
WELSH STATUTORY INSTRUMENTS

2017 No. 567

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

PART 2

Screening

General provisions relating to screening

5.—(1) Subject to paragraphs (3) and (4), the occurrence of an event mentioned in paragraph (2) determines for the purpose of these Regulations that development is EIA development.

(2) The events referred to in paragraph (1) are—

- (a) the submission by the applicant or appellant in relation to that development of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these Regulations; or
- (b) the adoption by the relevant planning authority of a screening opinion to the effect that the development is EIA development.

(3) A direction of the Welsh Ministers determines for the purpose of these Regulations whether development is or is not EIA development.

(4) The Welsh Ministers may direct that these Regulations do not apply in relation to a particular proposed development specified in the direction—

- (a) in accordance with Article 2(4) of the Directive (without prejudice to Article 7 of the Directive) where in the opinion of the Welsh Ministers the application of these Regulations would adversely affect the purpose of the development;
- (b) if the development comprises or forms part of a project having the response to civil emergencies as its sole purpose and in the opinion of the Welsh Ministers compliance with these Regulations would adversely affect those purposes.

(5) Where a direction is given under paragraph (4)(a) or (4)(b) the Welsh Ministers must send a copy of any such direction to the relevant planning authority.

(6) Where a direction is given under paragraph (4)(a) the Welsh Ministers must—

- (a) make available to the public the information considered in making the direction and the reasons for making the direction;
- (b) consider whether another form of assessment would be appropriate; and
- (c) take such steps they consider appropriate to bring the information obtained under the other form of assessment to the attention of the public.

(7) In cases where development is adopted⁽¹⁾ under an Act of the National Assembly for Wales or a measure made under powers contained in such an Act, the Welsh Ministers may (without

⁽¹⁾ See Article 2(5) of the Directive.

prejudice to Article 7 of the Directive) exempt that development from the provisions relating to public consultation in the Directive provided the objectives of the Directive are met.

(8) Where a local planning authority or the Welsh Ministers have to decide under these Regulations whether Schedule 2 development is EIA development, the authority or the Welsh Ministers must take into account in making that decision—

- (a) any information provided by the person minded to carry out development;
- (b) the available results of other environmental assessments carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive; and
- (c) such of the selection criteria set out in Schedule 3 as are relevant to the development.

(9) Where a local planning authority adopt a screening opinion, or the Welsh Ministers make a screening direction—

- (a) that opinion or direction must state the main reasons for the conclusion of the authority or the Welsh Ministers, as appropriate, with reference to the relevant criteria listed in Schedule 3;
- (b) if it is determined that proposed development is not EIA development, that opinion or direction must state any features of the proposed development and measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(10) The authority or the Welsh Ministers, as appropriate, must send a copy of the opinion or direction to the person who proposes to carry out, or who has carried out, the development in question.

(11) The Welsh Ministers may make a screening direction either—

- (a) of their own volition; or
- (b) if requested to do so by any person.

(12) The Welsh Ministers may direct that particular development of a description mentioned in Column 1 of the table in Schedule 2 is EIA development in spite of the fact that neither of sub-paragraphs (a) and (b) of the definition of “Schedule 2 development” is satisfied in relation to that development.

(13) If the Welsh Ministers make a screening direction in accordance with paragraph (11), they must—

- (a) take such steps as appear to be reasonable to them in the circumstances, having regard to the requirements of regulation 6(2) and (4), to obtain information about the proposed development to inform a screening direction;
- (b) take into account in making that direction—
 - (i) the information gathered in accordance with sub-paragraph (a);
 - (ii) the available results of other environmental assessments carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive; and
 - (iii) such of the selection criteria set out in Schedule 3 as are relevant to the development; and
- (c) issue a screening direction within 90 days from the date on which the Welsh Ministers have obtained sufficient information to make a direction.

(14) Where the Welsh Ministers consider that due to exceptional circumstances relating to the circumstances of the proposed development that it is not practicable for them to adopt a screening direction within the period specified in paragraph (13)(c), the Welsh Ministers may extend that period by notice given to the person who made the request for a screening direction.

(15) The Welsh Ministers must state in any notice given under paragraph (14) the reasons justifying the extension and the date when the determination is expected.

(16) The Welsh Ministers must send a copy of any screening direction to the relevant planning authority.