

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:	For further information contact:
Committee Room 2 – Senedd	Gareth Williams
Meeting date: Monday, 17 October 2016	Committee Clerk 0300 200 6565
Meeting time: 14.30	SeneddCLA@assembly.wales

- 1 Introduction, apologies, substitutions and declarations of interest**
(14.30)
- 2 Instruments that raise no reporting issues under Standing Order
21.2 or 21.3**
(14.30 – 14.35) (Page 1)

CLA(5)–08–16 – Paper 1 – Statutory Instruments with clear reports

Negative Resolution Instruments

SL(5)017 – Mobile Homes (Wales) Act 2013 (Consequential Provisions) Order 2016

- 3 Instruments that raise issues to be reported to the Assembly
under Standing Order 21.2 or 21.3**
(14.35 – 14.40)

Negative Resolution Instruments

**SL(5)018 – The Town and Country Planning (Environmental Impact Assessment)
(Wales) (Amendment) Regulations 2016**

(Pages 2 – 10)



CLA(5)-08-16 – Paper 2 – Report

CLA(5)-08-16 – Paper 3 – Regulations

CLA(5)-08-16 – Paper 4 – Explanatory Memorandum

4 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(14.40)

(ix) any matter relating to the internal business of the Committee, or of the Assembly is to be discussed.

5 Constitutional and Legislative Affairs Committee: Forward work programme

(14.40 – 15.10)

(Pages 11 – 13)

CLA(5)-08-16 – Paper 5 – Forward work programme

Date of the next meeting

Monday 31 October 2016

Statutory Instruments with Clear Reports **Agenda Item 2**

17 October 2016

SL(5)017 - Mobile Homes (Wales) Act 2013 (Consequential Provisions)
Order 2016

Procedure: Negative

This Order amends three pieces of subordinate legislation, so that they apply to mobile homes under the Mobile Homes (Wales) Act 2013. Currently, those three pieces of subordinate legislation apply to mobile homes regulated under UK Parliament legislation, so they need to be amended so that they apply to mobile homes under the Mobile Homes (Wales) Act 2013.

Parent Act: Mobile Homes (Wales) Act 2013

Date Made: 28 September 2016

Date Laid: 30 September 2016

Coming into force date: 31 October 2016



Agenda Item 3.1 (501) Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2016

Background and purpose

A person applying for planning permission (and some related matters) may appeal to Welsh Ministers if the planning authority does not determine the application within the prescribed period.

The period is eight weeks unless an application is amended before the authority makes a determination. If an application is amended before the authority makes a determination, the period is either four weeks from the date the amendment is received by the authority or twelve weeks from the date the original application was received, whichever is longer.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (“the 2016 Regulations”) increased the period for determining an application from eight weeks to sixteen weeks where an application relates to a development that requires an environmental impact assessment (“EIA”).

These regulations make a consequential amendment to regulation 57(2) of the 2016 Regulations. They change the period after which an applicant can appeal if an application requiring an EIA is amended but not determined, which becomes four weeks from the date the amendment was received by the authority or 20 weeks from the date the original application requiring an EIA was received, whichever is longer.

Procedure

Negative

Technical scrutiny

No reporting points are noted under Standing Order 21.2 with regard to this instrument.



Merits scrutiny

The following reporting point is noted under Standing Order 21.2 with regard to this instrument.

As the regulations are made under section 2(2) of the European Communities Act, the Government had a choice of procedures to adopt. The negative procedure was chosen for the reasons noted in paragraphs 2.1–2.2 of the Explanatory Memorandum. As this is a consequential amendment, this was deemed an appropriate choice. [Standing Order 21.3(ii) – that it gives rise to issues of public policy likely to be of interest to the Assembly.]

Legal Advisers

Constitutional and Legislative Affairs Committee

October 2016



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2016 No. 971 (W. 240)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(Environmental Impact
Assessment) (Wales) (Amendment)
Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 78 of the Town and Country Planning Act 1990 (“the 1990 Act”), a person applying for planning permission, or for any consent, agreement or approval required by a condition or limitation attached to a planning permission, may appeal to the Welsh Ministers if the relevant local planning authority do not determine the application within the prescribed period.

The period is prescribed in article 22(2) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012. The period is eight weeks unless an application is amended before the authority make a determination. If an application is amended before the authority make a determination, the period is either four weeks from the date the amendment is received by the authority or twelve weeks from the date the original application was received, whichever is the longer.

Regulation 57(2) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (“the 2016 Regulations”) increases the period of eight weeks in article 22(2)(a) to sixteen weeks where an application relates to development which requires an environmental impact assessment (“EIA”).

Regulation 2 of these Regulations substitutes regulation 57(2) of the 2016 Regulations. The period prescribed in article 22(2) after which an applicant can appeal if an application which requires an EIA is amended but not determined, becomes four weeks from the date the amendment is received by the

authority or twenty weeks from the date the original application which requires an EIA was received, whichever is the longer.

Regulation 3 contains a transitional provision.

No impact, or minimal impact, on the public, private, or voluntary sectors is foreseen. As a result, it was not considered necessary to carry out a regulatory impact assessment.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2016 No. 971 (W. 240)

**TOWN AND COUNTRY
PLANNING, WALES**

The Town and Country Planning
(Environmental Impact
Assessment) (Wales) (Amendment)
Regulations 2016

Made 29 September 2016

*Laid before the National Assembly
for Wales* 7 October 2016

Coming into force 7 November 2016

The Welsh Ministers being designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, insofar as it concerns town and country planning(2) and in exercise of the powers conferred by that section and section 71A of the Town and Country Planning Act 1990(3) make the following Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2016.

(1) 1972 c. 68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(2) S.I. 2007/1679. See article 4.

(3) 1990 c. 8. Section 71A was inserted by section 15 of the Planning and Compensation Act 1991 (c. 34). The functions of the Secretary of State under that Act were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the functions being relevant Assembly functions as defined in paragraph 30(2).

(2) These Regulations come into force on 7 November 2016.

(3) These Regulations apply in relation to Wales.

Amendment to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016

2. For regulation 57(2) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016⁽¹⁾ substitute—

“(2) Where it falls to an authority to determine an EIA application, articles 22 (time periods for decisions) and 23 (applications made under planning condition) of the 2012 Order⁽²⁾ have effect as if—

- (a) each of the references in articles 22(2)(a) and 23 to a period of 8 weeks is a reference to a period of 16 weeks; and
- (b) the reference in article 22(2)(aa)⁽³⁾ to the period of 12 weeks is a reference to the period of 20 weeks.”

Transitional provision

3. These Regulations do not apply to applications in relation to which amendments are received by the authority on or before the date these Regulations come into force.

Lesley Griffiths

Cabinet Secretary for Environment and Rural Affairs,
one of the Welsh Ministers
29 September 2016

(1) S.I. 2016/58 (W. 28).

(2) The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (S.I. 2012/801 (W. 110)).

(3) Sub-paragraph (aa) of article 22(2) was inserted by article 11(b) of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59 (W. 29)).

**Explanatory Memorandum to The Town and Country Planning
(Environmental Impact Assessment) (Wales) (Amendment) Regulations
2016.**

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

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2016.

Lesley Griffiths
Cabinet Secretary for Environment and Rural Affairs
7 October 2016

1. Description

1.1 These Regulations make a consequential amendment to Regulation 57 of the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.

1.2 Regulation 57(2) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (“the 2016 Regulations”) increases the period of eight weeks in article 22(2)(a) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) to sixteen weeks where an application relates to development which requires an environmental impact assessment (“EIA”).

1.3 Regulation **Error! Reference source not found.** of these Regulations substitutes regulation 57(2) of the 2016 Regulations. The period prescribed in article 22(2) after which an applicant can appeal if an application which requires an EIA is amended but not determined, becomes four weeks from the date the amendment is received by the authority or twenty weeks from the date the original application which requires an EIA was received, whichever is the longer.

2. Matters of special interest to the Constitutional and Legislative

Affairs Committee

2.1 The Regulations are made under section 2(2) of the European Communities Act 1972. There is a choice of procedure in relation to instruments made under section 2(2) of that Act. Section 71A of the Town and Country Planning Act 1990 confers power to make regulations for environmental impact assessment beyond the requirements of the Directive 2011/92/EU of 13 December 2011.

2.2 Regulations made under section 71A of the Town and Country Planning Act 1990 are subject to the negative procedure. There is no factor indicating that the use of the affirmative procedure should be followed for these Regulations, and the Town and Country Planning (Environmental Assessment) (Wales) Regulations 2016, (which these regulations amend) were made subject to the negative procedure. For these reasons the negative procedure is appropriate in this case.

3. Legislative background

3.1 The Welsh Ministers make these Regulations in exercise of the powers provided by section 2(2) of the European Communities Act 1972 and by section 333 of, and paragraph 1 of Schedule 6 to, the Town and Country Planning Act 1990. The functions under section 71A of the Town and Country Planning Act 1990 cited above were transferred to the National Assembly for Wales by S.I. 1999/672. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162

of and paragraph 30 of Schedule 11 to the Government of Wales Act 1998.

3.2 The Welsh Ministers were designated by The European Communities (Designation) (No.3) Order 2007 (S.I. 2007/1679) for the purposes of section 2(2) of the 1972 Act, to make regulations *'in relation to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in so far as it concerns town and country planning'*.

3.3 The functions under section 71A of the 1990 Act were transferred to the National Assembly for Wales by S.I. 1999/672. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 1998.

4. Purpose & intended effect of the legislation

4.1 The purpose of this legislation is to substitute Regulation 57(2) of the Town and Country Planning (Environmental Assessment) (Wales) Regulations 2016 to prescribe that the period prescribed in Article 22(2) of the DMPWO 2012 after which an applicant can appeal if an application which requires EIA is amended but not determined becomes four weeks from the date that the amendment is received by the authority, or twenty weeks from the date the original application which requires an EIA is received, whichever is the longer.

4.2 This amendment ensures that where a post submission amendment is made to a planning application subject to EIA it is treated in the same manner as when an amendment is made to a planning application that does not require EIA.

5. Consultation

5.1 The provision for adding an additional four weeks to the time-periods set out in Article 22(2) was consulted upon in our consultation titled "[Secondary legislation for development management](#)", which ran from 18 Jun 2015 to 10 Sep 2015. Paragraph 7.3 specifically referred to the time periods for determination set out in the EIA Regulations.

5.2 The consultation responses indicated general support for the proposed new extended 4 week time limit. No impact, or minimal impact, on the public, private, or voluntary sectors is foreseen from making this amendment to regulation 57. As a result, it was not considered necessary to carry out a regulatory impact assessment.

Document is Restricted