
WELSH STATUTORY INSTRUMENTS

2017 No. 567

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

PART 9

Restrictions of Grants of Permission

New simplified planning zone schemes or enterprise zone orders

38. No—

- (a) adoption or approval of a simplified planning zone scheme⁽¹⁾;
- (b) an order designating an enterprise zone made under section 88 of the 1990 Act; or
- (c) the approval of a modified scheme in relation to such an enterprise zone,
may—
 - (i) grant planning permission for EIA development; or
 - (ii) grant planning permission for Schedule 2 development unless that grant is made subject to the prior adoption of a screening opinion or prior making of a screening direction that the particular proposed development is not EIA development.

Local development orders

39.—(1) This regulation applies in relation to Schedule 2 development for which a local planning authority propose to grant planning permission by local development order.

(2) Where this regulation applies—

- (a) the local planning authority must not adopt or revise a local development order unless they have either requested and adopted a screening opinion or the Welsh Ministers have made a screening direction;
- (b) regulation 7(1) applies as if the words “pursuant to regulation 6(8)” were omitted;
- (c) regulations 6(2) to (9), 7 and 8 apply as if references to—
 - (i) an application for planning permission, are to a proposal for a local development order;
 - (ii) a relevant planning authority, are to the local planning authority to whom it would fall to adopt or revise the local development order;
 - (iii) the applicant, are to the authority; and
 - (iv) a Schedule 2 application are to a proposal for a local development order to grant planning permission for Schedule 2 development.

(3) Paragraph (4) and Schedule 5 apply where—

⁽¹⁾ See the definition of “simplified planning zone” in section 336 of the 1990 Act.

(a) the local planning authority adopts a screening opinion; or
 (b) the Welsh Ministers make a screening direction,
 to the effect that the development concerned is EIA development.

(4) The local planning authority must not adopt or revise a local development order which grants planning permission for Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location unless an environmental impact assessment has been carried out in respect of that development.

Section 97 orders and section 102 orders

40.—(1) This regulation applies where a local planning authority or the Welsh Ministers propose to make or confirm a section 97 order modifying any permission to develop land or a section 102 order granting planning permission.

(2) The local planning authority must not make and the Welsh Ministers must not make or confirm a section 97 order or a section 102 order in relation to Schedule 2 development unless the authority have requested and adopted a screening opinion or the Welsh Ministers have made a screening direction.

(3) Where this regulation applies—

- (a) regulation 6(4) does not apply;
- (b) regulation 7(1) applies as if the words “pursuant to regulation 6(8)” were omitted;
- (c) regulations 6(2), (4), (5) to (9) and 7(1), (3) to (9) apply as if references to—
 - (i) an application for planning permission, are to a proposal for a section 97 or a section 102 order;
 - (ii) a relevant planning authority, are to the body to whom it falls to make the section 97 or section 102 order;
 - (iii) the applicant are to the initiating body; and
 - (iv) a Schedule 1 or a Schedule 2 application are to a proposal of a section 97 order or a section 102 order which would grant or modify planning permission for Schedule 1 development or Schedule 2 development respectively.

(4) Paragraphs (5) and (6) and Schedule 6 apply in either case—

- (a) to Schedule 1 development;
- (b) where either—
 - (i) the local planning authority adopts a screening opinion, or
 - (ii) the Welsh Ministers make a screening direction under these Regulations,

to the effect that the development is EIA development.

(5) The local planning authority must not make a section 97 order which permits or requires EIA development unless an environmental impact assessment has been carried out in relation to that development.

(6) The Welsh Ministers must not confirm or make a section 97 order or a section 102 order which permits or requires EIA development unless an environmental impact assessment has been carried out in relation to that development.

Action under section 141 of the 1990 Act

41.—(1) This regulation and Schedule 7 apply in relation to the exercise of functions by the Welsh Ministers under section 141(2) or (3) of the 1990 Act⁽²⁾.

(2) Where the Welsh Ministers receive a purchase notice under section 139(4) of the 1990 Act, the Welsh Ministers must not modify planning permission for EIA development or direct that, if an application for planning permission for EIA development is made, it must be granted unless an environmental impact assessment has been carried out in respect of that development.

(2) Section 141 of the 1990 Act enables Welsh Ministers to take certain action in relation to planning permission instead of confirming a purchase notice submitted to them pursuant to section 140 of the 1990 Act. A purchase notice may be served on a council pursuant to section 137 of the 1990 Act.