
WELSH STATUTORY INSTRUMENTS

2017 No. 565

The Environmental Impact Assessment
(Agriculture) (Wales) Regulations 2017

PART 1

General provisions

Title, application and commencement

1.—(1) The title of these Regulations is the Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 16 May 2017.

Commencement Information

II Reg. 1 in force at 16.5.2017, see [reg. 1\(3\)](#)

Interpretation

2.—(1) In these Regulations—

“additional environmental information” (“*gwybodaeth amgylcheddol ychwanegol*”) means any additional information required under regulation 12(1);

“agriculture” (“*amaethyddiaeth*”) has the same meaning as in section 109(3) of the Agriculture Act 1947(1);

“consent” (“*cydsyniad*”) means consent granted under regulation 15;

“consultation bodies” (“*cyrff ymgynghori*”) means—

- (a) the Natural Resources Body for Wales; or
- (b) any other public authority, statutory body or other organisation which the Welsh Ministers considers has any interest in or holds any information which might be relevant to the project;

“EEA State” (“*Gwladwriaeth AEE*”) means a member State, Norway, Iceland or Liechtenstein;

“the EIA Directive” (“*y Gyfarwyddeb AEA*”) means [Directive 2011/92/EU](#) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment(2);

“environmental statement” (“*datganiad amgylcheddol*”) means a statement as described in regulation 11;

(1) 1947 c. 48.

(2) OJNo. L 26, 28.1.2012, p. 1–21.

“European site” (“*safle Ewropeaidd*”) means a site mentioned in paragraph (1)(a), (b), (d) or (e) of regulation 8 of the Habitats Regulations;

“the Habitats Directive” (“*y Gyfarwydddeb Cynefinoedd*”) means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora⁽³⁾;

“the Habitats Regulations” (“*y Rheoliadau Cynefinoedd*”) means [^{F1}the Conservation of Habitats and Species Regulations 2017];

[^{F2}“Natura 2000 has the same meaning as in regulation 3(1) of the Habitats Regulations;]

“project” (“*prosiect*”) means—

- (a) the execution of construction works or other installations or schemes; or
- (b) other interventions in the natural surroundings and landscape;

“project on semi-natural and/or uncultivated land” (“*prosiect ar dir lled-naturiol a/neu dir heb ei drin*”) means a project to increase the agricultural productivity of an area of semi-natural and/or uncultivated land and includes projects to increase the agricultural productivity of such land to below the norm;

[^{F3}“public” (“*aelodau'r cyhoedd*”) means one or more natural or legal persons and, in accordance with the law of any part of the United Kingdom or practice, their associations, organisations or groups;]

[^{F4}“public concerned” (“*aelodau'r cyhoedd y mae a wnelo'r cais â hwy*”) means the public affected or likely to be affected by, or having an interest in, environmental decision making procedures (for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under the relevant national law are deemed to have an interest);]

“the relevant land” (“*y tir perthnasol*”) means the land on which the project is to be (or has been) carried out;

“restructuring project” (“*prosiect ailstrwythuro*”) means a project for the restructuring of rural landholdings;

“screening decision” (“*penderfyniad sgrinio*”) means a decision which is made, or deemed to have been made, by the Welsh Ministers under regulation 7(1) or (7);

“semi-natural land” (“*tir lled-naturiol*”) means land that contains less than 25% improved agricultural species which are indicative of cultivation;

“significant project” (“*prosiect sylweddol*”) means a project on semi-natural and/or uncultivated land or a restructuring project which the Welsh Ministers have decided or are deemed to have decided is likely to have significant effects on the environment in accordance with regulation 7(1) or (7);

“transborder project” (“*prosiect trawsffiniol*”) means a project on semi-natural and/or uncultivated land or a restructuring project where the relevant land is situated partly in Wales and partly in England.

(2) Other expressions used both in these Regulations and in ^{F5}... [^{F6}the Habitats Regulations] have the same meanings in these Regulations as they have in the [^{F7}the Habitats Regulations].

(3) All applications, notices, notifications, representations, requests, approvals and agreements under these Regulations must be made or given in writing.

(4) “Writing” in paragraph (3), except where it applies to notices under regulation 24 or 26, includes an electronic communication within the meaning of the Electronic Communications Act

(3) OJ No. L 206, 22.7.1992, p. 7–50.

2000(4), but notifications required to be made by the Welsh Ministers to any person may only be made by an electronic communication if the intended recipient—

- (a) has used that form of electronic communication in communicating with the Welsh Ministers in respect of any provision in these Regulations, or
- (b) has otherwise represented that that form of electronic communication is a means by which persons can communicate with him or her.

(5) Notices or documents required or authorised to be served, sent or given under these Regulations may be sent by post.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) substituted (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), [reg. 1\(2\)](#), [Sch. 6 para. 77\(2\)\(a\)](#)
- F2** Words in [reg. 2\(1\)](#) inserted (7.3.2019) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), [regs. 1\(2\)\(3\)](#), [5\(2\)\(c\)](#)
- F3** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), [regs. 1\(2\)\(3\)](#), [5\(2\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), [regs. 1\(2\)\(3\)](#), [5\(2\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in [reg. 2\(2\)](#) omitted (31.12.2020) by virtue of [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), [regs. 1\(2\)\(3\)](#), [5\(3\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in [reg. 2\(2\)](#) substituted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), [regs. 1\(2\)\(3\)](#), [5\(3\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in [reg. 2\(2\)](#) substituted (31.12.2020) by [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), [regs. 1\(2\)\(3\)](#), [5\(3\)\(c\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I2** Reg. 2 in force at 16.5.2017, see [reg. 1\(3\)](#)

Application of Regulations

3.—(1) These Regulations apply to any project on semi-natural and/or uncultivated land or a restructuring project, unless it is exempt in accordance with paragraph (2) or (3).

(2) These Regulations do not apply to a project on semi-natural and/or uncultivated land or a restructuring project if it—

- (a) is a project mentioned in regulation 3(2) of the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999(5);
- (b) constitutes development to which the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017(6) apply;

(4) 2000 c. 7.

(5) S.I. 1999/2228.

(6) S.I. 2017/567 (W. 136).

- (c) constitutes the carrying out of improvement works by a drainage body within the meaning of the Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999(7);
- (d) constitutes a relevant project within the meaning of regulation 3(2) and (3) of the Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003(8);
- (e) constitutes the removal of a hedgerow as permitted by regulation 5(1) of the Hedgerows Regulations 1997(9); or
- ^{F8}(f)

(3) A project is exempt under this paragraph to the extent that the Welsh Ministers ^{F9}... direct that it is to be exempt from regulations 4 to 33 of these Regulations [^{F10}], but this is subject to paragraph (3A)].

[^{F11}(3A) The Welsh Ministers must not make a direction under paragraph (3) unless—

- (a) it is appropriate to do so because of exceptional circumstances;
- (b) the application of these Regulations would result in adversely affecting the purpose of the project;
- (c) they have considered whether another form of assessment would be appropriate;
- (d) the objectives of the Directive are met even though their requirements are not fulfilled; and
- (e) the project is unlikely to have a significant effect on the environment in an EEA State.

(3B) The Welsh Ministers must make available to the public concerned—

- (a) the information obtained from any other form of assessment relating to the decision under paragraph (3A) whether to grant an exemption; and
- (b) the reasons for granting it.]

(4) In the case of a project which the Welsh Ministers decide is likely to have a significant effect on a European site (either alone or in combination with other projects), the power to direct that the project is exempt under paragraph (3) is exercisable only to the extent that compliance with the [^{F12}Habitats Regulations] is secured in relation to the project.

(5) Where the Welsh Ministers propose to issue a direction under paragraph (3), they must—

- (a) consider whether any other kind of assessment of the project would be appropriate; and
- (b) bring to the attention of the public—
 - (i) the information considered in issuing the direction and the reasons for doing so, and
 - (ii) the information obtained from any assessment of the project under sub-paragraph (a).

Textual Amendments

- F8** Reg. 3(2)(f) omitted (31.12.2020) by virtue of [The Environmental Impact Assessment \(Agriculture\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1448\)](#), regs. 1(2), 2
- F9** Words in reg. 3(3) omitted (31.12.2020) by virtue of [The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/245\)](#), regs. 1(2)(3), **5(4)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

(7) S.I. 1999/1783.
 (8) S.I. 2003/164.
 (9) S.I. 1997/1160.

- F10** Words in reg. 3(3) inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **5(4)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Reg. 3(3A)(3B) inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **5(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in reg. 3(4) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **5(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I3** Reg. 3 in force at 16.5.2017, see **reg. 1(3)**

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017, PART 1.