

SL(6)623 – The Infrastructure Consent (Examination and Decision) (Procedure) (Wales) Regulations 2025

Background and Purpose

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable the making and consideration of applications for infrastructure consent. The process broadly applies to significant infrastructure projects that are energy, transport, waste and water projects.

These Regulations make provision additional to that in the 2024 Act about pre-application requirements and applying for infrastructure consent. They deal with the examination procedure which follows an application, and, in particular, they make further provision in relation to an examining authority, preparation for and the examination of applications and post-examination processes.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following 16 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 2 defines “application” as “an application for infrastructure consent made under section 32 of the 2024 Act and includes any agreed variation”. However, “agreed variation” is not defined and there is no information as to what constitutes an agreed variation and who needs to agree to it in the Regulations. If this information is set out in the Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations then this should be specifically referenced in the definition of “application”.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

In regulation 2(1), there is a definition of “land” for these Regulations. However, there is another definition of “the land” in paragraph 3 of Schedule 2. Therefore, the definition of “land”



in regulation 2(1) should alert the reader to this fact, possibly by using a phrase such as “, other than in Schedule 2,”.

3. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 6(2), there is a difference between the English and Welsh text. In the English text, it notes “any change of or to the examining authority” but the meaning given by the Welsh text is “any change to the examining authority”.

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 6(3), there is a difference between the English and Welsh text. In the English text, it notes “The person who is the examining authority or the chair of the panel who is the examining authority...”. But the meaning given by the Welsh text is “The person who performs the role of the examining authority or the chair of the panel who performs the role of the examining authority...”. This gives the potential for confusion not only between the two texts, but also in the Welsh text could lead to ambiguity regarding the application of the regulation.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 11(4)(b) refers the reader to “regulation 24(2)” but it does not identify the Regulations in which that regulation is found. It should also state “of the 2025 Compulsory Acquisition Regulations” afterwards to complete that reference.

6. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 14(5) imposes requirements regarding the display of a notice for applications relating to “linear development”. The Regulations do not provide a meaning for this term and therefore it is unclear on the face of the Regulations what a “linear development” is.

7. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

In regulations 15(1) and 26(1)(a), “an inquiry” is used without a previous reference to “a local inquiry”. Elsewhere it always refers to “a local inquiry” on the first occasion in a provision before using phrases such as “an inquiry” or “the inquiry” when referring back to that local inquiry. The Committee assumes that regulations 15(1) and 26(1)(a) should refer to “local inquiry” but clarification is requested.

8. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 15(2), there is a difference between the English and Welsh text. In the English text, it notes that “The examining authority may require the person to prepare a written



statement of that evidence.” But in the Welsh text the meaning of “may” has been expressed by using “gall” which only suggests the possibility of the examining authority requiring such a written statement – “The examining authority might require...”. However, the use of “may” in this provision appears to be conferring discretionary legal power on the examining authority to require a written statement. In which case the Style Guide of the Welsh Government’s Legislative Translation Unit notes that either “caiff” or “caniateir” are the appropriate choice in this context in the Welsh text of legislation.

9. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 17, there is a difference in the numbering of the English and Welsh text. In the English text, the provision is numbered as regulation “17”, but in the Welsh text it is incorrectly numbered as regulation “17-(1)” even though there is no paragraph (2) in that regulation.

10. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulations 20 and 21 permit the making of “closing submissions” in relation to hearings and local inquiries respectively. “Closing submissions” is defined for the purpose of regulation 20 but not for regulation 21. It is therefore not clear whether “closing submissions” is intended to have the same meaning in regulation 21 as it does in regulation 20.

11. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 25 requires the examining authority to give notice of the name of any assessor, solicitor or barrister appointed to assist them. Regulation 25(2) states that notice must be given of the matters in relation to which any assessor has been appointed to assist, but there is no similar requirement in relation to any barrister or solicitor who has been appointed.

12. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 27(6), there is a difference between the English and Welsh text. In the English text, it states that the notice “must specify” the purposes of the meeting etc. But the meaning given by the Welsh text is that the notice “must note” the purposes of the meeting etc. This is because the Welsh text has used “nodi” to express the meaning of “specify” but “pennu” is the word standardised for “specify” by the Glossary of the Welsh Government’s Legislative Translation Unit.

13. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts



In regulation 28(11)(a), there is a difference between the English and Welsh text. In the English text, the cross-reference refers to “paragraph (7)” but in the Welsh text it incorrectly refers to “paragraph (11)”.

14. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

In regulation 33, it notes that “they must send to the interested parties... a written statement” after referring earlier in that regulation to both “the examining authority” and “the Welsh Ministers”. However, it appears to be placing an obligation on “the examining authority” by using a plural pronoun rather than on “the Welsh Ministers” which is confusing for the reader as to the meaning of the regulation. In this regard, plural pronouns have been used throughout these Regulations when referring to “the examining authority” although the Welsh Government’s drafting guidelines recommend using a singular pronoun “it” rather than a plural pronoun “they” when referring to public bodies such as a local authority, a tribunal or a committee.

15. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 34(1)(b), the reference is incomplete as it refers to “section 60(3)(a)” without identifying the Act in which that section is found. In regulation 35, the references to other provisions also found in section 60 identify the Act by noting “of the 2024 Act”. Therefore, it is also an inconsistent approach to the description of references found in the same Act. Similarly, paragraphs 1(d) and (e) and 2(a) and (b) of Schedule 2 to the Regulations refer to various sections, but no Act is specified in relation to these sections. It is assumed that they are reference to provisions of the 2024 Act but this should be explicitly stated.

16. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In Schedule 1, in paragraph 3(b), the amendment to regulation 3(3) of the Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006 does not make sense. The existing sub-paragraphs in regulation 3(3) of the 2006 Regulations are numbered (a) to (c). Therefore, it does not make sense to insert a new sub-paragraph numbered as (i) which includes a description of another amendment to be inserted “after sub-paragraph (c)”. It appears that paragraph 3(b) of Schedule 1 should state “in paragraph (3), after sub-paragraph (c) insert-” followed by the text of the new sub-paragraph (d).

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.



Committee Consideration

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee