

SCHEDULE 7 **E+W**

Regulation 41

Functions under Section 141 of the 1990 Act

1. In a case to which this Schedule has effect, these Regulations apply subject to the following modifications.

2. Regulations 3, 7(2), 8 to 13, 18 and 21 do not apply.

3. In this Schedule and in the application of other regulations by this Schedule, references to—

(a) the “applicant” (“*y ceisydd*”) are to—

- (i) the applicant for planning permission which has previously been determined;
- (ii) the mineral planning authority in the case of an order under paragraph 1 of Schedule 9 to the 1990 Act;
- (iii) the initiating body in respect of a section 97 or 102 order; or
- (iv) a person who may apply for planning permission if the Welsh Ministers exercised their functions under section 141(3) of the 1990 Act;

(b) the “application” (“*y cais*”) are to—

- (i) the proposal to grant or modify planning permission;
- (ii) the proposal for a section 97 or section 102 order;
- (iii) the application for planning permission which would be required for the development in question following any direction under section 141(3) of the 1990 Act.

4.—(1) Where, on consideration of a purchase notice it appears to the Welsh Ministers that—

- (a) the relevant application is, or would be, a Schedule 1 application or a Schedule 2 application; and
- (b) the development in question—
 - (i) has not been the subject of a screening opinion or screening direction; or
 - (ii) has been the subject of a screening opinion or direction before planning permission was granted or modified to the effect that it is not EIA development; and
- (c) the relevant application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations paragraphs (3) and (4) of regulation 7 apply as if the request for confirmation of the purchase notice were a request made by the applicant pursuant to regulation 6(8).

(2) Where regulation 7(3) applies by virtue of paragraph (1), the Welsh Ministers must, where and insofar as necessary to ensure that the applicant has provided, in the case of—

- (a) applications where no screening opinion or direction has been made, the information referred to in regulation 6(2); and
- (b) other applications, the information referred to in regulation 6(3),

make a request for additional information before issuing a screening direction.

5. Where it appears to the Welsh Ministers that the relevant application is an EIA application and is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, they must—

- (a) notify the applicant that the submission of an environmental statement is required; and
- (b) send a copy of that notification to the relevant planning authority (if they are not the applicant).

Changes to legislation: There are currently no known outstanding effects for the *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, SCHEDULE 7. (See end of Document for details)*

6.—(1) Where the applicant proposes to submit an environmental statement, these Regulations apply to the applicant and relevant application—

- (a) as they apply to appellants and appeals, in the cases of proposed actions under section 141 of the 1990 Act—
 - (i) to grant planning permission;
 - (ii) to revoke or amend the conditions attached to a planning permission;
 - (iii) to direct that, if an application for planning permission were made, it must be granted; and
- (b) as they apply to the initiating body and a proposed section 97 order or a proposed section 102 order, in the cases of proposed actions under section 141 of the 1990 Act—
 - (i) to revoke or amend conditions attaching to such an order;
 - (ii) to amend such an order.

(2) Where the applicant proposes to submit an environmental statement the applicant must comply with the provisions of article 12(7A)^{M1} of the 2012 Order (publicity for applications for planning permission) as if the environmental statement had been submitted in relation to a planning application falling within article 12(2) of the 2012 Order and as if, in article 12(7A) to the 2012 Order the references to an application for planning permission were to a proposal to act under section 141(2) or (3) of the 1990 Act.

(3) Where the Welsh Ministers are 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, they must notify the applicant of any such person.

(4) An applicant who receives a notification under paragraph 5 of this Schedule, may within 21 days beginning with the date of the notification, confirm to the Welsh Ministers in writing that an environmental statement will be provided.

(5) If the applicant does not write in accordance with paragraph (4), at the end of the 21 days the Welsh Ministers must not take action under section 141(2) or (3) of the 1990 Act.

Marginal Citations

M1 [Article 12\(7A\)](#) is inserted in the 2012 Order by paragraph 1(3)(h) of Schedule 9 to these Regulations.

7. Where—

- (a) a notification has been given under paragraph 6(3), and
- (b) the applicant does not submit an environmental statement and comply with regulation 19(6),

the Welsh Ministers must determine the matter only by confirming or refusing to confirm the purchase notice.

8. Where it appears to the Welsh Ministers that the environmental information already before them—

- (a) is adequate to assess the environmental effects of the development which is the subject of the proposed action under section 141(2) or (3) of the 1990 Act, they must take that information into consideration in their decision;
- (b) is not adequate to assess the environmental effects of the development, they must serve a notice seeking further information in accordance with regulation 24(1); and

regulations 14 to 17 and 19 to 28 of these Regulations apply to the applicant and application—

- (i) as they apply to appellants and appeals in the case of—
 - (aa) a proposal to grant planning permission;
 - (bb) a proposal to revoke or amend the conditions attached to a planning permission; or
 - (cc) a proposal to direct that, if an application for planning permission were made, it must be granted; and
- (ii) as they apply to the initiating body and a proposed section 97 order or a proposed section 102 order in the case of—
 - (aa) a proposal to revoke or amend conditions attaching to such an order; or
 - (bb) a proposal to amend such an order; and
- (iii) as if references to the “relevant planning authority” were to the local planning authority who would determine any application for planning permission for the development in question were such an application to be submitted.

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, SCHEDULE 7.