
WELSH STATUTORY INSTRUMENTS

2016 No. 58

**The Town and Country Planning (Environmental
Impact Assessment) (Wales) Regulations 2016**

PART 3

Procedures Concerning Applications for Planning Permission

Application made to a local planning authority without an environmental statement

10.—(1) Where an EIA application before a local planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the authority must notify the applicant that the submission of an environmental statement is required.

(2) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, the relevant planning authority must notify the applicant of any such person.

(3) An authority must notify the applicant in accordance with paragraph (1)—

- (a) within 21 days beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; or
- (b) where the Welsh Ministers, after the expiry of that 21 days or any longer agreed period, make a screening direction to the effect that the development is EIA development, within 7 days beginning with the date the authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (1) may, within 21 days beginning with the date of the notification, write to the authority stating—

- (a) that the applicant accepts their view and is providing an environmental statement; or
- (b) unless the condition referred to in paragraph (5) is satisfied, that the applicant is writing to the Welsh Ministers to request a screening direction.

(5) For the purpose of paragraph (4)(b) the condition is that the Welsh Ministers have made a screening direction—

- (a) in respect of the development, in the case of an application for planning permission; or
- (b) pursuant to a subsequent application,
- (c) as the case may be.

(6) If the applicant does not write to the authority in accordance with paragraph (4), the permission or subsequent consent sought is deemed to be refused at the end of the relevant 21 days, unless the condition referred to in paragraph (7) is satisfied and the deemed refusal—

- (a) is treated as a decision of the authority for the purposes of article 29(3)(c) (register of applications) of the 2012 Order; but

(b) does not give rise to an appeal to the Welsh Ministers under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(1).

(7) For the purpose of paragraph (6) the condition is that the Welsh Ministers have made a screening direction to the effect that the development is not EIA development—

- (a) in the case of an application for planning permission; or
- (b) pursuant to a subsequent application,

as the case may be.

(8) Unless the Welsh Ministers make a screening direction to the effect that the development is not EIA development an authority which has given a notification in accordance with paragraph (1) must determine the relevant application only by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 17(6).

(9) A person who requests a screening direction pursuant to paragraph (4)(b) must send to the Welsh Ministers with the request copies of—

- (a) the application;
- (b) all documents sent to the authority as part of the application;
- (c) all correspondence between the applicant and the authority relating to the proposed development;
- (d) a copy of any planning permission granted for the development; and
- (e) in the case of a subsequent application, relevant documents or information relating to the planning permission granted for the development,

and paragraphs (2) to (7) of regulation 6 apply to a request under this regulation as they apply to a request made pursuant to regulation 5(7).

(1) Section 78 was amended by the 1991 Act, section 17(2); the Planning and Compulsory Purchase Act 2004 (c. 5), section 43(2); the Localism Act 2011 (c. 20), section 121 and Schedule 12, paragraphs 1 and 11 and section 123(1) and (3); the Planning Act 2008 (c. 29), section 196(4) and Schedule 10, paragraphs 1 and 3, section 197 and Schedule 11, paragraphs 1 and 2; the Growth and Infrastructure Act 2013 (c. 27), section 1(2) and Schedule 1, paragraphs 1 and 8; the Planning (Wales) Act 2015, sections 45 and 46; and by S.I. 2014/2773 (W. 280), article 3 and Schedule 1, paragraphs 1 and 3. There is another amendment which is not relevant to this instrument.