

Government Response: The Infrastructure Consent (Examination and Decision) (Procedure) (Wales) Regulations 2025 (“the Regulations”)

Technical Scrutiny point 1: The Welsh Government notes the point but does not consider that this term requires further definition. The words will be given their ordinary, everyday meaning. A variation of an application which is agreed may arise under regulation 31 of the Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025, under the Infrastructure Consent (Compulsory Acquisition) (Wales) Regulations 2025 or under regulation 28 of these Regulations.

Technical Scrutiny point 2: The Welsh Government notes the point but does not consider that there is merit in a different approach. The only instance where a different definition applies is in paragraph 1 of Schedule 3 and it is clear from paragraph 3 of that same Schedule what the meaning is. There is no advantage in signposting that different definition to readers of regulation 2, to whom it will not be relevant.

Technical Scrutiny point 3: The Welsh Government is grateful to the Committee for identifying the linguistic point. A “change of” refers to a new examining authority being appointed and “a change to” refers to a change where the examining authority is a panel. In order to capture both, the Welsh Government will seek to include an amendment to the effect of substituting “mewn perthynas â” for “i’r” in the Welsh language, in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 4: The Welsh Government notes the linguistic point raised. It does not consider that there is any difference in meaning between “the person who is the examining authority” and “the person who performs the role of examining authority”. The Welsh Government is satisfied that it is clear that both formulations refer to the person or panel appointed under section 40(1) of the Infrastructure (Wales) Act 2024 and does not see a basis for ambiguity in the application of the regulation.

Technical Scrutiny point 5: The Welsh Government is grateful to the Committee for identifying this cross-referencing point, which it accepts. The Welsh Government will seek to clarify it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 6: The Welsh Government notes the point but does not consider that that this term requires further definition. The term is a well-understood concept and is development that is linear in nature, such as a railway line or highway. It is also noted that the word is similarly used, without further definition, in S.I. 2004/2018, S.I. 2006/1466 and S.I. 2009/2264.

Technical Scrutiny point 7: The Welsh Government notes the point but considers that the meaning of “inquiry” as referring to a local inquiry is clear in context. See for example section 48 of the Infrastructure (Wales) Act 2024 for similar usage.

Technical Scrutiny point 8: The Welsh Government notes the linguistic point raised. “May” is intended to convey the possibility that a written statement might be required, it being inherent in that possibility that there is a power to do so. Based on current practice, the examining authority does not routinely require such a written statement, but if it chooses to do so, the remaining provisions of the regulation apply.

Technical Scrutiny point 9: The Welsh Government is grateful to the Committee for identifying the typographical error, which it accepts. The Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 10: The Welsh Government accepts the point. The Welsh Government will seek to clarify the point in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 11: An assessor is an expert with technical knowledge, appointed to assist with identified subject matters. A solicitor or barrister is a legal expert and is likely to be appointed in relation to matters that may arise throughout the examination, not just in relation to a particular subject area. The government does not think that further provision is necessary.

Technical Scrutiny point 12: The Welsh Government is grateful to the Committee for identifying the linguistic inconsistency, which it accepts. The Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 13: The Welsh Government is grateful to the Committee for identifying the linguistic inconsistency, which it accepts. The Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 14: The Welsh Government is grateful to the Committee for identifying this grammatical point. The obligation in regulation 33 is on the examining authority. The Welsh Government notes that largely the Regulations do in fact refer to the examining authority as “it”, in line with the Welsh Government’s drafting guidelines. The Welsh Government will seek to amend “they” to “it” in regulation 33 and in the six other instances in which it occurs, in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 15: The Welsh Government is grateful to the Committee for identifying this cross-referencing point. The Welsh Government will seek to clarify

it in an amending instrument before the coming into force of the Regulations on 15 December 2025.

Technical Scrutiny point 16: The Welsh Government accepts this point. The sensible meaning is as described in the last sentence of point 16 of the Committee's report and the Welsh Government will seek to include it in an amending instrument before the coming into force of the Regulations on 15 December 2025.