

SL(6)748 – The Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026

Background and Purpose

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable making and consideration of applications for infrastructure consent. The process applies to the significant infrastructure projects that are specified in Part 1 of the 2024 Act. Broadly, they are energy, transport, waste and water projects.

Part 6 of the 2024 Act makes provision about infrastructure consent orders (orders granting infrastructure consent) including provision giving the Welsh Ministers power, by order, to change or revoke an infrastructure consent order (section 90 of the 2024 Act).

Schedule 2 to the 2024 Act makes provision about compensation where an infrastructure consent order is changed or revoked by the Welsh Ministers without an application being made.

These Regulations make provision about the way in which, and the period within which, a claim for compensation under that Schedule must be made. They also specify the minimum amount of compensation for depreciation under paragraph 2 of Schedule 2.

Procedure

Senedd approval procedure.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following point is 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.

In regulation 2(1)(a), the terms “land” and “minerals” are used which have both been defined with a meaning by section 143(1) of the Infrastructure (Wales) Act 2024. However, they have not been defined with the same meaning by regulation 2(4) of these Regulations, which is the interpretation provision for regulation 2. The Legislation (Wales) Act 2019 does not include a provision that implies the meaning of defined terms in any subordinate legislation



made under the parent Act. Therefore, there should be definitions of those terms in regulation 2(4) if the intention is for those terms to bear the same meaning in regulation 2(1)(a) of these Regulations. In addition, it appears an inconsistent approach to include the definitions of some but not all of the relevant terms of the Infrastructure (Wales) Act 2024 in regulation 2(4) of these Regulations.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Explanatory Memorandum accompanying these Regulations states that they were not subject to formal consultation. Paragraphs 5.6-5.9 of the Explanatory Memorandum includes the following:

“5.6 The Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026 were not subject to formal consultation.

5.7 The principle of compensation for unilateral orders was raised in the consultation and as part of the Welsh Government response, a commitment was made to give consideration to these matters when developing subordinate legislation. These regulations reflect that commitment.

5.8 Furthermore, the principle of matters relating to compensation was also agreed as part of the development of the Infrastructure (Wales) Act 2024 and will have limited impact on applicants and other stakeholders. This is because a claim for compensation under these regulations may only be sought in circumstances where the Welsh Ministers unilaterally change or revoke an infrastructure consent order, which is not expected to occur frequently.

5.9 Finally, the Infrastructure Consent (Compensation for Changing or Revoking Infrastructure Consent Orders) (Wales) Regulations 2026 relate to procedural matters which reflect similar provisions in existing consenting regimes, and follow the proposals set out in the Statement of Policy Intent that accompanied the Bill.”

Welsh Government response

A Welsh Government response is required to reporting point 1.

Committee Consideration

The Committee considered the instrument at its meeting on 23 February 2026 and reports to the Senedd in line with the reporting points above.

