

# **SL(6)622 – The Infrastructure Consent (Fees) (Wales) Regulations 2025**

## **Background and Purpose**

The Infrastructure (Wales) Act 2024 (“the 2024 Act”) establishes a unified application and consenting process to enable making and consideration of applications for infrastructure consent. The process applies to the significant infrastructure projects that are specified in Part 1 of the 2024 Act. Broadly, they are energy, transport, waste and water projects.

Part 2 of the 2024 Act contains the requirement for infrastructure consent. Part 3 of the 2024 Act makes provision about applying for infrastructure consent.

Part 4 of the 2024 Act contains provision about appointing an authority to examine applications for infrastructure consent (“the examining authority”) and about particular aspects of the examination process. Part 5 of the 2024 Act contains provisions about deciding applications for infrastructure consent.

The Act enables the Welsh Ministers to make provision for or in connection with the charging of fees by specified public authorities for the performance of an infrastructure consent function and the provision of an infrastructure consent service (as defined in section 124 of the Act).

These Regulations make provision in relation to the following—

- fees for pre-application services provided by the Welsh Ministers (regulation 3),
- fees for pre-application services provided by planning authorities (regulation 4),
- fees for pre-application services provided by Natural Resources Wales (regulation 5),
- fees for obtaining information about interests in land (regulation 6),
- fees for exercising powers of entry to survey land (regulation 7),
- fees for giving notice of proposed application (regulation 8),
- fees for making an application (regulation 9),
- fees for a local impact report (regulation 10),
- fees for a marine impact report (regulation 11),
- refund of unspent fees (regulation 12),
- fees payable to specified public authorities and relevant planning authorities for providing services other than pre-application services (regulation 13), and
- fees payable to relevant authorities for applications for removing consent requirement and deeming consents (regulation 14).



## Procedure

Draft Affirmative

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

## Technical Scrutiny

The following ten 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.**

In regulation 2(1), is it necessary to include a definition of “financial year” because a definition of that term will be implied in these Regulations by virtue of Schedule 1 to the Legislation (Wales) Act 2019?

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

In regulation 3(3)(d) and (7)(b), there are several references to “the relevant pre-application services”. However, in regulation 3(4)(b), it refers to “the relevant services” rather than “the relevant pre-application services”. In addition, the term “Pre-application services” has been defined as having a particular meaning by regulation 2(1) of these Regulations. As a result, the drafting is inconsistent, and it could be argued that “the relevant pre-application services” has a narrower meaning in regulation 3 compared with “the relevant services”. The same varying between the terms “the relevant pre-application services” and “the relevant services” also occurs in several places in regulations 4 and 5 of these Regulations.

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

In regulations 3(6) and 4(6), there is a difference between the English and Welsh text. In the English text, it notes “21 days beginning the day after the date”. However, the meaning given by the Welsh text is “21 days beginning **on** the day after the date”. Both language texts are equivalent in meaning where the same phrase is used in regulations 4(8) and 5(8).

The Welsh Government may also wish to consider the consistency of the drafting of the English text when describing the beginning of periods of time because “beginning the day”, “beginning on the day” and “beginning with the day” are all used in various provisions in these Regulations such as regulations 3(9), 5(6) and (8), 13(5) and 14(6).

As a result, it is unclear if this is done intentionally because there is any difference in meaning or inconsistent drafting (see also the Welsh Government’s drafting guidelines about describing the beginning of periods of time which generally recommends “beginning with [the day]” in WLW 8.3).



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

In regulations 3(9), 4(8) and 5(8), it notes that “the fee will be administered by [an] invoice payable...”. In addition, in regulation 14(3), it notes that “the relevant authority will provide the applicant...”. However, it is unclear whether “will” in these provisions is placing a legal obligation to act in a particular manner or being used as a future tense. In this regard, the Welsh Government’s drafting guidelines state that the use of “will” should be avoided if imposing obligations, and that a phrase such as “must” or “is to be” should be used in that context, or the present indicative for declaratory provisions (see WLW 3.14 (4) and (5)).

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

In regulation 5(9)(b), there is a difference between the English and Welsh text. In the English text it notes “withhold the services” but the meaning given by the Welsh text is “withhold the **relevant pre-application** services”.

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

In regulation 7(1), it refers to “section 126(1) **of the Act**” where it appears to be referring to the Infrastructure (Wales) Act 2024. However, the Infrastructure (Wales) Act 2024 has been defined for these Regulations as “the 2024 Act” which is used in an earlier reference in regulation 7(1).

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

In regulation 10(2)(a) and (b), there are references to “section 34(2)(a) or (b)” but these references are incomplete as they do not note that the section is found in the 2024 Act. This also occurs in regulation 11(2)(a) and (b) in relation to references to “section 34(2)(b)” and “section 37(b)”.

In addition, there is further confusion concerning the reference to “section 37(b)” as there is no such section in the 2024 Act. Therefore, it is unclear as to whether it is referring to a different section in that Act.

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

In regulation 13(5), there is an incorrect cross-reference to “the notice referred to in **paragraph (5)**”. However, it appears that it should refer the reader to paragraph (4) of regulation 13.

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



In regulation 13(7), the term “relevant planning authority” is defined for regulation 13. However, the same term is also used in several other places such as regulations 4 and 10 of these Regulations. Therefore, the term will only have that defined meaning in regulation 13 but it has not been defined with a meaning for regulations 4 and 10 of these Regulations.

In addition, a different definition of the same term is also given by section 123 of the 2024 Act for Part 7 of that Act. As a result, the meaning of the term “relevant planning authority” is unclear in regulations 4 and 10 of these Regulations.

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

The reference in the italic headnote on pages 1 and 4 should be consistent with that found in the second paragraph of the preamble noting the statutory requirement for the instrument to be laid in draft before the Senedd. However, the italic headnote refers to “section 141(3) and 141(4)(h) of the Infrastructure (Wales) Act 2024” but the second paragraph of the preamble only refers to “section 141(3)” of that 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**

**2 July 2025**

