

SL(6)753 – The Infrastructure Consent (Correcting Errors and Applications to Change or Revoke Infrastructure Consent Orders) (Procedure) (Wales) Regulations 2026

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. This process applies to significant infrastructure projects as included in Part 1 of the 2024 Act. These include energy, transport, waste and water projects.

Part 6 of the 2024 Act makes provision about infrastructure consent orders and includes powers for the Welsh Ministers to:

- correct errors in a decision document, and
- by order, change or revoke an infrastructure consent order.

These Regulations make provision about the procedure for correcting an error in a decision document and about the procedure in relation to applications to change or revoke an infrastructure consent order.

Procedure

Senedd annulment procedure.

These 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 17 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

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

In regulation 2(1), in the definition of "additional interested person", there is a difference between the English and Welsh text. In the English text, in paragraph (b) of that definition, it refers to regulation "20(3)" but in the Welsh text it refers to regulation "20".



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

In regulation 2(1), in the definition of “original specialist consultee”, there is a difference between the English and Welsh text. In the English text, it notes “the relevant infrastructure consent order” but the meaning given by the Welsh text is “the infrastructure consent order”. This difference is of greater significance because “the relevant infrastructure consent order” is a defined term in these Regulations. The same difference also occurs in regulation 61(2)(a) of these Regulations.

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

In regulation 2(1), in the definition of “planning authority”, in the Welsh text, it notes that the definition of that term means the local planning authority within the meaning given to the English term “planning authority” by Part 1 of the Town and Country Planning Act 1990. However, it should note that it means the local planning authority within the meaning given to the English term “local planning authority” which is the term defined by Part 1 of the Town and Country Planning Act 1990 (see section 336(1) of that Act). It also appears to be inconsistent with the definition of “planning authority” in the Welsh text of regulation 2(1) of S.I. 2025/690 (W. 114) and S.I. 2025/692 (W. 116).

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

In regulation 3(1)(d), there is a difference between the English and Welsh text. In the English text, it notes “the Welsh Ministers have received a request in writing” and “the person who made the request”. But the meaning given by the Welsh text is “the Welsh Ministers have received an application in writing” and “the person who made the application”. This is because the term “cais” which is used in the Welsh text to express the meaning of “request” in regulation 3(1)(d) has been defined as meaning “application” in these Regulations. Elsewhere, the words “archiad” or “gofyn” have been used to express the meaning of “request” in the Welsh text of these Regulations. The same difference between the English and Welsh text also occurs in regulation 31(1)(a).

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

In regulation 4(4), the term “correction of errors decision notice” is defined for regulation 4 and also prospectively defined for regulation 5. However, there is no signposted definition in regulation 5 noting that the term has the same meaning as given by regulation 4(4) of these Regulations. Therefore, the reader may not be aware of the application of that definition for regulation 5. It is more helpful for the reader if the definition is repeated or signposted in the second provision if prospective definitions are used or that the term is defined for the whole of the Regulations. The same issue also occurs in regulations 41(11) and 57(3) of these Regulations.



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

Regulation 12(3) refers to “A notice under paragraph **(1)**...” of regulation 12. However, it appears that it should refer to “A notice under paragraph **(2)**...” of that regulation.

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

In regulation 17(3), the term “special category land” is defined for regulation 17 by reference to other phrases including “common”, “open space” and “fuel or field garden allotment”. However, these phrases are all defined terms in section 70(9) of the Infrastructure (Wales) Act 2024. Can the Welsh Government confirm if they are intended to bear the same meaning as given by section 70(9) of the 2024 Act? If so, they should all be defined with that same meaning in regulation 17(3) of these Regulations.

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

In regulation 20(2), the sub-paragraphs (a) to (c) are linked by a mixture of conjunctions - “and” between sub-paragraphs (a) and (b), and “or” between sub-paragraphs (b) and (c). A mixture of different conjunctions should not be used in the same list of paragraphs or sub-paragraphs because it can lead to an ambiguity as to the relationship between the paragraphs or sub-paragraphs in that list, e.g., (a) and (b)/ or (c), (a) and/ (b) or (c).

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

Regulation 22(1)(a) incorrectly refers to “regulation 11(a), (b), (d) to (g) and (j)”. This should instead refer to “regulation 11**(1)**(a), (b), (d) to (g) and (j)” because regulation 11 is divided into numbered paragraphs in which those sub-paragraphs are found.

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

Regulation 24 notes that Part 4 applies where “the Welsh Ministers appoint a person or a panel of persons to examine an application under section 40(2) of the 2024 Act”. However, this phrase appears to be virtually identical to the meaning given to the defined term “examining authority” which is also used in Part 4 and in the other Parts of these Regulations. Could the Welsh Government explain whether this phrase differs in meaning from “examining authority” and if not, why the defined term has not been used in regulation 24?

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



In regulation 25(1), the term "representation period" is defined as meaning the post-application representation period in respect of a particular application. Therefore, it appears to bear the same meaning as the previously defined term "post-application representation period" which is used in other Parts of these Regulations. Could the Welsh Government confirm that both terms share the same meaning? If so, does the Welsh Government believe that it is confusing for the reader to use different defined terms with the same meaning in different Parts of these Regulations?

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

In regulation 25(1), the term "written representations" is defined with a meaning for Part 4 of these Regulations. However, the term is also used in regulations 60 and 67 in Part 6 of these Regulations. Could the Welsh Government confirm whether or not the term is intended to bear the same meaning in those regulations in Part 6? If so, it will not bear the same meaning because the term has only been defined for the purposes of Part 4.

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

In regulation 25(3), "further representations" is defined as meaning "oral or **written representations further** to initial written representations". However, "further written representations" is a defined term in regulation 25(1) for Part 4 of these Regulations. Could the Welsh Government clarify whether that defined term "further written representations" should be noted in the definition of "further representations" or if "written representations further" has a different meaning?

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

In regulation 36(7), there is a difference between the English and Welsh text. In the English text, it notes "(except in paragraph (2)(b))" but these words are missing from the meaning of the Welsh text. In addition, it is also unclear where regulation 36(7) applies because it does not note "In this regulation" and "the relevant land" is a defined term which is used in other regulations such as regulations 9, 25 and 62 of these Regulations.

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

In regulations 51(6)(a) and 52(7)(a), there is an inconsistency in the Welsh text when expressing the meaning of "may" in the same context that the examining authority must notify the interested parties that they "**may** require the hearing or local inquiry to be re-opened". In regulation 51(6)(a) a form of the word "gall" has been used which only suggests a possibility. But in regulation 52(7) a form of the word "caiff" has been used which suggest the conferring of permission or discretionary power on the interested parties to require the re-opening of the hearing of the local inquiry. In a similar fashion, in regulation 37(2), in the



Welsh text, the meaning of “may” has been expressed by using “gall” but the context suggests that a form of “caiff” is the correct choice of word to express the meaning of “may”.

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

In the Schedule, in Column 2, in paragraph (b), there is a difference between the English and Welsh text. In the English text, it notes “entering **of** leaving a trunk road” but the meaning given by the Welsh text is “entering **or** leaving a trunk road”.

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

In the Schedule, in the “Interpretation of Table”, in paragraph (a), the terms “network”, and “operator” are defined with the same meaning as in section 83(1) of the Railways Act 1993 for paragraph (b) of the Table. However, the term “railway” is also defined in section 81 of the Railways Act 1993 and used in paragraph (b) of the Table. Could the Welsh Government clarify if “railway” is intended to bear the same meaning in paragraph (b) of the Table as it is given in the Railways Act 1993? If so, it should also be defined in paragraph (a) of the Interpretation of Table. In addition, the terms “network”, “operators” and “railway” are used in paragraph (q) of the Table. Therefore, could the Welsh Government also clarify if those terms are intended to bear the same meaning as given by the Railways Act 1993 in paragraph (q) of the Table as there is no definition provision for that paragraph?

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.

Legal Advisers

Legislation, Justice and Constitution Committee

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—
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