

SL(6)516 – The Listed Buildings and Conservation Areas (Procedure and Interest Rate) (Wales) Regulations 2024

Background and Purpose

These Regulations form part of the implementation of the Historic Environment (Wales) Act 2023 (“the 2023 Act”).

These regulations set out the procedural requirements for listed building consent applications, including appeals to those applications, special cases, provisions in relation to conservation areas with listed buildings and other miscellaneous matters including prescribed interest rates for the cost of urgent works.

Procedure

Negative

The 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 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 6(4), there is a difference between the English text and the Welsh text. In the English text, it refers to paragraph “(2)(c) or (d)” but in the Welsh text it refers to paragraph “(2)(2)(c) or (d)”.

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

In regulation 19(4)(d), the location of the text for amendment in regulation 9 is incorrectly identified as “in paragraph 9(1)” but it should state “in paragraph (1)”.

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

In regulation 22(9), in the opening words before sub-paragraphs (a) and (b), the modification states that “Regulation 15(1)...applies as if”. However, in sub-paragraph (b) it



states that “paragraph (3) was omitted” which is not found in paragraph (1) of regulation 15. Therefore, the modification does not succeed as currently drafted. It should only refer to regulation 15 in the opening words, and the words “in paragraph (1)” should be included at the beginning of sub-paragraph (a).

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

In Schedule 2, in paragraph 6, in the English text, the structure and drafting of the provision does not succeed because sub-paragraphs (c) and (d) do not complete the sense of the opening words before sub-paragraph (a). In the Welsh text, the words that correspond to “the building and the associated land” at the end of those opening words have instead been included at the beginning of both sub-paragraphs (a) and (b). As a result, the drafting of the provision succeeds in the Welsh text but not in the English text.

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

In Schedule 4, in paragraph 6, a new Schedule 1A is inserted in the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992. In the new Schedule 1A, in paragraph 1(c) and (d), the modifications introduces a new sub-paragraph (aa) in the Welsh and English text of regulation 6(2) of the Listed Buildings and Conservation Areas (Procedure and Interest Rate) (Wales) Regulations 2024. However, the term “concurrent application” (“cais cydredol”) is used in sub-paragraph (aa)(i) but it has not been defined for the purposes of regulation 6 of the 2024 Regulations. There is a definition of that term in the new Schedule 1A, in the modifications made by paragraph 1(i)(iii) and (j)(iii) but it has only been defined for regulation 8 of the 2024 Regulations.

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

In Schedule 4, in paragraph 6, a new Schedule 1A is inserted in the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992. However, paragraph 1(e) and (f) of the new Schedule 1A fail to identify the regulation where the new paragraph (4) should be inserted when modifying the Listed Buildings and Conservation Areas (Procedure and Interest Rate) (Wales) Regulations 2024. In addition, there is also uncertainty as to whether the new paragraph (4) for insertion is correctly numbered or not.

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

In Schedule 4, in paragraph 12(a), a new paragraph 2 is substituted in Part 2 of Schedule 4 to the Developments of National Significance (Wales) Regulations 2016. In the new paragraph 2, there is a difference in the drafting of the modifications found in the second



column for "Regulation 12" and "Regulation 13". In the second column of the entry for "Regulation 12" the modified text of that regulation states "the determination period referred to in section 62L of the Town and Country Planning Act 1990". But in the second column of the entry for "Regulation 13", in paragraph (b), the modified text of that regulation states "the determination period within the meaning of section 62L of the Town and Country Planning Act 1990". The same issue also occurs in Schedule 4, in paragraph 13(a) which has a corresponding provision for Part 2 of Schedule 5 to the Developments of National Significance (Wales) Regulations 2016. It is unclear whether these differences are intentional and have been done for any particular reason.

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

In Schedule 4, in paragraph 15(c), in the description of the location of the amendment, it should note "paragraph (a)(ii)" rather than "sub-paragraph (a)(ii)". In addition, the sub-paragraph number (ii) should be included within the quotation marks before the new text that replaces the existing text.

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.

Committee Consideration

The Committee considered the instrument at its meeting on 30 September 2024 and reports to the Senedd in line with the reporting points above.

