
EXPLANATORY NOTE

(This note is not part of the Regulations)

^{M1M2}These Regulations consolidate with amendments the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (“the 1999 Regulations”) and subsequent amending instruments. The 1999 Regulations consolidated and updated earlier instruments which implemented the 1985 Council Directive on the assessment of the effects of certain public and private projects on the environment .

^{M3M4}That 1985 Directive has been replaced by Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment . Directive 2011/92/EU has been amended by EU Directive 2014/52/EU .

The main changes to the 1999 Regulations are:

Regulation 4(5) and (7) introduce a requirement for the reasons for negative screening decisions to be provided and placed on Part 1 of the register, to be available for public inspection.

Regulation 4(8) clarifies that any person may ask the Welsh Ministers to exercise the power of direction.

Regulation 8 limits the requirement for subsequent applications to be subject to the screening process to those cases where the development in question is likely to have significant effects on the environment which were not identified at the time that the initial planning permission was granted.

Regulations 27 to 36(2) are provisions relating to applications for planning permission made directly to the Welsh Ministers.

Regulation 38 requires a local planning authority who propose to make a local development order to decide whether development is EIA development; and if it is, to take certain steps to enable them to take the environmental information into consideration before making the order.

Regulation 39 applies when a local planning authority or the Welsh Ministers propose to make either a section 97 order under section 97 or 100 of the Town and Country Planning Act 1990, or an order under section 102 or 104 of that Act.

^{M5}Paragraph 21 of Schedule 1 includes sites for the geological storage of carbon dioxide. Installations for the capture of carbon dioxide streams for the purposes of geological storage are included in order to implement requirements in the Directive on the Geological Storage of Carbon Dioxide (Directive 2009/31/EC) .

These Regulations raise and amend the thresholds in Schedule 2 at which certain types of development project will need to be screened in order to determine whether an environmental impact assessment is required under the Directive. These changes are made having taken into account the selection criteria in Annex III to Directive 2011/92/EU, as adopted by the European Parliament and the Council of the European Union on 13 December 2011.

The threshold for industrial estate development projects is raised from areas exceeding 0.5 hectares to areas exceeding 5 hectares (in paragraph 10(a) of the table in paragraph 2 of Schedule 2).

In the case of urban development projects, the existing threshold of 0.5 hectares is raised and amended such that a project needs to be screened if—

- the development includes more than 1 hectare of development which is not dwellinghouse development; or
- the development includes more than 150 dwellinghouses; or

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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 2016 (revoked)*. (See end of Document for details)

— the area of the development exceeds 5 hectares (see paragraph 10(b) of the table in paragraph 2 of Schedule 2).

A definition of “dwellinghouse” is inserted in regulation 2(1) for clarification in this context. Paragraph 13 of the table in paragraph 2 of Schedule 2 contains an amendment to the provisions relating to changes or extensions to existing development, so that the effects of the development as a whole once modified are considered.

A regulatory impact assessment has been prepared in relation to these Regulations. Copies may be obtained from Planning Division, The Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the website at <https://www.wales.gov.uk>.

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