



Infrastructure (Wales) Act 2024

2024 asc 3

PART 2

REQUIREMENT FOR INFRASTRUCTURE CONSENT

The requirement

19 Requirement for infrastructure consent

The consent of the Welsh Ministers (“infrastructure consent”) is required for development to the extent that the development is or forms part of a significant infrastructure project.

20 Effect of requirement for infrastructure consent

- (1) To the extent that infrastructure consent is required for development, none of the following is required for the development—
 - (a) planning permission;
 - (b) consent under section 36 or 37 of the Electricity Act 1989 (c. 29) (construction etc. of generating stations and installation of overhead lines);
 - (c) authorisation under the following Parts of the [Historic Environment \(Wales\) Act 2023 \(asc 3\)](#)—
 - (i) Part 2 (works affecting scheduled monuments: class authorisations and authorisation by scheduled monument consent);
 - (ii) Part 3 (works affecting listed buildings: authorisation by listed building consent);
 - (iii) Part 4 (demolition of buildings in conservation areas: authorisation by conservation area consent).
- (2) To the extent that infrastructure consent is required for development, the development may not be authorised by any of the following—
 - (a) an order under section 14 or 16 of the Harbours Act 1964 (c. 40) (orders in relation to harbours, docks and wharves);

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- (b) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as to railways, tramways, inland waterways etc.).
- (3) If infrastructure consent is required for the construction, improvement or alteration of a highway, none of the following may be made or confirmed in relation to the highway or in connection with the construction, improvement or alteration of the highway—
- (a) an order under section 10 of the Highways Act 1980 (c. 66) (general provisions as to trunk roads) directing that the highway should become a trunk road;
 - (b) an order under section 14 of that Act (supplementary orders relating to trunk roads and classified roads);
 - (c) a scheme under section 16 of that Act (schemes authorising the provision of special roads);
 - (d) an order under section 18 of that Act (supplementary orders relating to special roads);
 - (e) an order or scheme under section 106 of that Act (orders and schemes providing for construction of bridges over or tunnels under navigable waters);
 - (f) an order under section 108 of that Act (orders authorising the diversion of navigable watercourses);
 - (g) an order under section 6 of the New Roads and Street Works Act 1991 (c. 22) (toll orders).
- (4) If infrastructure consent is required for the construction, improvement or alteration of a highway, section 110 of the Highways Act 1980 (c. 66) (power to authorise diversion of non-navigable waters) does not apply in relation to the highway or in connection with the construction, improvement or alteration of the highway.

Powers to change the requirement or its effect

21 Power to add or remove types of consent

- (1) The Welsh Ministers may by regulations—
- (a) amend section 20(1) or (2)—
 - (i) to add or remove a type of consent, or
 - (ii) to vary the cases in relation to which a type of consent is within those subsections;
 - (b) make further provision about—
 - (i) the types of consent that are, and are not, within section 20(1) or (2), or
 - (ii) the cases in relation to which a type of consent is, or is not, within either of those subsections.
- (2) Regulations made under subsection (1)(b) may amend, modify, repeal or revoke an enactment (including an enactment contained in this Act).
- (3) In this section, “consent” means—
- (a) consent, authorisation or permission required, under an enactment, to be obtained for development,
 - (b) consent, authorisation or permission, that—
 - (i) may authorise development, and
 - (ii) is given under an enactment, or

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- (c) notice that is required by an enactment to be given in relation to development.

22 Directions specifying development as a significant infrastructure project

- (1) The Welsh Ministers may give a direction specifying development as a significant infrastructure project.
- (2) The Welsh Ministers may only give a direction under subsection (1) if—
 - (a) the development will (when completed) be wholly or partly in Wales or the Welsh marine area,
 - (b) the development is or forms part of a project (or proposed project) that the Welsh Ministers consider to be of national significance to Wales, either by itself or when considered with one or more other projects, and
 - (c) the development is or forms part of a project (or proposed project) of a kind specified in regulations.
- (3) A direction under subsection (1) applies to a development partly in Wales or the Welsh marine area only to the extent that the development is in Wales or the Welsh marine area.
- (4) The Welsh Ministers may require an authority within subsection (5) to provide any information required by the Welsh Ministers for the purpose of enabling them to decide—
 - (a) whether to give a direction under subsection (1), and
 - (b) the terms in which such a direction should be given.
- (5) An authority is within this subsection if an application for a section 20 consent in relation to the development has been, or may be, made to it.

23 Directions for applications to be treated as applications for infrastructure consent

- (1) If the Welsh Ministers give a direction under section 22 in relation to development, the Welsh Ministers may—
 - (a) if an application for a section 20 consent has been made in relation to the development, direct the application to be treated as an application for infrastructure consent;
 - (b) if a person proposes to make an application for such a consent in relation to the development, direct the proposed application to be treated as a proposed application for infrastructure consent.
- (2) A direction under this section may provide for specified provisions of any enactment (including an enactment contained in this Act)—
 - (a) to have effect in relation to the application, or proposed application, with any specified modifications, or
 - (b) to be treated as having been complied with in relation to the application or proposed application.
- (3) If the Welsh Ministers give a direction under this section, the relevant authority must refer the application, or proposed application, to the Welsh Ministers instead of dealing with it themselves.

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- (4) If the Welsh Ministers are considering whether to give a direction under this section, the Welsh Ministers may direct the relevant authority to take no further action in relation to the application, or proposed application, until the Welsh Ministers have decided whether to give the direction.
- (5) In this section, “relevant authority”—
 - (a) in relation to an application for a section 20 consent that has been made, means the authority to which the application was made, and
 - (b) in relation to such an application that a person proposes to make, means the authority to which the person proposes to make the application.

24 Directions specifying that development is not a significant infrastructure project

- (1) The Welsh Ministers may give a direction specifying development that would otherwise be a significant infrastructure project as not being a significant infrastructure project.
- (2) Development specified under this section is not to be treated as a significant infrastructure project for the purposes of this Act.
- (3) The Welsh Ministers may only give a direction under subsection (1) if the development will (when completed) be partly in Wales or the Welsh marine area.
- (4) As soon as reasonably practicable after giving a direction under subsection (1), the Welsh Ministers must—
 - (a) publish the direction, and
 - (b) lay a statement about the direction before Senedd Cymru explaining its effect and why it was made.

25 Directions under section 22 to 24: general provision

- (1) This sections applies to directions under sections 22, 23 and 24.
- (2) A direction may be given subject to conditions.
- (3) A direction may specify the period for which it has effect.
- (4) The Welsh Ministers may give a direction following a qualifying request from a developer or where there is not a qualifying request from a developer.
- (5) The Welsh Ministers are not required to consider a request for a direction unless it is a qualifying request from a developer.
- (6) If the Welsh Ministers receive a qualifying request, they must give reasons for their decision to give or not to give the requested direction to the person who made the request.
- (7) In this section—
 - “developer” (“*datblygwr*”) means—
 - (a) a person who proposes to carry out any of the development to which the request relates;
 - (b) a person who has applied, or proposes to apply, for a section 20 consent in relation to any of that development;

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(c) a person who, if a direction under section 22(1) is given in relation to that development, proposes to apply for infrastructure consent for any of that development;

“qualifying request” (“*archiad cymhwysol*”) means a written request for a direction that specifies the development to which it relates.

26 Directions under section 22: regulations about procedure

Regulations may make provision about the following procedural matters in connection with directions under section 22, 23 or 24—

- (a) time limits for making decisions following requests for directions;
- (b) the form of requests for directions;
- (c) information to be provided in connection with requests for directions;
- (d) the persons or persons of a description to be notified in connection with requests for directions.