
WELSH STATUTORY INSTRUMENTS

2017 No. 567

**The Town and Country Planning (Environmental
Impact Assessment) (Wales) Regulations 2017**

PART 9

Restrictions of Grants of Permission

Section 97 orders and section 102 orders

40.—(1) This regulation applies where a local planning authority or the Welsh Ministers propose to make or confirm a section 97 order modifying any permission to develop land or a section 102 order granting planning permission.

(2) The local planning authority must not make and the Welsh Ministers must not make or confirm a section 97 order or a section 102 order in relation to Schedule 2 development unless the authority have requested and adopted a screening opinion or the Welsh Ministers have made a screening direction.

(3) Where this regulation applies—

- (a) regulation 6(4) does not apply;
- (b) regulation 7(1) applies as if the words “pursuant to regulation 6(8)” were omitted;
- (c) regulations 6(2), (4), (5) to (9) and 7(1), (3) to (9) apply as if references to—
 - (i) an application for planning permission, are to a proposal for a section 97 or a section 102 order;
 - (ii) a relevant planning authority, are to the body to whom it falls to make the section 97 or section 102 order;
 - (iii) the applicant are to the initiating body; and
 - (iv) a Schedule 1 or a Schedule 2 application are to a proposal of a section 97 order or a section 102 order which would grant or modify planning permission for Schedule 1 development or Schedule 2 development respectively.

(4) Paragraphs (5) and (6) and Schedule 6 apply in either case—

- (a) to Schedule 1 development;
- (b) where either—
 - (i) the local planning authority adopts a screening opinion, or
 - (ii) the Welsh Ministers make a screening direction under these Regulations,

to the effect that the development is EIA development.

(5) The local planning authority must not make a section 97 order which permits or requires EIA development unless an environmental impact assessment has been carried out in relation to that development.

(6) The Welsh Ministers must not confirm or make a section 97 order or a section 102 order which permits or requires EIA development unless an environmental impact assessment has been carried out in relation to that development.