

SCHEDULE 5

Regulation 39(3)

Local Development Orders

1. In a case to which this Schedule has effect, these Regulations apply, subject to the following modifications.
2. Regulations 3, 9, 10, 12, 13, 20 and 21 do not apply.
3. In regulation 5—
 - (a) paragraph (2)(a) does not apply;
 - (b) in paragraph (2)(b) and (5), for “relevant” read “local”;
 - (c) read as if paragraphs (10) and (16) were omitted.
4. Regulation 11 applies as if references to—
 - (a) an application, or an application for planning permission, are to a proposal for a local development order;
 - (b) a relevant planning authority, are to the local planning authority to whom it would fall to make the local development order;
 - (c) the applicant, are to the local planning authority proposing the order; and
 - (d) the EIA application, are to a proposal for a local development order for EIA development.
5. Regulation 14 is to be read as if it provided—

“Scoping opinions

14.—(1) Where a proposed local development order is EIA development, the local planning authority may state its opinion as to the scope and level of detail of the information to be provided in the environmental statement (“a scoping opinion”).

(2) Before issuing a scoping opinion under paragraph (1) the local planning authority must prepare—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development including its location and technical capacity;
- (c) its likely significant effects on the environment; and
- (d) such other information or representations as the local planning authority may wish to provide or make.

(3) A local planning authority must not adopt a scoping opinion until they have consulted the consultees.

(4) Before adopting a scoping opinion the local planning authority must take into account—

- (a) the information prepared by the authority about the proposed development in accordance with paragraph (2);
- (b) the specific characteristics of the particular development;
- (c) the specific characteristics of development of the type concerned; and
- (d) the environmental features likely to be affected by the development.

(5) A local planning authority may ask the Welsh Ministers under regulation 15(1) to make a direction as to the information to be provided in the environmental statement (“scoping direction”).”

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Changes to legislation: There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, SCHEDULE 5. (See end of Document for details)

6. Regulation 15 is to be read as if it provided—

“Scoping directions

15.—(1) A request made under this paragraph pursuant to regulation 14 must include—

- (a) the information referred to in regulation 14(2)(a)(i) to (iii); and
- (b) any representations that the local planning authority wish to make.

(2) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the local planning authority.

(3) The notice must set out any points on which additional information is required.

(4) The Welsh Ministers must—

- (a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and
- (b) make a direction and send a copy to the local planning authority, within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(5) Before making a scoping direction the Welsh Ministers must take into account the matters specified in regulation 14(4).”

7. Regulation 16 is to be read as if it provided—

“Procedure to facilitate preparation of environmental statements

16.—(1) A local planning authority which intend to prepare an environmental statement may enquire of a consultee whether the consultee has any information which the consultee or the local planning authority consider relevant to the preparation of the environmental statement.

(2) If the consultee has such information it must treat the enquiry by the authority as a request for information by the local planning authority under regulation 5(1) of the Environmental Information Regulations 2004^{M1}.”

Marginal Citations

M1 S.I. 2004/3391.

8. Regulation 17 is to be read as if—

- (a) paragraphs (1) and (2) were omitted;
- (b) in paragraph (3)(d), for “applicant or appellant” it read “local planning authority”;
- (c) in paragraph (4)—
 - (i) in sub-paragraph (a), “or the Welsh Ministers, as appropriate,” were omitted; and
 - (ii) in sub-paragraph (b), for “applicant” it read “local planning authority”.

9. Regulation 18 is to be read as if it provided—

“Procedure where an environmental statement is prepared in relation to a local development order

18.—(1) Where a statement, referred to as an “environmental statement”, has been prepared in relation to EIA development for which a local planning authority propose to grant planning permission by a local development order, the local planning authority must—

- (a) send a copy of the statement to the consultees and inform them that they may make representations; and
- (b) notify any particular person of whom the authority are aware, who is likely to be affected by, or has an interest in, the application and who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent.

(2) The local planning authority must not make the local development order until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.”

10. Regulation 19 is to be read as if—

- (a) paragraph (1) were omitted;
- (b) paragraph (2) read—
 - “(2) The local planning authority must publish by local advertisement a notice stating—
 - (a) the name and address of the local planning authority;
 - (b) the address or location and the nature of the development referred to in the proposed local development order;
 - (c) that a copy of the draft order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
 - (d) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they are available for inspection (being a date not less than 30 days from the date on which the notice is published);
 - (e) details of a website maintained by or on behalf of the relevant planning authority on which the environmental statement and other documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days from the date on which the notice is published);
 - (f) an address (whether or not the same as that given under sub-paragraph (d)) in the locality in which the land is situated at which copies of the statement may be obtained;
 - (g) that copies may be obtained there so long as stocks last;
 - (h) if a charge is to be made for a copy, the amount of the charge; and
 - (i) that any person wishing to make representations about the order should make them before the latest date in accordance with sub-paragraph (d) or (e), to the local planning authority.”;
- (c) paragraph (3) were omitted;
- (d) in paragraph (4), “applicant” read “local planning authority”; and
- (e) paragraphs (6) to (8) were omitted.

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11. Regulation 22 is to be read as if it provided—

“Availability of copies of environmental statements

22. The local planning authority must ensure that a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for which the authority propose to grant planning permission by a local development order, are available at—

- (a) their principal office during normal office hours; and
- (b) at such other places within their area as they consider appropriate; and the environmental statement can be accessed at the website referred to in the notice required under regulation 19(2)(e).”

12. Regulation 24 is to be read as if—

(a) paragraph (1) read—

“(1) Where an environmental statement has been prepared and the local planning authority are of the opinion that, in order to satisfy the requirements of regulation 17(3) it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the proposed development in order to be an environmental statement, the authority must ensure that additional information is provided, and such information is referred to in these Regulations as “further information” (“*gwybodaeth bellach*”).”;

(b) paragraph (3) read—

“(3) The local planning authority must publish by local advertisement a notice stating—

- (a) the name and address of the authority;
- (b) the address or location and the nature of the development referred to in the proposed local development order;
- (c) that further information is available in relation to an environmental statement which has already been provided;
- (d) that a copy of the further information may be inspected by members of the public at all reasonable hours;
- (e) an address in the locality in which the land is situated at which the further information may be inspected, and the latest date on which it is available for inspection (being a date not less than 30 days from the date on which the notice is published);
- (f) details of a website maintained by or on behalf of the authority on which the environmental statement and other documents may be inspected, and the latest date on which they are available for access (being a date not less than 30 days from the date on which the notice is published);
- (g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the further information may be obtained;
- (h) that copies may be obtained there so long as stocks last;
- (i) if a charge is to be made for a copy, the amount of the charge;
- (j) that any person wishing to make representations about the further information should make them before the latest date specified in accordance with sub-paragraphs (e) and (f), to the authority; and
- (k) the address to which representations should be sent.”;

(c) paragraph (4) read—

“(4) The local planning authority must send a copy of the further information and any other information to each person to whom, in accordance with these Regulations, the statement to which it relates was sent and to the Welsh Ministers.”;

(d) paragraphs (5) and (6) were omitted;

(e) paragraph (7) read—

“(7) Where information is provided under paragraph (1) the local planning authority must not make the local development order before the expiry of 30 days after the latest of—

- (a) the date on which the further information was sent to all persons to whom the statement to which it relates was sent;
- (b) the date that notice of it was published in a local newspaper; or
- (c) the date that notice of it was published on a website.”;

(f) in paragraph (8)—

- (i) instead of “The applicant or appellant who provides” it read “The local planning authority providing”; and
- (ii) in sub-paragraph (a), after “number of copies of the” it read “further information or other”.

13. Regulation 25 is to be read as if in paragraph (1) “an application or appeal” read “whether to make a local development order”.

14. Regulation 27 is to be read as if paragraphs (1) and (2) read—

“(1) Where particulars of a draft local development order are placed on Part 3 of the register, the local planning authority must take steps to secure that there is also placed on that Part a copy of any relevant—

- (a) screening opinion;
- (b) screening direction;
- (c) scoping opinion;
- (d) direction under regulation 5(4) or (5);
- (e) statement referred to as the environmental statement including any further information;
- (f) statement of reasons accompanying any of the above.

(2) Where the relevant planning authority adopt a screening opinion or scoping opinion, or receive a copy of a screening direction before a local development order is made, the local planning authority must take steps to secure that a copy of the opinion or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant section of that register) is kept.”

15. Regulation 28 is to be read as if paragraph (1) read—

“(1) Where a local planning authority make a local development order granting permission for EIA development, they must prepare a statement setting out the information specified in paragraph (2).”

16. Regulation 29 is to be read as if—

- (a) in paragraph (1) for “Where an EIA application is determined by a local planning authority” it read “Where a local planning authority adopt a local development order granting permission for development which constitutes EIA development”;
- (b) paragraph (2) was omitted; and

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(c) in paragraph (3) the reference to “relevant planning authority” read “local planning authority”.

17. Regulation 56 is to be read as if—

(a) paragraph (1)(a) read—

“(a) it comes to the attention of the Welsh Ministers that EIA development proposed to be carried out in Wales for which a local planning authority propose to grant planning permission by a local development order is likely to have significant effects on the environment in another EEA State; or”;

(b) in paragraphs (3) and (6), instead of “application” it read “proposed local development order”.

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