Welsh Ministers must state in any notice given under paragraph (14) the reasons justifying the extension and the date when the determination is expected.

(16) The Welsh Ministers must send a copy of any screening direction to the relevant planning authority.

Requests for screening opinions

6.—(1) A person who is minded to carry out development may request the relevant planning authority to adopt a screening opinion.

(2) A request for a screening opinion in relation to an application for planning permission must be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a description of the development, including in particular—
 - (i) a description of the physical characteristics of the development and, where relevant, of demolition works;
 - (ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;
- (c) a description of the aspects of the environment likely to be significantly affected by the development;
- (d) a description of any likely significant effects, to the extent of the information available on those effects, of the proposed development on the environment resulting from—
 - (i) the expected residues and emissions and the production of waste, where relevant; and
 - (ii) the use of natural resources, in particular soil, land, water and biodiversity; and
- (e) such other information or representations as the person making the request may wish to provide or make including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(3) A request for a screening opinion in relation to a subsequent application must be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;
- (c) the information described in paragraph (2)(c) and (d), but only to the extent that this relates to likely significant effects on the environment which were not previously identified; and
- (d) such other information or representations as the person making the request may wish to provide or make, including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) The person making the request for the screening opinion must, when that person provides the information required by paragraphs (2) or (3), take into account the criteria in Schedule 3 and the available results of other environmental assessments carried out pursuant to Union legislation other than under the Directive.

(5) An authority receiving a request for a screening opinion must, if they consider that they have not been provided with sufficient information to adopt an opinion, notify the person making the request of the points on which they require additional information.

(6) An authority must adopt a screening opinion within—

- (a) 21 days; or
- (b) such longer period not exceeding 90 days as may be agreed in writing with the person making the request,

in either case, from the date on which the person making the request submits the information required under paragraph (2) or (3).

(7) An authority which adopts a screening opinion pursuant to paragraph (6) must send a copy to the person who made the request.

(8) Where an authority—

- (a) fails to adopt a screening opinion pursuant to paragraph (6); or
- (b) adopts an opinion to the effect that the development is EIA development;

the person who requested the opinion may request the Welsh Ministers to make a screening direction.

(9) The person may make a request pursuant to paragraph (8) even if the authority have not received additional information which they have sought under paragraph (5).

Requests for screening directions of the Welsh Ministers

7.—(1) A person who pursuant to regulation 6(8) requests the Welsh Ministers to make a screening direction (a “person making a request”) must submit with the request—

- (a) a copy of the request to the relevant planning authority under regulation 6(1) and the documents which accompanied it;
- (b) a copy of any notification received under regulation 6(5) and of any response sent;
- (c) a copy of any screening opinion received from the authority and of any accompanying statement of reasons; and
- (d) any representations that the person wishes to make.

(2) A person making a request must send to the relevant planning authority a copy of that request and the representations that person makes to the Welsh Ministers.

(3) If the Welsh Ministers consider that sufficient information to make a screening direction has not been provided, they must give notice to the person making the request.

(4) The notice must specify the points on which additional information is required.

(5) The Welsh Ministers may also request the relevant planning authority to provide such information as they can on any of those points.

(6) The Welsh Ministers must make a screening direction within—

- (a) 21 days; or
- (b) such longer period not exceeding 90 days as may be reasonably required,

in either case, from the date on which the person making the request submits the information required under paragraph (1).

(7) Where the Welsh Ministers consider that due to exceptional circumstances relating to the proposed development it is not practicable for them to adopt a screening direction within the period of 90 days, the Welsh Ministers may extend that period by giving notice in writing to the person who made the request for a screening direction.

(8) The Welsh Ministers must state in any notice under paragraph (7) the reasons justifying the extension and the date when the determination is expected.

(9) The Welsh Ministers must send a copy of any screening direction made pursuant to paragraph (6) to the person who made the request, the applicant (if they are not the person who made the request) and the relevant planning authority as soon as reasonably practicable.

