

**Explanatory Memorandum to The Infrastructure (Wales) Act 2024
(Consequential, Transitional, Revocation and Saving Provision) Regulations
2025.**

This Explanatory Memorandum has been prepared by the Planning Directorate and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Infrastructure (Wales) Act 2024 (Consequential, Transitional, Revocation and Saving Provision) (Wales) Regulations 2025.

Rebecca Evans MS
Cabinet Secretary for Economy, Energy and Planning

17 November 2025

PART 1

Description

1. The Infrastructure (Wales) Act 2024 (Consequential, Transitional, Revocation and Saving Provision) Regulations 2025 make necessary amendments to secondary legislation as a consequence of the commencement of the Infrastructure (Wales) Act 2024 ("the Act") which creates a unified consenting regime for major infrastructure projects in Wales, both on land and in the Welsh territorial sea.

Matters of special interest to the Legislation, Justice and Constitution Committee

2. None.

Legislative Background

3. The majority of the powers enabling these Regulations to be made are contained in section 144 of the Act. Section 144 provides the Welsh Ministers with a power to make regulations, containing supplementary, incidental, or consequential provisions and transitional or saving provisions if they consider it appropriate for the purposes of, in consequence of, or for giving full effect to any provision of the Act. Regulations under section 144 may amend, modify, repeal or revoke any enactment, including any provision of the Act.
4. The statutory instruments that provide for the Development of National Significance regime are expressly revoked by these Regulations in reliance primarily on the consequential power in the 2024 Act. Sections 61Z and 62R of the Town and Country Planning Act 1990 and section 54 of the Planning and Compulsory Purchase Act 2004 are also relied upon to the extent that the revocation of the statutory instruments that provide for the Development of National Significance regime will remove consultation functions of reserved authorities. The functions will remain for the purpose of the transitional arrangements by virtue of the saving provisions.
5. As these regulations amend secondary legislation, in accordance with section 141(5) of the 2024 Act, section 333 of the 1990 Act and section 122(6C) of the 2004 Act, the instrument is subject to the negative procedure (i.e. subject to annulment in pursuance of a resolution of Senedd Cymru).
6. Section 146 of the 2024 Act makes transitional and savings provisions including where certain conditions apply, an application for proposed development which would be categorised as a significant infrastructure project under the Act can continue under the relevant existing consenting regime. Section 146 of the Act also provides the power for regulations to make provision regarding the relevant transitional points in other existing regimes.

Purpose and intended effect of the legislation

7. The Act legislates for a single unified consenting regime for devolved major energy and infrastructure projects in Wales, both on shore and offshore. These regulations are part of a package of secondary legislation to implement the new consenting process. No policy change is made through these regulations.
8. The Infrastructure (Wales) Act 2024 (Consequential, Transitional, Revocation and Saving Provision) Regulations 2025 make consequential amendments for the purposes of, in consequence of, or for giving full effect to any provision of the Act. It also makes transitional and saving provisions to deal with applications under existing legislation which provide for regimes that will be subsumed in the new regime under the Act. The risk of not making these Regulations is that the infrastructure consent process will not operate effectively.
9. Regulation 2 inserts a supplementary reference to the 2024 Act in the Town and Country Planning (General Permitted Development) Order 1995.
10. Regulation 3 inserts a supplementary reference to the 2024 Act in the Nuclear Industries Security Regulations 2003.
11. Regulation 4 omits obsolete references in the Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006.
12. Regulation 5 amends the Marine Works (Environmental Impact Assessment) Regulations 2007 to include definitions of the Act and other matters, such as the appropriate authority, examining authority and environmental statements, in the context of infrastructure consent development.
13. Regulation 6 amends the Waste (England and Wales) Regulations 2011 to ensure certain duties in relation to waste on authorities that make planning decisions will apply to the Welsh Ministers when they exercise functions under the Act.
14. Regulation 7 omits an obsolete reference in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
15. Regulation 8 amends the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013 to ensure certain duties placed on authorities making decisions to enable the construction, alteration or extension of electricity generating stations of a certain size relating to carbon emissions will continue to apply to projects which are captured by the Act.
16. Regulation 9 amends the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 to omit obsolete references.

17. Regulation 10 amends regulation 28 of the Planning (Hazardous Substances) (Wales) Regulations 2015 to include reference to decisions made under Part 5 of the Act.
18. Regulation 11 amends regulation 88 of the Renewables Obligation Order 2015 to include reference to consents granted via the Act and to ensure references to “development” have the meaning given in section 133 of the Act.
19. Regulation 12 amends the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 for the purpose of applying the regulations to significant infrastructure projects. This will ensure that applicants continue to prepare an Environment Impact Assessment for the proposed development as part of the infrastructure consent process. Similarly, regulation 4 amends the Marine Works (Environmental Impact Assessment) Regulations 2007 in order to ensure that EIA applies to infrastructure consent applications in the Welsh marine area.
20. Regulation 13 amends the Conservation of Habitats and Species Regulations 2017 for the purpose of applying the regulations to significant infrastructure projects.
21. Regulation 14 amends the Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 to specify what ‘infrastructure consent development’ is within those regulations.
22. Regulation 15 amends the Electricity (Offshore Generating Stations) (Variations of Consent) (Wales) Regulations 2019 to provide a definition of ‘infrastructure consent development’ and to include infrastructure consent development as part of the definition of ‘proposed development’.
23. Regulation 16 amends the Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 to include references to infrastructure consent development.
24. Regulation 17 amends the Listed Buildings and Conservation Areas (Procedure and Interest Rate) (Wales) Regulations 2024 to omit provisions relating to developments of national significance that are provided for in section 62D of the Town and Country Planning Act 1990.
25. Regulation 18 amends the Historic Environment (Wales) Act 2023 (Consequential Provision) (Secondary Legislation) Regulations 2024 by omitting regulations 75 to 83 and saving provisions for the purpose of applying the regulations in order to allow a proposed development which would be categorised as a significant infrastructure project under the Act to continue under the relevant existing consenting regime where the application meets the conditions in section 146 of the Act.

26. Regulation 19 amends the Applications for Scheduled Monument Consent (Wales) Regulations 2024 to omit provisions relating to developments of national significance that are provided for in section 62D of the Town and Country Planning Act 1990.
27. Regulation 20 specifies that for the purposes of section 146(2)(a) of the 2024 Act, an application described in the first column of the table is not made until the requirements in the second column of that table which are applicable to the application are met.
28. It also specifies that for the purposes of section 146(2)(b) of the 2024 Act, a notification under section 62E(1) of the Town and Country Planning Act 1990(1) is not made until the requirements of regulation 5 of the Developments of National Significance (Procedure) (Wales) Order 2016, as may be modified by regulation 41(a) of the Developments of National Significance (Wales) Regulations 2016 are met.
29. Finally, it specifies that for the purposes of section 146(2)(c) of the 2024 Act, an order or scheme in the first column of the table is not treated as being under consideration until the requirement in the second column of that table is met.
30. Regulation 21 revoked regulations relating to the Developments of National Significance Regime.
31. Regulation 22 specifies those provisions which are saved and relate to developments of national significance.

Consultation

32. No formal consultation has been undertaken on the regulations, as they make only consequential technical amendments. The implementation of the Act was consulted on from 19 September 2024 to 13 December 2024. This consultation included questions regarding transitional arrangements and proposed amendments to existing processes such as EIA which are captured in the consequential amendments.
33. The consultation document and summary of responses can be found using the following link:

[Implementing the Infrastructure \(Wales\) Act 2024 | GOV.WALES](#)

Regulatory Impact Assessment (RIA)

34. A Regulatory Impact Assessment has not been prepared in respect of these Regulations as they make consequential and technical amendments to existing
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legislation and do not impose or reduce costs for business, charities or voluntary bodies or the public sector. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out Regulatory Impact Assessments for subordinate legislation.

35. A Regulatory Impact Assessment for the whole package of subordinate legislation to implement the Act:

[sub-ld17231-em-en.pdf](#)