

# **SL(6)624 – The Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025**

## **Background and Purpose**

The *Infrastructure (Wales) Act 2024* (the “**2024 Act**”) created a unified consenting regime for major infrastructure projects in Wales.

The *Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025* (the “**Regulations**”) are part of a suite of regulations that implement and provide details of the processes required under the 2024 Act.

In particular, these Regulations make provision for procedures where the infrastructure consent order will authorise compulsory acquisition of land or rights over land.

The matters specified and the requirements set out in these Regulations are not relevant to all applications, and are in addition to any requirements contained in other regulations that implement the 2024 Act (such as the *Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025*).

Throughout the application process, these Regulations impose additional requirements to give various notices to persons with an interest in the land to which the compulsory acquisition request relates. During pre-application, where additional persons are identified, the submission of the application is extended to enable consultation with those persons. There are also additional requirements that an application for infrastructure consent must contain.

## **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 8 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

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



"Additional interested person" is defined in regulation 3 as "*an interested person who has **not** been given written notice in accordance with regulation 5, 7 or 16*".

Under regulation 5, an applicant must give notice of the proposed application to an interested person. If additional interested persons are identified after such notices have been given, those additional interested persons must also be given a notice under regulation 7.

As drafted, it appears logical to define an '*additional interested person*' as a person who has not been given a written notice under regulation 5.

However, a person under regulation 7 will have been given a written notice (albeit at a later date). We therefore query whether it is logical and necessary to refer to regulation 7 in the definition.

It is also unclear whether the reference to regulation 16 should instead be a reference to regulation 15 (which expressly refers to 'additional interested persons').

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

These Regulations makes numerous references to '*replacement land*'. For example, if a planning application made under the 2024 Act includes a compulsory acquisition request, applicants may be required to submit a plan identifying, inter alia, any '*replacement land*'.

Whilst this term is defined in the 2024 Act, it is not defined in these Regulations.

In our view, consideration should be given to including a definition in regulation 3, cross-referencing to the relevant definition in the 2024 Act (as is done for numerous other terms in the Regulations, such as '*land*' and '*the prospective purchaser*'). Alternatively, cross-referencing footnotes would also promote accessibility and provide certainty.

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

There are numerous instances in the instrument where the drafting omits certain words.

In regulation 8(2), the reference is incomplete as it refers the reader to "in (1)", but it should be correctly described as "in **paragraph** (1)". This also occurs in regulation 15(4) where it notes "in accordance with (2)" but it should note "in accordance with **paragraph** (2)". In addition, it occurs in regulation 30(c), where it notes "in (b)" but it should note "in **paragraph** (b)".

Further, in regulation 10(1), the reference to "*section 38(2)*" is incomplete as it does not note the Act where that section is found. It should note "*section 38(2) of the 2024 Act*" to complete the meaning of the reference.

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



In regulation 19(1)(b), there is a difference between the English and Welsh text. In the English text, it notes "*all land interests*" but the meaning given by the Welsh text is "*everyone with an interest in the land*". Therefore, the meaning of the phrase is unclear in this provision.

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

In regulations 19(2)(l) and 20(5)(l), there is a difference between the English and Welsh text. In the English text, it notes in both places, "*the details of how representations **can** be made*" but the meaning given by the Welsh text is "*the details of how representations **may** be made*". Therefore, the English text only suggests the details of a possible way of making representations, but the meaning of the Welsh text is the details of the way you are legally permitted to make representations.

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

In regulation 20(6), it refers to the Welsh Ministers being treated as "*complying with the relevant paragraph*" in connection with steps taken to replace defaced notices.

This drafting is not particularly helpful to the reader when referring to compliance with legal requirements as it is unclear which paragraph this is referencing. It would be more appropriate to refer the reader to the specific numbered paragraph which sets out the requirements.

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

In regulation 21(3), there is a difference between the English and Welsh text. In the English text, it notes "*specified in any notice*" but the meaning given by the Welsh text is "*noted in any notice*." This is because the Welsh text has used "*nodir*" rather than "*pennir*" to express the meaning of "*specified*". But "*pennu*" is the standardised word for "*specify*" in the Glossary of the Welsh Government's Legislative Translation Unit.

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

In certain circumstances, a compulsory acquisition notice must include a 'general vesting declaration statement'. The contents of such statement is prescribed under regulation 30.

Certain terms are used in regulation 30 which are defined in the *Compulsory Purchase (Vesting Declarations) Act 1981* (such as "*land*" and "*tenancy*"). In addition, the term "*long tenancy that is due to expire*" in regulation 30(f) is very similar to the term "*long tenancy which is about to expire*" defined by section 2 of the 1981 Act.

We would be grateful for confirmation whether these terms are intended to bear the same meaning in regulation 30 as found in the 1981 Act.



## 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**

**02 July 2025**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Legislation, Justice and Constitution Committee**