



Infrastructure (Wales) Act 2024

2024 asc 3

PART 8

SUPPLEMENTARY FUNCTIONS

Fees

124 Fees for performance of infrastructure consent functions and services

- (1) Regulations may make provision for or in connection with the charging of fees by—
 - (a) a specified public authority for performing an infrastructure consent function;
 - (b) a specified public authority for the provision of an infrastructure consent service.
- (2) “Infrastructure consent function” means a function conferred by, under or by virtue of this Act.
- (3) “Infrastructure consent service” means any advice, information or other assistance (including a response to a consultation or participating in the examination of an application by making a written submission, attending or giving evidence at a hearing or attending or giving evidence to a local inquiry) provided in connection with—
 - (a) an application or proposed application—
 - (i) for an infrastructure consent, or
 - (ii) to make a change to, or revoke, an infrastructure consent order, or
 - (b) any other specified matter relating to significant infrastructure projects.
- (4) Regulations under subsection (1) may, among other things, make provision about—
 - (a) when a fee (including a supplementary fee) may, and may not, be charged;
 - (b) the amount that may be charged (including provision specifying the amount or provision conferring a power to specify the amount);
 - (c) what may, and may not, be taken into account in calculating the amount charged;
 - (d) who is liable to pay a fee charged;

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- (e) to whom fees are to be paid;
 - (f) when a fee charged is payable;
 - (g) the recovery of fees charged;
 - (h) waiver, reduction or repayment of fees;
 - (i) the effect of paying or failing to pay fees charged (including provision permitting a public authority specified under subsection (1) to not do something the authority would otherwise be required to do under an enactment until any outstanding fees for doing it are paid);
 - (j) the transfer of fees payable to one person to another person;
 - (k) the supply or publication of information for any purpose of the regulations.
- (5) Regulations under subsection (1) may confer a function, including a function involving the exercise of a discretion, on any person.
- (6) Regulations under subsection (1)(a) may provide for the amounts of fees to be calculated by reference to costs incurred—
- (a) in the performance of any infrastructure consent function, and
 - (b) in doing anything that is calculated to facilitate, or is conducive or incidental to, the performance of any infrastructure consent function.
- (7) In this section, “specified” means specified in regulations.

Right of entry

125 Powers of entry to survey land

- (1) A person authorised in writing by the Welsh Ministers may at any reasonable time enter land in Wales for the purpose of surveying and taking levels of land, in connection with—
- (a) a valid application for infrastructure consent,
 - (b) a proposed application for infrastructure consent, or
 - (c) an infrastructure consent order that includes provision authorising the compulsory acquisition of that land or of an interest in it or right over it.
- (2) Authorisation may be given by the Welsh Ministers under subsection (1)(b) in relation to land only if it appears to the Welsh Ministers that the proposed applicant is considering a project of real substance genuinely requiring entry onto the land.
- (3) A person authorised under subsection (1) to enter land—
- (a) must, if required, produce evidence of the person’s authority, and state the purpose of the person’s entry, before entering,
 - (b) may not demand admission as of right to any land which is occupied unless 14 days’ notice of the intended entry has been given to the occupier,
 - (c) may take on to the land any other persons that are necessary,
 - (d) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it, and
 - (e) must comply with any other conditions subject to which the Welsh Ministers’ authorisation is given.

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- (4) Power conferred by subsection (1) to survey land includes power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals or other matter in it, subject to subsections (5) and (6).
- (5) No person may carry out under subsection (1) any works authorised by virtue of subsection (4) unless notice of the person’s intention to do so was included in the notice required by subsection (3)(b).
- (6) Authorisation by the appropriate Minister is required for the carrying out under subsection (1) of works authorised by virtue of subsection (4) if—
- (a) the land in question is held by statutory undertakers, and
 - (b) they object to the proposed works on the ground that execution of the works would be seriously detrimental to the carrying-on of their undertaking.
- (7) In subsection (6)—
- “the appropriate Minister” (“*y Gweinidog priodol*”) means—
 - (a) in the case of land in Wales held by water or sewerage undertakers, the Welsh Ministers, and
 - (b) in any other case the Secretary of State;
 - “statutory undertakers” (“*ymgymerwyr stadudol*”) means persons who are, or who are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of the TCPA 1990.
- (8) A person commits an offence if the person intentionally obstructs a person acting in the exercise of power under subsection (1).
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine.
- (10) If any damage is caused to land or other property—
- (a) in the exercise of a power of entry conferred under subsection (1), or
 - (b) in the making of a survey for the purpose of which any such power of entry has been conferred,
- a person suffering the damage may recover compensation from the person exercising the power of entry.
- (11) Any question of disputed compensation under subsection (10) must be referred to and determined by the Upper Tribunal.

126 Powers of entry to survey land: Crown land

- (1) Section 125(1) applies to Crown land subject to subsections (2) and (3).
- (2) A person must not enter Crown land unless the person (“P”) has the permission of—
- (a) a person appearing to P to be entitled to give it, or
 - (b) the appropriate Crown authority.
- (3) In section 125(4) (power of entry to survey land includes power to search and bore), the words “subject to subsections (5) and (6)” do not apply.
- (4) Subsections (3)(b), (5), (6), (8), and (9) of section 125 do not apply in relation to anything done by virtue of this section.

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Infrastructure policy statements

127 Infrastructure policy statements

- (1) The Welsh Ministers may by notice designate a document as an infrastructure policy statement for the purposes of this Act, if the document—
 - (a) is issued by the Welsh Ministers, and
 - (b) sets out a policy to guide decision making under this Act in relation to one or more kinds of significant infrastructure project.
- (2) In this Act, “infrastructure policy statement” means a document designated under subsection (1).
- (3) The Welsh Ministers may withdraw the designation of a document as an infrastructure policy statement by notice in writing.
- (4) The Welsh Ministers must publish and lay before Senedd Cymru—
 - (a) each notice designating a document as an infrastructure policy statement;
 - (b) each notice of the withdrawal of the designation of a document as an infrastructure policy statement.
- (5) If a document designated as an infrastructure policy statement has not previously been published, the Welsh Ministers must publish it.
- (6) If a document designated as an infrastructure policy statement has not previously been laid before Senedd Cymru, the Welsh Ministers must lay it before the Senedd.

Register of applications and pre-application services

128 Register of applications and pre-application services

- (1) The Welsh Ministers must maintain a register of—
 - (a) applications received by them for infrastructure consent;
 - (b) applications received by them for pre-application services;
 - (c) pre-application services provided by them.
- (2) If the Welsh Ministers receive a valid application for infrastructure consent, they must cause details of the application to be entered in the register.
- (3) If the Welsh Ministers receive an application for pre-application services, they must cause details of the application to be entered in the register.
- (4) If the Welsh Ministers provide pre-application services, they must cause details of the services provided to be entered into the register.
- (5) The Welsh Ministers must publish the register.
- (6) Regulations may make provision for or in connection with requiring each planning authority to maintain a register of—
 - (a) applications received by the Welsh Ministers for infrastructure consent for development wholly or partly in the area of the planning authority;
 - (b) applications received by the planning authority for pre-application services;
 - (c) pre-application services provided by the planning authority.

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- (7) Regulations may make provision for or in connection with requiring Natural Resources Wales to maintain a register of—
 - (a) applications received by Natural Resources Wales for pre-application services;
 - (b) pre-application services provided by Natural Resources Wales.
- (8) Regulations may, in relation to a register required to be maintained by or under this section, make provision about—
 - (a) the form and content of a register;
 - (b) public access to documents relating to entries in the register, including provision requiring the documents to be deposited, stored and made accessible as a facility of the register;
 - (c) the timing of entries to a register.

Statutory consultees

129 Power to consult and duty to respond to consultation

- (1) The Welsh Ministers or an examining authority may consult a public authority specified in regulations about a valid application for infrastructure consent.
- (2) The public authority consulted must give a substantive response.
- (3) That response must be given before the end of—
 - (a) a period specified in regulations, or
 - (b) if the authority and the Welsh Ministers or examining authority (as the case may be) agree otherwise in writing, whatever period is specified in their agreement.
- (4) Regulations may make provision—
 - (a) about information that is to be provided by the Welsh Ministers or an examining authority to an authority for the purposes of consultation under subsection (1);
 - (b) about the requirements of a substantive response;
 - (c) requiring an authority consulted under subsection (1) to give a report to the Welsh Ministers about the authority's compliance with subsection (2) (including provision as to the form and content of the report, and the time at which it is to be made).

Welsh Ministers' directions

130 Directions to public authorities

- (1) The Welsh Ministers may give a direction requiring a public authority to which this section applies to do things in relation to an application made to the Welsh Ministers.
- (2) This section applies to the following public authorities—
 - (a) a planning authority;
 - (b) Natural Resources Wales;
 - (c) a devolved Welsh authority specified in regulations.

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- (3) Directions given under this section—
 - (a) may relate to a particular application or description of application, or to applications generally;
 - (b) may be given to a particular public authority or description of public authority or to public authorities generally.
- (4) Regulations may make provision for or in connection with the recovery of costs incurred by public authorities for things done in pursuance of directions under this section.

131 Power to disapply requirements

- (1) Regulations may provide for a power for the Welsh Ministers to direct that requirements imposed by, under or by virtue of this Act do not apply in a case specified in the direction.
- (2) The regulations—
 - (a) must specify the requirements that may be dis-applied by direction;
 - (b) must require the Welsh Ministers to, as soon as reasonably practicable after making a direction—
 - (i) publish the direction, and
 - (ii) lay a statement about the direction before Senedd Cymru explaining its effect and why it was made;
 - (c) may authorise directions to apply in a particular case or cases generally.

Regulations about Crown applications

132 Applications by the Crown

- (1) This section applies to an application made by or on behalf of the Crown for infrastructure consent or change to or revocation of an infrastructure consent order (“a Crown application”).
- (2) The Welsh Ministers may by regulations modify or exclude any enactment (including an enactment contained in this Act) relating to—
 - (a) the procedure to be followed before a Crown application is made;
 - (b) the making of a Crown application;
 - (c) the decision-making process for such an application.