

2016 No. 18 (W. 6)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Strategic Planning
(Composition of Panels and
Qualifying Expenditure) (Wales)
Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the gender composition of a strategic planning panel (“panel”) and about the qualifying expenditure of a panel which is to be met by its constituent local planning authorities.

Regulation 3 sets out the composition requirements relating to a panel and provides that women and men must comprise at least 40% respectively of the local planning authority members of a panel. An exception applies, in regulation 4, where the make up of constituent local planning authorities makes the composition requirements unachievable. However, where that is the case, the composition requirements are that membership of constituent local planning authority members of both sexes must be as near to 40% as is feasible.

Regulation 5 imposes a duty on constituent local planning authorities to work together to meet the composition requirements.

Regulation 6 imposes a duty on a panel to keep under review compliance with the composition requirements in regulation 3.

If the composition requirements are not met for any reason, a panel must comply with the reporting duties set out in regulation 7. A report must be sent to the Welsh Ministers detailing how the composition requirements are not met. The reporting requirements relate to the content and timing of the report. The requirements apply equally to revisions to a report.

Regulation 8 relates to a failure by the panel to comply with the reporting requirements and provides that the Welsh Ministers must notify a panel of the failure within the time specified and a panel must respond within a specified time period confirming what it intends to do to rectify the breach.

The Welsh Ministers may issue a direction to a panel or constituent local planning authority under regulation 9 if either or both are, in the opinion of the Welsh Ministers, failing to comply with the composition requirements in regulation 3, the duty to work together to achieve the composition requirements in regulation 5, the duty to review those requirements in compliance with regulation 6 or the notification of reporting requirements in regulation 8.

If constituent local planning authorities fail to comply with a direction issued by the Welsh Ministers in relation to the composition requirements, regulation 10 provides that the voting rights of local planning authority members of the failing authorities are, in relation to panel proceedings, suspended until the breach is remedied.

Regulation 11 provides that breach of any of the provisions relating to the following; composition requirements, the duty on constituent local planning authorities to work together to achieve the composition requirements, the review of those requirements, and the notification of reporting requirements, does not invalidate anything done by the panel.

Regulation 12 sets out the expenditure of a panel that is “qualifying expenditure” to be met by the constituent local planning authorities for the purposes of paragraph 16 of Schedule 2A to the Planning and Compulsory Purchase Act 2004. It also describes the expenditure that is not “qualifying expenditure”.

A regulatory impact assessment has been prepared in relation to these Regulations. Copies are available from the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government’s website at www.gov.wales.

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(Composition of Panels and
Qualifying Expenditure) (Wales)
Regulations 2016**

Made 11 January 2016

Laid before the National Assembly for Wales

13 January 2016

Coming into force 16 March 2016

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 122 of, and paragraphs 5 and 16 of Schedule 2A to, the Planning and Compulsory Purchase Act 2004⁽¹⁾.

PART 1

Introductory matters

Title, commencement and application

1.—(1) The title of these Regulations is the Strategic Planning (Composition of Panels and Qualifying Expenditure) (Wales) Regulations 2016 and they come into force on 16 March 2016.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 2004 Act” (“*Deddf 2004*”) means the Planning and Compulsory Purchase Act 2004;

(1) 2004 c. 5. Schedule 2A was inserted by section 4 of, and Schedule 1 to, the Planning (Wales) Act 2015 (anaw 4).

“composition requirements” (*“gofynion cyfansoddiad”*) means the requirements in regulation 3;

“panel” (*“panel”*) means a strategic planning panel⁽¹⁾.

PART 2

Strategic planning panels

Panel composition requirements

3. Subject to regulation 4.(2), the composition requirements are that—

- (a) women must make up a minimum of 40% of the local planning authority members of a panel; and
- (b) men must make up a minimum of 40% of those members of a panel.

Exception to composition requirements

4.—(1) Subject to paragraph (2), the composition requirements need not be complied with if the composition of the constituent local planning authorities makes the composition requirements unachievable.

(2) Where paragraph (1) applies, the composition requirements are that women and men must respectively make up as near to 40% of the local planning authority members of a panel as is practicable.

Duty to collaborate to comply with composition requirements

5. The constituent local planning authorities⁽²⁾ must co-operate with a view to securing compliance with the composition requirements.

Duty to review composition requirements

6. A panel must keep the composition of the panel under review for the purpose of monitoring compliance with the composition requirements.

(1) See Part 1 of Schedule 2A to the Planning and Compulsory Purchase Act 2004 for provisions about strategic planning panels.

(2) See paragraph 3(3) of Schedule 2A to the Planning and Compulsory Purchase Act 2004 for the meaning of “constituent local planning authority”.

Reporting requirements

7.—(1) If the composition requirements are not met, a panel must prepare a report about its compliance with the composition requirements in accordance with this regulation.

(2) The report required under paragraph (1) must contain the following information—

- (a) details of how the composition requirements are not met;
- (b) the reasons for failing to meet the composition requirements;
- (c) the steps taken by the panel and/or constituent local planning authorities to meet the composition requirements.

(3) The report required under paragraph (1) must be signed by the chair of the panel or, in the absence of the chair, by the deputy chair of the panel.

(4) The panel must send the report to the Welsh Ministers within 12 weeks of the date on which the composition requirements are not met.

(5) A panel must, no later than 7 days from the date when it sends a report to the Welsh Ministers under this regulation, notify the constituent local planning authorities of the submission of the report.

(6) In this regulation, reference to a report includes a report as revised.

(7) Any requirement to send a report to the Welsh Ministers under this regulation includes a requirement to publish the report.

(8) The sending of a report to the Welsh Ministers or the publication of it under this regulation includes sending or publishing the report electronically.

Notification of failure to comply with reporting requirements

8.—(1) If the Welsh Ministers think that a panel is failing or omitting to do anything that it is necessary for it to do for the purpose of complying with the reporting requirements in regulation 7, they must notify the panel in accordance with paragraph (2) and within the notice period specified in paragraph (3).

(2) The notification must set out the details of the failure or omission.

(3) The notice period specified for the purposes of paragraph (1) is—

- (a) 6 weeks beginning with the date on which the Welsh Ministers receive a report under regulation 7;
- (b) in the absence of a report, 6 weeks beginning with the date on which the Welsh Ministers think that a panel is failing or omitting to do

anything that it is necessary for it to do for the purpose of complying with the reporting requirements in regulation 7.

(4) The Welsh Ministers may extend the notice period in paragraph (3) if they consider it necessary to do so.

(5) Not later than 28 days from the date of notification by the Welsh Ministers, the panel must send a response to the Welsh Ministers which sets out how it intends to rectify the failure or omission.

Powers in the event of failure to comply

9.—(1) This regulation applies if the Welsh Ministers think that a panel or a constituent local planning authority is failing or omitting to do anything that it is necessary for it to do for the purpose of complying with a specified requirement.

(2) The Welsh Ministers may direct a panel or a constituent local planning authority to take such steps as the Welsh Ministers think appropriate for the purpose of complying with a specified requirement.

(3) A panel or a constituent local planning authority must comply with a direction given to it under this regulation.

(4) A specified requirement is a requirement imposed by any of the following provisions of these Regulations—

- (a) regulation 3 (panel composition requirements);
- (b) regulation 5 (duty to collaborate to comply with composition requirements);
- (c) regulation 6 (duty to review composition requirements);
- (d) regulation 8.(1)(1) (notification of failure to comply with reporting requirements).

Effect of failure to comply with direction about composition requirements

10. The effect of failure to comply with a direction under regulation 9.(2) in relation to a specified requirement in regulation 9.(4)(a) is that the voting rights of a member of a constituent local planning authority specified in the direction are suspended until such time as the composition requirements are met.

Validity of actions of panel

11. The validity of anything done by a panel is not affected by a failure by a panel or a constituent local planning authority to comply with any obligation or requirement imposed on them (as the case may be) by—

- (a) regulations 3 and 4.(2) (panel composition requirements);
- (b) regulation 6 (duty to review composition requirements);
- (c) regulation 7 (reporting requirements);
- (d) regulation 8.(1) (notification of failure to comply with reporting requirements);
- (e) regulation 9.(1)(3) (powers in the event of failure to comply).

PART 3

Financial arrangements of strategic planning panels

Qualifying expenditure

12.—(1) The following descriptions of expenditure incurred or to be incurred by a panel are prescribed for the purposes of paragraph 16(2) of Schedule 2A to the 2004 Act—

- (a) costs of wages or salary, pension contributions and compulsory or voluntary redundancy costs or other staff costs;
- (b) remuneration of a nominated member of a panel;
- (c) lease and/or rental costs associated with the hire of premises;
- (d) costs in respect of rates and utilities in relation to which a panel is liable in connection with its occupation of premises;
- (e) professional fees, consultancy fees and technical fees;
- (f) costs associated with the functions of a panel in relation to strategic plan preparation and review in accordance with Part 6 of the 2004 Act;
- (g) equipment costs including purchase, leasing or maintenance of furniture, furnishings, computer software and hardware costs;
- (h) remuneration of any co-opted member of a panel and for the purpose of this paragraph, a co-opted member is not a nominated member of a panel;
- (i) costs associated with enabling a panel to undertake its functions under Part 6 of the 2004 Act.

(2) The costs of remuneration of a constituent local planning authority member of a panel are not qualifying expenditure for the purposes of paragraph 16(2) of Schedule 2A to the 2004 Act.

(3) In this regulation—

“pension contributions” (“*cyfraniadau pensiwn*”) means any costs incurred by a panel in respect of any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by a panel, any sum set aside for the future payment of pensions directly by a panel to current or former employees and any pensions paid directly to such persons without having first been set aside;

“professional fees” (“*ffioedd proffesiynol*”) include costs relating to and membership of a professional body;

“staff costs” (“*costau staff*”) in relation to a panel includes any employers’ pension and national insurance contributions which a panel makes;

“technical fees” (“*ffioedd technegol*”) include costs relating to accountancy, auditing, legal, insurance, communications, translation and procurement.

Carl Sargeant

Minister for Natural Resources, one of the Welsh Ministers

11 January 2016