STATUTORY INSTRUMENTS

2017 No. 571

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Made - - - -	*18th April 2017*
Laid before Parliament	*19th April 2017*
Coming into force - -	*16th May 2017*

The Secretary of State has been designated [M1] for the purposes of section 2(2) of the European Communities Act 1972 [M2] in relation to measures relating to the environment.

The Secretary of State in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 71A(1) and (2) and 298A(2) of the Town and Country Planning Act 1990 [M3], and having taken into account the selection criteria in Annex III to Council Directive 2011/92/EU [M4], makes the following Regulations:

Modifications etc. (not altering text)

C1 Regulations applied (with modifications) by The Town and Country Planning (Permission in Principle) Order 2017 (S.I. 2017/402), **art. 5B(2)-(4)** (as inserted (1.6.2018) by S.I. 2017/1309, arts. 1, **4**)

C2 Regulations modified (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), **s. 55(1)**

C3 Regulations power to amend or revoke conferred (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), ss. 164(3), 255(5), **Sch. 14 Pt. 1** (with s. 247)

C4 Regulations power to modify (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), ss. 108(3), 255(3)(a) (with s. 247)

Marginal Citations

M1 S.I. 2008/301.

M2 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

M3 1990 c.8. Section 71A was inserted by section 15 of the 1991 Act, and was amended by paragraph 16 of Schedule 12 to the Housing and Planning Act 2016 (c. 22) and S.I. 2011/1043.

M4 OJ No. L 26, 28.1.2012, p.1.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and come into force on 16th May 2017.

(2) Subject to paragraph (3), these Regulations apply in relation to England only.

(3) Regulations 60, 61 and 62 apply in relation to Scotland, Wales and Northern Ireland respectively [M5].

Marginal Citations

M5 Regulations 60 to 62 relate to the Secretary of State's power to direct that the Regulations shall not apply to development that constitutes or forms part of a project having national defence as its sole purpose. The decision as to whether a direction should be made in respect of projects situated in the devolved administrations will be taken by the Secretary of State.

Interpretation

2.—(1) In these Regulations—

"the 1991 Act" means the Planning and Compensation Act 1991 [M6];

"the 1995 Act" means the Environment Act 1995 [M7];

"the Act" means the Town and Country Planning Act 1990 [M8];

"appropriate register" means the register on which particulars of an application for planning permission for the relevant development or an application for subsequent consent have been placed or would fall to be placed if such an application were made;

"the consultation bodies" means—

(a) any body which the relevant planning authority is required to consult, or would, if an application for planning permission for the development in question were before them, be required to consult by virtue of **[**[F1]**—]**

(i) article 18 (consultations before the grant of permission) of the Order or of any direction under that article;

(ii) **[**[F2]article 20 (consultations before determination of application) of the Town and Country Planning (Crown Development Applications) (Procedure and Written Representations) Order 2025; or

(iii) article 14 (consultation before determination of application: EIA development) of the Town and Country Planning (Crown Development) (Urgent Applications) (Procedure) (England) Order 2025.**]**

(b) the Marine Management Organisation [M9], in any case where the proposed development would affect, or would be likely to affect, any of the following areas—

(i) waters in or adjacent to England up to the seaward limits of the territorial sea;

(ii) an exclusive economic zone [M10], except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;

(iii) a Renewable Energy Zone [M11], except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;

(iv) an area designated under section 1(7) of the Continental Shelf Act 1964 [M12], except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions; and

(c) the following bodies if not referred to in paragraph (a) or (b)—

(i) any principal council for the area where the land is situated, if not the relevant planning authority;

(ii) Natural England [M13];

(iii) the Environment Agency [M14];

(iv) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Secretary of State, as the case may be, considers are likely to have an interest in the application;

[[F3]"coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);**]**

"the Directive" means Council Directive 2011/92/EU **[**[F4]as it had effect immediately before exit day**]**;

"EIA" has the meaning given by regulation 4;

"EIA application" means—

(a) an application for planning permission for EIA development; or

(b) a subsequent application in respect of EIA development;

"EIA development" means development which is either—

(a) Schedule 1 development; or

(b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

"EIA order proposal" means an order proposal which relates to EIA development;

"environmental information" means the environmental statement, including any further information and any other information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development;

"environmental statement" has the meaning given by regulation 18;

"European site" means a site within the meaning of regulation 8 of **[**[F5]the Conservation of Habitats and Species Regulations 2017**]**;

[[F6]"EU environmental assessment" means an assessment of the effect of anything on the environment carried out under **[**[F7]assimilated**]** law other than any law of any part of the United Kingdom that implemented the Directive;**]**

"exempt development" means development in respect of which the Secretary of State has made a direction under regulation 63;

"further information" has the meaning given in regulation 25;

"inspector" means a person appointed by the Secretary of State pursuant to paragraph 1 of Schedule 6 [M15] to the Act to determine an appeal **[**[F8]or a person appointed by the Secretary of State pursuant to section 293I of the Act to determine an application**]**;

"the land" means the land on which the development would be carried out or, in relation to development already carried out, has been carried out;

"by local advertisement", in relation to a notice, means—

(a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application or appeal relates is situated; and

(b) publication of the notice on a website maintained by or on behalf of the authority;

"local development order" means a local development order made pursuant to section 61A [M16] (Local development orders) of the Act;

"monitoring measure" means a provision requiring the monitoring of any significant adverse effects on the environment of proposed development including any measures contained in—

(a) a condition imposed on the grant of planning permission; or

(b) a planning obligation;

"neighbourhood development order" means a neighbourhood development order made pursuant to section 61E [M17] (Neighbourhood development orders) of the Act;

"the Order" means the Town and Country Planning (Development Management Procedure) (England) Order 2015 [M18];

"order proposal" means a proposal for the making of a neighbourhood development order by a qualifying body under paragraph 1 of Schedule 4B [M19] to the Act;

"any other information" means any other substantive information relating to the environmental statement and provided by the applicant or the appellant as the case may be;

"any particular person" includes any non-governmental organisation promoting environmental protection;

"principal council" has the meaning given by section 270(1) (general provisions as to interpretation) of the Local Government Act 1972 [M20];

"qualifying body" has the meaning given by section 61E(6) (Neighbourhood development Orders) of the Act;

"register" means a register kept pursuant to article 40 of the Order (register of applications) and references to a "Part" of the register are to be taken as references to the Parts of the register as described in article 40 of the Order;

"relevant mineral planning authority" means the body to whom it falls, fell, or would, but for a direction under—

(a) paragraph 7 of Schedule 2 (registration of old mining permissions) to the 1991 Act;

(b) paragraph 13 of Schedule 13 (review of old mineral planning permissions) to the 1995 Act; or

(c) paragraph 8 of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act,

fall to determine the ROMP application in question;

"relevant planning authority" means the body to whom it falls, fell, or would, but for an application made directly to the Secretary of State under section 62A [M21] of the Act (applications made directly to the Secretary of State) or a direction under section 77 [M22] of the Act (reference of applications to Secretary of State) **[**[F9]or an application made to the Secretary of State under section 293B or 293D of the Act (urgent Crown development or Crown development)**]**, fall to determine an application for planning permission for the development in question;

"ROMP application" means an application to a relevant mineral planning authority to determine the conditions to which a planning permission is to be subject under—

(a) paragraph 2(2) of Schedule 2 (registration of old mining permissions) to the 1991 Act;

(b) paragraph 9(1) of Schedule 13 (review of old mineral planning permissions) to the 1995 Act [M23]; or

(c) paragraph 6(1) of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act [M24];

"ROMP development" means development which has yet to be carried out and which is authorised by a planning permission in respect of which a ROMP application has been or is to be made;

"ROMP subsequent application" means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject following determination of a ROMP application; and

(b) must be obtained before all or part of the minerals development permitted by the planning permission may be begun or continued;

"ROMP subsequent consent" means consent granted pursuant to a ROMP subsequent application;

"Schedule 1 application" and "Schedule 2 application" mean an application for planning permission for Schedule 1 development and Schedule 2 development respectively;

"Schedule 1 development" means development, other than exempt development, of a description mentioned in Schedule 1;

"Schedule 2 development" means development, other than exempt development, of a description mentioned in column 1 of the table in Schedule 2 where—

(a) any part of that development is to be carried out in a sensitive area; or

(b) any applicable threshold or criterion in the corresponding part of column 2 of that table is respectively exceeded or met in relation to that development;

"scoping direction" and "scoping opinion" have the meanings given in regulation 15;

"screening direction" means a direction made by the Secretary of State as to whether development is EIA development;

"screening opinion" means a written statement of the opinion of the relevant planning authority as to whether development is EIA development;

"sensitive area" means any of the following—

(a) land notified under section 28(1) (sites of special scientific interest) of the Wildlife and Countryside Act 1981 [M25];

(b) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949 [M26];

(c) the Broads [M27];

(d) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage [M28];

(e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 [M29];

(f) an area of outstanding natural beauty designated as such by an order made by Natural England under section 82(1) (areas of outstanding natural beauty) of the Countryside and Rights of Way Act 2000 [M30] as confirmed by the Secretary of State;

(g) a European site;

"subsequent application" means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject; and

(b) must be obtained before all or part of the development permitted by the planning permission may be begun;

"subsequent consent" means consent granted pursuant to a subsequent application;

"UK environmental assessment" means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment.

(2) Subject to paragraph (3), expressions used both in these Regulations and in the Act have the same meaning for the purposes of these Regulations as they have for the purposes of the Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations references to the Secretary of State must not be construed as references to an inspector.

Textual Amendments

F1 Reg. 2(1): punctuation inserted into para. (a) of definition and words renumbered as para. (i) (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(2)(a)(i)**

F2 Words in reg. 2(1) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(2)(a)(ii)**

F3 Words in reg. 2(1) inserted (temp. until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **7** (with regs. 13, 15, 17-20)

F4 Words in reg. 2(1) added (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F5 Words in reg. 2(1) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 79(2)**

F6 Words in reg. 2(1) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F7 Word in reg. 2(1) substituted (27.2.2025) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025 (S.I. 2025/82), reg. 1(2), **Sch. 5 para. 4(a)**

F8 Words in reg. 2(1) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(2)(b)**

F9 Words in reg. 2(1) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(2)(c)**

Marginal Citations

M6 1991 c. 34.

M7 1995 c. 25.

M8 1990 c. 8.

M9 Established under section 1 of the Marine and Coastal Access Act 2009 (c. 23).
M10 See section 41 of the Marine and Coastal Access Act 2009.
M11 See section 84(4) of the Energy Act 2004 (c. 20), substituted by the Marine and Coastal Access Act 2009.
M12 1964 c. 29. Section 1(7) was amended by section 37 of, and paragraph 1 of Schedule 3 to, the Oil and Gas (Enterprise) Act 1982 (c. 23) and section 103 of the Energy Act 2011 (c. 16).
M13 Established under section 1 of the Natural Environment and Rural Communities Act 2006 (c. 16).
M14 Established under section 1 of the Environment Act 1995 (c. 25).
M15 Schedule 6 was amended by sections 32 and 84 of, paragraph 54 of Schedules 7, and Part I of Schedule 19 to the 1991 Act; paragraph 44 of Schedule 22 to the 1995 Act; sections 196 and 198 of, and paragraphs 1 and 14 of Schedule 10 to, the Planning Act 2008 (c. 29); sections 2 and 7 of, and paragraphs 1 and 9 of Schedule 2 to, the Growth and Infrastructure Act 2013 (c. 27); and section 51 of and paragraphs 8 and 16 of Schedule 5 to the Planning (Wales) Act 2015 (anwa. 4).
M16 Section 61A of the Act was inserted by section 40 of the Planning and Compulsory Purchase Act 2004 (c. 5) and amended by sections 188 and 238 of, and Schedule 13 to, the Planning Act 2008 (c. 29).
M17 Section 61E of the Act was inserted by section 116(1) of, and paragraphs 1 and 2 of Schedule 9 to, the Localism Act 2011 (c. 20) and amended by section 140 of the Housing and Planning Act 2016 (c. 22).
M18 S.I. 2015/595.
M19 Schedule 4B to the Act was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 and amended by sections 140 and 141 of the Housing and Planning Act 2016.
M20 1972 c. 70.
M21 Section 62A of the Act was inserted by section 1 of the Growth and Infrastructure Act 2013 and amended by section 153 of the Housing and Planning Act 2016.
M22 Section 77 of the Act was amended by section 32 of, and paragraph 18 of Schedule 7 to, the 1991 Act; section 112 of, and paragraphs 1 and 10 of Schedule 12 to, the Localism Act 2011; section 190 of the Planning Act 2008; section 30 of, and paragraphs 2 and 11 of Part 2 of Schedule 4 to, the Infrastructure Act 2015 (c. 7); and section 150 of, and paragraphs 1 and 20 of Schedule 12 to, the Housing and Planning Act 2016.
M23 Paragraph 9 of Schedule 13 to the 1995 Act was amended by S.I. 2003/956.
M24 Paragraph 6 of Schedule 14 to the 1995 Act was amended by S.I. 2003/956.
M25 1981 c. 69. Section 28 was substituted by section 75(1) of, and paragraph 1 of Schedule 9 to, the Countryside and Rights of Way Act 2001 (c. 37) and amended by section 105(1) of, and paragraph 79 of Part 1 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16); and section 148 of, and paragraph 2 of Part 2 of Schedule 13 to, the Marine and Coastal Access Act 2009 (c. 23).
M26 1948 c. 97. See section 5(3).
M27 See the Norfolk and Suffolk Broads Act 1988 (c. 4).
M28 See Command Paper 9424.
M29 1979 c. 46. See the definition in section 1(11).
M30 2000 c. 37. Section 82 was amended by section 105 of, and paragraph 163 of Part I of Schedule 11 to, the Natural Environment and Rural Communities Act 2006; and S.I. 2013/755.

Prohibition on granting planning permission or subsequent consent for EIA development

3. The relevant planning authority, the Secretary of State or an inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development.

Environmental impact assessment process

4.—(1) The environmental impact assessment (" EIA") is a process consisting of—

(a) the preparation of an environmental statement;

(b) any consultation, publication and notification required by, or by virtue of, these Regulations or any other enactment in respect of EIA development; and

(c) the steps required under regulation 26.

(2) The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors—

(a) population and human health;

(b) biodiversity, with particular attention to species and habitats protected under **[**[F10]any law that implemented**]** Directive 92/43/EEC[M31] and Directive 2009/147/EC[M32];

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape;

(e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

(3) The effects referred to in paragraph (2) on the factors set out in that paragraph must include the operational effects of the proposed development, where the proposed development will have operational effects.

(4) The significant effects to be identified, described and assessed under paragraph (2) include the expected significant effects arising from the vulnerability of the proposed development to major accidents or disasters that are relevant to that development.

(5) The relevant planning authority or the Secretary of State must ensure that they have, or have access as necessary to, sufficient expertise to examine the environmental statement.

Textual Amendments

F10 Words in reg. 4(2)(b) inserted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M31 OJ No. L 206, 22.7.1992, p. 7.

M32 OJ No. L 20, 26.1.2010, p. 7.

PART 2

Screening

General provisions relating to screening

5.—(1) Subject to paragraph (3) and regulation 63, the occurrence of an event mentioned in paragraph (2) shall determine for the purpose of these Regulations that development is EIA development.

(2) The events referred to in paragraph (1) are—

(a) the submission by the applicant or appellant in relation to that development of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these Regulations; or

(b) the adoption by the relevant planning authority of a screening opinion to the effect that the development is EIA development.

(3) A direction of the Secretary of State shall determine for the purpose of these Regulations whether development is or is not EIA development.

(4) Where a relevant planning authority or the Secretary of State has to decide under these Regulations whether Schedule 2 development is EIA development, the relevant planning authority or Secretary of State must take into account in making that decision—

(a) any information provided by the applicant;

(b) the results of any relevant EU environmental assessment which are reasonably available to the relevant planning authority or the Secretary of State; and

(c) such of the selection criteria set out in Schedule 3 as are relevant to the development.

(5) Where a relevant planning authority adopts a screening opinion under regulation 6(6), or the Secretary of State makes a screening direction under regulation 7(5), the authority or the Secretary of State, as the case may be, must—

(a) state the main reasons for their conclusion with reference to the relevant criteria listed in Schedule 3;

(b) if it is determined that proposed development is not EIA development, state any features of the proposed development and measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment; and

(c) send a copy of the opinion or direction to the person who proposes to carry out, or who has carried out, the development in question.

(6) The Secretary of State may make a screening direction either—

(a) of the Secretary of State's own volition; or

(b) if requested to do so in writing by any person.

(7) The Secretary of State may direct that particular development of a description mentioned in column 1 of the table in Schedule 2 is EIA development whether or not the conditions contained in sub-paragraphs (a) and (b) of the definition of “Schedule 2 development” are satisfied in relation to that development.

(8) Where the Secretary of State makes a screening direction in accordance with paragraph (6), the Secretary of State must—

(a) take such steps as appear to be reasonable to the Secretary of State in the circumstances, having regard to the requirements of regulation 6(2) and (3), to obtain information about the proposed development in order to inform a screening direction;

(b) take into account in making that screening direction—

(i) the information gathered in accordance with sub-paragraph (a);

(ii) the results of any relevant EU environmental assessment which are reasonably available to the Secretary of State; and

(iii) such of the selection criteria set out in Schedule 3 as are relevant to the development.

(9) The Secretary of State must make a screening direction under paragraph (6)(a) within—

(a) 3 weeks beginning with the date on which the Secretary of State obtains sufficient information to inform a screening direction; or

(b) such longer period, not exceeding 90 days, as may reasonably be required, beginning with the date on which the Secretary of State obtains sufficient information to inform a screening direction, but this is subject to paragraph (10).

(10) Where the Secretary of State considers that due to exceptional circumstances relating to the proposed development that it is not practicable to adopt a screening direction under paragraph (6)(a) within the period specified in paragraph (9), the Secretary of State may extend that period by

notice in writing given to the person bringing forward the development which is the subject of the proposed screening direction.

(11) The Secretary of State must state in any notice given under paragraph (10) the reasons justifying the extension and the date when the determination is expected.

(12) The Secretary of State must send a copy of any screening direction to the relevant planning authority.

Requests for screening opinions of the relevant planning authority

6.—(1) A person who is minded to carry out development may request the relevant planning authority to adopt a screening opinion.

(2) A person making a request for a screening opinion in relation to development where an application for planning permission has been or is proposed to be submitted must provide the following—

(a) a plan sufficient to identify the land;

(b) a description of the development, including in particular—

(i) a description of the physical characteristics of the development and, where relevant, of demolition works;

(ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment likely to be significantly affected by the development;

(d) to the extent the information is available, a description of any likely significant effects of the proposed development on the environment resulting from—

(i) the expected residues and emissions and the production of waste, where relevant; and

(ii) the use of natural resources, in particular soil, land, water and biodiversity; and

(e) such other information or representations as the person making the request may wish to provide or make, including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(3) A request for a screening opinion in relation to development where a subsequent application has been or is proposed to be submitted must be accompanied by—

(a) a plan sufficient to identify the land;

(b) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;

(c) the information described in paragraph (2)(c) and (d), but only to the extent that this relates to likely significant effects on the environment not previously identified; and

(d) such other information or representations as the person making the request may wish to provide or make, including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) A person compiling the information set out in paragraph (2) or (3) must, where relevant, take into account—

(a) the criteria set out in Schedule 3; and

(b) the results of any relevant EU environmental assessment which are reasonably available to the person requesting the screening opinion.

(5) A relevant planning authority receiving a request for a screening opinion must, if they consider that they have not been provided with sufficient information to adopt an opinion, notify in writing the person making the request of the points on which they require additional information.

(6) A relevant planning authority must adopt a screening opinion within—

(a) 3 weeks beginning with the date of receipt of a request made pursuant to paragraph (1); or

(b) such longer period, not exceeding 90 days from the date on which the person making the request submits the information required under paragraph (2) or (3) as may be agreed in writing with the person making the request.

(7) Where the relevant planning authority considers that due to exceptional circumstances relating to the circumstances of the proposed development that it is not practicable for it to adopt a screening opinion within the relevant period specified in paragraph (6), the relevant planning authority may extend that period by notice in writing given to the person who made the request for a screening opinion.

(8) The relevant planning authority must state in any notice given under paragraph (7) the reasons justifying the extension of time and the date when the determination is expected.

(9) A relevant planning authority which adopts a screening opinion pursuant to paragraph (6) must send a copy to the person who made the request.

(10) Where a relevant planning authority—

(a) fails to adopt a screening opinion within the relevant period mentioned in paragraph (6); or

(b) adopts an opinion to the effect that the development is EIA development,

the person who requested the opinion may request the Secretary of State to make a screening direction.

(11) A person may make a request pursuant to paragraph (10) even if the relevant planning authority has not received the additional information which it has sought under paragraph (5).

Modifications etc. (not altering text)

C5 Reg. 6 applied (with modifications) by 2017 SI403, reg. 14(3) (as amended) (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **5(3)**

Requests for screening directions of the Secretary of State

7.—(1) A person who pursuant to regulation 6(10) requests the Secretary of State to make a screening direction must submit with the request—

(a) a copy of the request to the relevant planning authority under regulation 6(1) and the documents which accompanied it;

(b) a copy of any notification received under regulation 6(5) and of any response sent;

(c) a copy of any screening opinion received from the authority and any accompanying statement of reasons; and

(d) any representations that the person wishes to make.

(2) A person making such a request must send to the relevant planning authority a copy of that request and of any representations made to the Secretary of State.

(3) If the Secretary of State considers that sufficient information to make a screening direction has not been provided, the Secretary of State must give notice in writing to the person making the request of the points on which additional information is required, and may request the relevant planning authority to provide such information as they can on any of those points.

(4) A person providing additional information pursuant to a notice under paragraph (3) must, where that information is of a type specified in regulation 6(2) or (3), prepare that information in accordance with the requirements of regulation 6(4).

(5) The Secretary of State must make a screening direction following a request under regulation 5(6)(b) or 6(10) within—

(a) 3 weeks beginning with the date of receipt of the request; or

(b) where the Secretary of State gives notice under paragraph (3), such longer period not exceeding 90 days beginning with the date on which the person making the request for a screening direction submits the information required under paragraph (3) as may be reasonably required, but this is subject to paragraph (6).

(6) Where the Secretary of State considers that due to exceptional circumstances relating to the proposed development it is not practicable to make a screening direction within the period specified in paragraph (5), the Secretary of State may extend that period by giving notice in writing to the person who made the request for a screening direction.

(7) The Secretary of State must state in any notice given under paragraph (6) the reasons justifying the extension of time and the date when the determination is expected.

(8) The Secretary of State must send a copy of any screening direction made pursuant to paragraph (5) to—

(a) the person who made the request;

(b) the applicant (where the applicant is not the person referred to in sub-paragraph (a)); and

(c) the relevant planning authority.

PART 3

Procedures relating to applications for planning permission

Applications which appear to require screening opinion

8.—(1) Where it appears to the relevant planning authority that—

(a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application;

(b) the development in question has not been the subject of a screening opinion or screening direction; and

(c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the proposal were a request made under regulation 6(1).

(2) Where regulation 6(5) applies by virtue of this regulation the relevant planning authority must, where necessary to ensure that the developer has provided the information referred to in regulation 6(2), make a request for additional information before issuing a screening opinion.

Subsequent applications where environmental information previously provided

9.—(1) This regulation applies where it appears to the relevant planning authority that—

(a) an application which is before them for determination—

(i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;

(ii) has not itself been the subject of a screening opinion or screening direction; and

(iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and

(b) either—

(i) the application for planning permission to which the subsequent application relates was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; or

(ii) the application is for the approval of a matter where the approval is required by or under a condition to which planning permission deemed by **[**[F11]a qualifying enactment**]** is subject.

[[F12](1A) In paragraph (1)(b)(ii), "qualifying enactment" means—

(a) section 10(1) of the Crossrail Act 2008,

(b) section 20(1) or 50(5)(a) of the High Speed Rail (London - West Midlands) Act 2017, or

(c) section 17(1) or 47(3)(a) of the High Speed Rail (West Midlands - Crewe) Act 2021.**]**

(2) Where it appears to the relevant planning authority that the environmental information already before them is adequate to assess the significant effects of the development on the environment, they must take that information into consideration in their decision for subsequent consent.

(3) Where it appears to the relevant planning authority that the environmental information already before them is not adequate to assess the significant effects of the development on the environment, they must serve a notice seeking further information in accordance with regulation 25.

Textual Amendments

F11 Words in reg. 9(1)(b)(ii) substituted (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), **ss. 55(2)(a)**, 64(1)

F12 Reg. 9(1A) inserted (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), **ss. 55(2)(b)**, 64(1)

Subsequent applications where environmental information not previously provided

10.—(1) Where it appears to the relevant planning authority that—

(a) an application which is before them for determination—

(i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;

(ii) has not itself been the subject of a screening opinion or screening direction; and

(iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and

(b) the application for planning permission to which the subsequent application relates was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the subsequent application were a request made under regulation 6(1).

(2) Where regulation 6(5) applies by virtue of this regulation, the relevant planning authority must, where necessary to ensure that the applicant has provided the information referred to in regulation 6(3)(c), make a request for additional information before issuing a screening opinion.

EIA applications made to a relevant planning authority without an environmental statement

11.—(1) Where an EIA application which is before a relevant planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the relevant planning authority must notify the applicant in writing that the submission of an environmental statement is required.

(2) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the relevant planning authority must notify the applicant of any such person.

(3) A relevant planning authority must notify the applicant in accordance with paragraph (1) within 3 weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Secretary of State, after the expiry of that period of 3 weeks or of any longer period so agreed, makes a screening direction to the effect that the development is EIA development, the relevant planning authority must so notify the applicant within 7 days beginning with the date the relevant planning authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (1) may, within 3 weeks beginning with the date of the notification, write to the relevant planning authority stating—

(a) that the applicant accepts the view of the relevant planning authority and is providing an environmental statement; or

(b) unless the condition referred to in paragraph (5) is satisfied, that the applicant is writing to the Secretary of State to request a screening direction.

(5) For the purpose of paragraph (4)(b) the condition is—

(a) if the application referred to in paragraph (1) is an application for planning permission, that the Secretary of State has made a screening direction in respect of the development; or

(b) if the application referred to in paragraph (1) is a subsequent application, that the Secretary of State has made a screening direction in respect of the development on a date after the subsequent application was submitted.

(6) If the applicant does not write to the relevant planning authority in accordance with paragraph (4), the permission or subsequent consent sought is, unless the condition referred to in paragraph (7) is satisfied, deemed to be refused at the end of period referred to in paragraph (4), and the deemed refusal—

(a) must be treated as a decision of the relevant planning authority for the purposes of article 40(4)(c) (register of applications) of the Order; but

(b) must not give rise to an appeal to the Secretary of State under section 78 [M33] of the Act (right to appeal against planning decisions and failure to take such decisions).

(7) For the purpose of paragraph (6) the condition is—

(a) if the application referred to in paragraph (1) is an application for planning permission, that the Secretary of State has made a screening direction to the effect that the development is not EIA development; or

(b) if the application referred to in paragraph (1) is a subsequent application, that the Secretary of State has made a screening direction to the effect that the development is not EIA development on a date after the subsequent application was submitted.

(8) A relevant planning authority which has given a notification in accordance with paragraph (1) must, unless the Secretary of State makes a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 20(6).

(9) A person who requests a screening direction pursuant to paragraph (4)(b) must send the request to the Secretary of State together with copies of—

(a) the request to the relevant planning authority under regulation 6(1) and the documents which accompanied it;

(b) any notification made under regulation 6(5) and any response sent by that person to the relevant planning authority;

(c) the application;

(d) all documents sent to the relevant planning authority as part of the application;

(e) all correspondence between the applicant and the relevant planning authority relating to the proposed development;

(f) a copy of any planning permission granted for the development; and

(g) in the case of a subsequent application, documents or information relating to the planning permission granted for the development to which the subsequent application relates,

and paragraphs (2) to (8) of regulation 7 apply to a request under this regulation as they apply to a request made pursuant to regulation 6(10).

Marginal Citations

M33 Section 78 has been amended by section 17 of the 1991 Act; section 43 of the Planning and Compulsory Purchase Act 2004; sections 196 and 197 of, paragraphs 1 and 3 of Schedule 10 to, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008; sections 121 and 123 of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; section 1 of, and paragraphs 1 and 8 of Schedule 1 to, the Growth and Infrastructure Act 2013; article 3 of, and paragraphs 1 and 3 of Schedule 1 to, S.I. 2014/2773; section 30 of, and paragraphs 2 and 12 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016.

EIA applications made directly to the Secretary of State without an environmental statement

12.—(1) Where an application has been made directly to the Secretary of State under section 62A of the Act (When application may be made directly to the Secretary of State), and it appears to the Secretary of State that—

(a) it is a Schedule 1 application or a Schedule 2 application;

(b) the development in question has not been the subject of a screening opinion or screening direction; and

(c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (2) to (8) of regulation 7 apply as if the application were a request made by the applicant pursuant to regulation 6(10).

(2) Where regulation 7(3) applies to an application made under section 62A of the Act (When application may be made directly to the Secretary of State) the Secretary of State must, where necessary to ensure that the developer has provided the information referred to in regulation 6(2)

[[F13]or (3) as appropriate**]**, make a request for additional information before issuing a screening direction.

(3) Where the Secretary of State has determined that an application made under section 62A of the Act (When application may be made directly to the Secretary of State) is an EIA application and it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Secretary of State must notify the applicant in writing that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

(4) The Secretary of State must notify the applicant of a determination under paragraph (3) within 3 weeks beginning with the date the application was received or such longer period as may be agreed in writing with the applicant.

(5) Where the Secretary of State is aware that any particular person is, or is likely to be, affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State must notify the applicant of any such person.

(6) An applicant who receives a notification under paragraph (3) may, within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(7) If the applicant does not write in accordance with paragraph (6), the Secretary of State is under no duty to deal with the application and, at the end of the period referred to in paragraph (6), must inform the applicant in writing that no further action is being taken on the application.

(8) Where—

(a) a notification has been given under paragraph (3), and

(b) the applicant does not submit an environmental statement and comply with regulation 20(6),

the Secretary of State must determine the relevant application only by refusing planning permission.

(9) In this regulation, "Schedule 1 application" and "Schedule 2 application" are to be taken to include subsequent applications.

Textual Amendments

F13 Words in reg. 12(2) inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(2)**

Application referred to the Secretary of State without an environmental statement

13.—(1) Where an application has been referred to the Secretary of State for determination under section 77 of the Act (reference of applications to Secretary of State) **[**[F14]or made to the Secretary of State under section 293B or section 293D (urgent Crown development or Crown development)**]**, and it appears to the Secretary of State that—

(a) it is a Schedule 1 application or a Schedule 2 application; and

(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and

(c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) to (8) of regulation 7 apply as if the referral of the application were a request made by the applicant pursuant to regulation 6(10).

(2) Where regulation 7(3) applies to an application by virtue of paragraph (1), the Secretary of State must, where necessary to ensure that the developer has provided—

(a) in the case of applications for planning permission, the information referred to in regulation 6(2); and

(b) in the case of subsequent applications, the information referred to in regulation 6(3),

make a request for additional information before issuing a screening direction.

(3) Where the Secretary State has determined that an application referred to the Secretary of State under section 77 of the Act (reference of applications to Secretary of State) for determination **[**[F15]or an application made to the Secretary of State under section 293B or section 293D (urgent Crown development or Crown development)**]** is an EIA application but is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Secretary of State must notify the applicant in writing that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

(4) The Secretary of State must notify the applicant of the Secretary of State's determination under paragraph (3) within 3 weeks beginning with the date the application was received or such longer period as may be reasonably required.

(5) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, and that particular person is unlikely to become aware of the application by means of a site notice or by local advertisement, the Secretary of State must notify the applicant of any such person.

(6) An applicant who receives a notification under paragraph (3) may, within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(7) If the applicant does not write in accordance with paragraph (6), the Secretary of State is not under a duty to deal with the application and at the end of the period referred to in paragraph (6) must inform the applicant in writing that no further action is being taken on the application.

(8) Where—

(a) a notification has been given under paragraph (3), and

(b) the applicant does not submit an environmental statement and comply with regulation 20(6),

the Secretary of State must determine the relevant application only by refusing planning permission or subsequent consent.

(9) In this regulation, “Schedule 1 application” and “Schedule 2 application” are to be taken to include subsequent applications.

Textual Amendments

F14 Words in reg. 13(1) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(3)(a)**

F15 Words in reg. 13(3) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(3)(b)**

Appeal to the Secretary of State without an environmental statement

14.—(1) Where on consideration of an appeal under section 78 of the Act (right to appeal against planning decisions and failure to take such decisions) it appears to the Secretary of State that—

(a) the application to which the appeal relates ("the relevant application") is a Schedule 1 application or a Schedule 2 application; and

(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a relevant application which is a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and

(c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) to (8) of regulation 7 apply as if the appeal were a request made by the appellant pursuant to regulation 6(10).

(2) Where an inspector is dealing with an appeal and a question arises as to whether the relevant application is an EIA application and it appears to the inspector that it may be such an application, the inspector must refer that question to the Secretary of State and must not determine the appeal, except by refusing planning permission or subsequent consent, before a screening direction is made.

(3) Paragraphs (3) to (8) of regulation 7 apply to a question referred under paragraph (2) as if the referral of that question were a request made by the appellant pursuant to regulation 6(10).

(4) Where regulation 7(3) applies to an appeal by virtue of paragraph (1) or (3) the Secretary of State must, where necessary to ensure that the developer has provided—

(a) in the case of a relevant application which is an application for planning permission, the information referred to in regulation 6(2); and

(b) in the case of a relevant application which is a subsequent application the information referred to in regulation 6(3),

make a request for additional information before issuing a screening direction.

(5) Where it appears to the Secretary of State that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, the Secretary of State must notify the appellant in writing that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

(6) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, and that particular person is unlikely to become aware of the application by means of a site notice or by local advertisement, the Secretary of State must notify the appellant of any such person.

(7) An appellant who receives a notification under paragraph (5), may within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(8) If the appellant does not write in accordance with paragraph (7), the Secretary of State or, where relevant, the inspector, is not under a duty to deal with the appeal; and at the end of the period referred to in paragraph (7) must inform the appellant that no further action is being taken on the appeal.

(9) Where—

(a) a notification has been given under paragraph (5), and

(b) the appellant does not submit an environmental statement and comply with regulation 20(6),

the Secretary of State or, where relevant, the inspector, must determine the appeal only by refusing planning permission or subsequent consent.

(10) In this regulation, "Schedule 1 application" and "Schedule 2 application" are to be taken to include subsequent applications.

PART 4

Preparation of environmental statements

Scoping opinions of the local planning authority

15.—(1) A person who is minded to make an EIA application may ask the relevant planning authority to state in writing their opinion as to the scope and level of detail of the information to be provided in the environmental statement (a "scoping opinion").

(2) A request under paragraph (1) must include—

(a) in relation to an application for planning permission—

(i) a plan sufficient to identify the land;

(ii) a brief description of the nature and purpose of the development, including its location and technical capacity;

(iii) an explanation of the likely significant effects of the development on the environment; and

(iv) such other information or representations as the person making the request may wish to provide or make;

(b) in relation to a subsequent application—

(i) a plan sufficient to identify the land;

(ii) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which the subsequent application is made;

(iii) an explanation of the likely significant effects on the environment which were not identified at the time planning permission was granted; and

(iv) such other information or representations as the person making the request may wish to provide or make.

(3) An authority receiving a request under paragraph (1) must, if it considers that it has not been provided with sufficient information to adopt a scoping opinion, notify the person making the request of the points on which it requires additional information.

(4) An authority must not adopt a scoping opinion in response to a request under paragraph (1) until it has consulted the consultation bodies, but must, subject to paragraph (5), within 5 weeks beginning with the date of receipt of that request for a scoping opinion, or such longer period as may be agreed in writing with the person making the request, adopt a scoping opinion and must send a copy to the person who made the request.

(5) Where a person has, at the same time as making a request for a screening opinion under regulation 6(1), asked the authority for an opinion under paragraph (1), and the authority has adopted a screening opinion to the effect that the development is EIA development, the authority must, within 5 weeks beginning with the date on which that screening opinion was adopted, or such longer period

as may be agreed in writing with the person making the request, adopt a scoping opinion and must send a copy to the person who made the request.

(6) Before adopting a scoping opinion the authority must take into account—

(a) any information provided by the applicant about the proposed development;

(b) the specific characteristics of the particular development;

(c) the specific characteristics of development of the type concerned; and

(d) the environmental features likely to be significantly affected by the development.

(7) Where an authority fails to adopt a scoping opinion within the relevant period mentioned in paragraph (4) or (5), the person who requested the opinion may under regulation 16(1) ask the Secretary of State to make a direction as to the information to be provided in the environmental statement (a "scoping direction").

(8) Paragraph (7) applies notwithstanding that the authority may not have received the additional information which it has sought under paragraph (3).

(9) An authority which has adopted a scoping opinion following a request under paragraph (1) shall not be precluded from requiring of the person who made the request additional information in connection with any statement that may be submitted by that person as an environmental statement in connection with an application for planning permission or a subsequent application for the same development.

Scoping directions of the Secretary of State

16.—(1) A person who, under regulation 15(7), requests the Secretary of State to make a scoping direction ("scoping direction request") must submit with the scoping direction request—

(a) a copy of the scoping opinion request made to the relevant planning authority under regulation 15(1), including any information supplied with that request as required by regulation 15(2);

(b) a copy of any notification under regulation 15(3) related to that request and of any response;

(c) a copy of any screening opinion received by the person in relation to that request and of any accompanying statement of reasons; and

(d) any representations that the person making the scoping direction request wishes to make.

[[F16](1A) A person who is minded to make an EIA application under section 293B or 293D of the Act may, notwithstanding regulation 15, ask the Secretary of State to make a direction as to the information to be provided in the environmental statement (a "Crown development scoping direction").

(1B) A person who, under paragraph (1A), requests the Secretary of State to make a Crown development scoping direction (a "Crown development scoping direction request") must submit with the Crown development scoping direction request—

(a) the documents listed in regulation 15(2)(a) or, as the case may be, 15(2)(b);

(b) where a scoping opinion request was made under regulation 15(1) in relation to the EIA application in question, the documents referred to in paragraph (1)(a) and (b);

(c) a copy of any screening opinion received by the person in relation to the EIA application in question and of any accompanying statement of reasons; and

(d) any representations that the person making the scoping direction request wishes to make.**]**

(2) A person making a scoping direction request under paragraph (1) **[**[F17]or (1A)**]** must send to the relevant planning authority a copy of that scoping direction request, but that copy need not include

the matters mentioned in sub-paragraphs (a) to (c) of paragraph (1) **[**[F18]or, as the case may be, sub-paragraphs (b) and (c) of paragraph (1A)**]**.

(3) If the Secretary of State considers that the information provided pursuant to paragraph (1) **[**[F19]or (1A)**]** is insufficient to make a scoping direction, the Secretary of State must give notice in writing to the person making the scoping direction request of any points on which additional information is required; and may request the relevant planning authority to provide such information as they can on any of those points.

(4) The Secretary of State—

(a) must consult the consultation bodies before making a scoping direction in response to a scoping direction request, and

(b) within 5 weeks beginning with the date of receipt of that request, or such longer period as may be reasonably required, must make a scoping direction and send a copy to the person who made the scoping direction request and to the relevant planning authority.

(5) Before making a scoping direction the Secretary of State must take into account the matters specified in regulation 15(6).

(6) Neither the Secretary of State who has made a scoping direction in response to a request under paragraph (1) **[**[F20]or (1A)**]** nor the relevant planning authority shall be precluded from requiring of the person who made the request additional information in connection with any statement that may be submitted by that person as an environmental statement in connection with an application for planning permission or a subsequent application for the same development.

Textual Amendments

F16 Reg. 16(1A)(1B) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(4)(a)**

F17 Words in reg. 16(2) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(4)(b)(i)**

F18 Words in reg. 16(2) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(4)(b)(ii)**

F19 Words in reg. 16(3) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(4)(c)**

F20 Words in reg. 16(6) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(4)(d)**

Procedure to facilitate preparation of environmental statements

17.—(1) Any person who intends to submit an environmental statement to the relevant planning authority or the Secretary of State under these Regulations may give notice in writing to that authority or the Secretary of State under this paragraph.

(2) A notice under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the development, and must indicate the main environmental consequences to which the person giving the notice proposes to refer in their environmental statement.

(3) The recipient of—

(a) such notice as is mentioned in paragraph (1); or

(b) a written statement made pursuant to regulation 11(4)(a), 12(6), 13(6) or 14(7),

must—

(i) notify the consultation bodies in writing of the name and address of the person who intends to submit an environmental statement and of the duty imposed on the consultation bodies by paragraph (4) to make information available to that person; and

(ii) inform in writing the person who intends to submit an environmental statement of the names and addresses of the bodies so notified.

(4) Subject to paragraph (5), the relevant planning authority and any body notified in accordance with paragraph (3) must, if requested by the person who intends to submit an environmental statement, consult that person to determine whether the authority or body has in its possession any information which that person or they consider relevant to the preparation of the environmental statement and, if they have, the authority or body must make that information available to that person.

(5) A planning authority or other body which receives a request for information under paragraph (4) must treat it as a request for information under regulation 5(1) of the Environmental Information Regulations 2004 [M34] (duty to make available environmental information on request).

Marginal Citations

M34 S.I. 2004/3391 to which there are amendments not relevant to these Regulations.

PART 5

Publicity and procedures on submission of environmental statements and decision making

Environmental statements

18.—(1) Subject to regulation 9, an EIA application must be accompanied by an environmental statement for the purposes of these Regulations.

(2) A subsequent application is to be taken to be accompanied by an environmental statement for the purpose of paragraph (1) where the application for planning permission to which it relates was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, but this is subject to regulation 9.

(3) An environmental statement is a statement which includes at least—

(a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;

(b) a description of the likely significant effects of the proposed development on the environment;

(c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment;

(e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and

(f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.

(4) An environmental statement must—

(a) where a scoping opinion or direction has been issued in accordance with regulation 15 or 16, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion or direction);

(b) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and

(c) be prepared, taking into account the results of any relevant UK environmental assessment, which are reasonably available to the person preparing the environmental statement, with a view to avoiding duplication of assessment.

(5) In order to ensure the completeness and quality of the environmental statement—

(a) the developer must ensure that the environmental statement is prepared by competent experts; and

(b) the environmental statement must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts.

Procedure where an environmental statement is submitted to a local planning authority

19.—(1) An applicant who makes an EIA application must submit to the relevant planning authority an additional copy of the environmental statement for transmission to the Secretary of State.

(2) If, at the same time as serving the environmental statement on the relevant planning authority under paragraph (1) the applicant serves a copy of the environmental statement on any other body, the applicant must—

(a) serve with it a copy of the application and any plan submitted with the application (unless these have already been provided to the body in question);

(b) inform the body that representations may be made to the relevant planning authority; and

(c) inform the authority of the name of each body so served and of the date of service.

(3) When a relevant planning authority receives an environmental statement in connection with an EIA application under paragraph (1), the relevant planning authority must—

(a) send to the Secretary of State, within 14 days of receipt of the statement, a copy of the statement and a copy of the application and of any documents submitted with the application;

(b) inform the applicant of the number of copies required to enable the authority to comply with sub-paragraph (c);

(c) forward to any consultation body which has not received a copy directly from the applicant a copy of the environmental statement and inform any such consultation body that they may make representations; and

(d) where the relevant planning authority is aware of any particular person who is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, send a notice to such person containing the details set out in regulation 20(2)(b) to (k) and the name and address of the relevant planning authority.

(4) The applicant must send the copies required for the purposes of paragraph (3)(c) to the relevant planning authority.

(5) Where an applicant submits an environmental statement to the relevant planning authority under paragraph (1), the provisions of articles 15 and 16 of, and Schedule 3 to, the Order (publicity

for applications for planning permission) apply to a subsequent application as they apply to an application for planning permission except that in the relevant requisite notice in Schedule 3 to the Order for the reference to—

(i) "application for planning permission" there is substituted " application for subsequent consent "; and

(ii) "planning permission to" there is substituted "subsequent application in respect of".

(6) The relevant planning authority must not determine the EIA application until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.

[[F21](7) For the purpose of this regulation references (however expressed) to—

(a) serving, submitting, sending or forwarding the environmental statement, or any other documents required under this regulation, includes serving, submitting, sending or forwarding that statement by electronic means; and

(b) an address includes an email address.**]**

Textual Amendments

F21 Reg. 19(7) inserted (temp. until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **8** (with regs. 13, 15, 17-20)

[[F22]**Exceptions to requirements in relation to publication of notice, inspection of copies and availability of copies for the period from 24th December 2020 to 31st December 2021**

19A.—(1) Paragraphs (2) to (4) apply during the period beginning with 24th December 2020 and ending with 31st December 2021 if—

(a) a relevant planning authority is required to provide notice to a person under regulation 19(3)(d), and

(b) the relevant planning authority is not able to do one or more of the following—

(i) make a copy of the documents referred to in regulation 20(2)(d) available at an address in the locality under regulation 20(2)(e);

(ii) make a copy of the documents referred to in regulation 20(2)(d) available at an address in the locality under regulation 20(2)(g),

because it is not reasonably practicable to do so for reasons connected to the effects of coronavirus, including restrictions on movement.

(2) In a case falling within paragraph (1) the relevant planning authority must take reasonable steps to inform the person to whom notice must be given under regulation 19(3)(d) of the following information contained in a notice—

(a) a statement that an application is being made for planning permission or subsequent consent to the relevant planning authority;

(b) the name and address of the relevant planning authority;

(c) the date on which the application was made;

(d) (if relevant) a statement that the application has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State and the address of the Secretary of State;

(e) the address or location and the nature of the proposed development;

(f) a statement that—

(i) a copy of the application for planning permission, any accompanying plan and other documents, and a copy of the environmental statement; and

(ii) in the case of a subsequent application, a copy of the planning permission in respect of which that subsequent application has been made and supporting documents,

may be inspected by members of the public on a website ("the website") maintained by or on behalf of the authority;

(g) details of the website on which the environmental statement and the other documents referred to in sub-paragraph (f)(i) and (ii) have been made available under article 15(7) of the Order;

(h) a statement that the information mentioned in sub-paragraph (f)(i) and (ii) will be available to be inspected by the public on the website for 30 days beginning with the day on which both—

(i) that information is published on the website; and

(ii) a statement is made under sub-paragraph (i);

(i) a statement that any representations to be made by a person about the application must—

(i) be made in writing;

(ii) be submitted before the expiry of the 30 days mentioned in sub-paragraph (h); and

(iii) be submitted to the relevant planning authority, or in the case of an appeal or an application referred to the Secretary of State, to the Secretary of State; and

(j) the email address to which representations should be sent.

(3) Regulation 19(7) applies to a notice under paragraph (2).

(4) If the relevant planning authority complies with the requirements set out in paragraph (2) that authority is treated as having discharged the obligation set out in regulation 19(3)(d).**]**

Textual Amendments

F22 Reg. 19A inserted (temp. until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **9** (with regs. 13, 15, 17-20)

Publicity where an environmental statement is submitted after the planning application

20.—(1) Where an application for planning permission or a subsequent application has been made without an environmental statement and the applicant proposes to submit such a statement, the applicant must, before submitting it, comply with paragraphs (2) to (5).

(2) The applicant must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the applicant's name, that an application is being made for planning permission or subsequent consent to the relevant planning authority or the Secretary of State, and the name and address of the relevant planning authority or (in the case of an application made to the Secretary of State) the name and address of the Secretary of State;

(b) the date on which the application was made and, if it be the case, that it has been made or referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;

(c) the address or location and the nature of the proposed development;

(d) that—

(i) a copy of the application for planning permission, any accompanying plan and other documents, and a copy of the environmental statement, and

(ii) in the case of a subsequent application, a copy of the planning permission in respect of which that subsequent application has been made and supporting documents,

may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(f) details of a website maintained by or on behalf of the authority **[**[F23]or, as the case may be, the Secretary of State,**]** on which the environmental statement and the other documents referred to in sub-paragraph (d) have been made available in accordance with paragraph (7), and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the statement may be obtained;

(h) that copies of the statement may be obtained there so long as stocks last;

(i) if a charge is to be made for a copy, the amount of the charge;

(j) that any person wishing to make representations about the application should make them in writing, before the latest date named in accordance with sub-paragraph (e) or (f), to the relevant planning authority or (in the case of an application made or referred to the Secretary of State, or of an appeal) to the Secretary of State; and

(k) the address to which representations should be sent.

(3) An applicant who is notified under regulation 11(2), 12(5), 13(5) or 14(6) of such a person as mentioned in any of those provisions must serve a notice on every such person; and the notice must contain the information specified in paragraph (2).

(4) The applicant must post on the land a notice containing the information specified in paragraph (2), but this provision does not apply if the applicant has not, and is not reasonably able to acquire, such rights as would enable the applicant to comply.

(5) The notice mentioned in paragraph (4) must—

(a) be left in position for not less than 7 days in the 28 days immediately preceding the date of the submission of the statement; and

(b) be affixed firmly to some object on the land and sited and displayed in such a way as to be easily visible to, and readable by, members of the public without going on to the land.

(6) The environmental statement, when submitted, must be accompanied by—

(a) a copy of the notice mentioned in paragraph (2) certified by or on behalf of the applicant as having been published in accordance with paragraph (2); and

(b) a certificate by or on behalf of the applicant which states either—

(i) that a notice was posted on the land in compliance with this regulation, when this was done, and that the notice was left in position for not less than 7 days of the 28 days immediately preceding the date of the submission of the environmental statement, or that, without any fault or intention on the applicant's part, it was removed, obscured or defaced before 7 days had elapsed and the applicant took reasonable steps for its protection or replacement, specifying the steps taken; or

(ii) that the applicant was unable to comply with paragraphs (4) and (5) because the applicant did not have the necessary rights to do so; that any reasonable steps

available to acquire those rights have been taken but unsuccessfully, specifying the steps taken.

(7) The relevant planning authority **[**[F24]or, in the case of an application made under section 293B or 293D of the Act, the Secretary of State,**]** must make the environmental statement available for inspection on a website maintained by or on behalf of the authority **[**[F25]or, as the case may be, the Secretary of State**]**.

(8) Where an applicant indicates that it is proposed to provide an environmental statement in the circumstances mentioned in paragraph (1), the relevant planning authority, the Secretary of State or the inspector, as the case may be, must (unless disposed to refuse the permission or subsequent consent sought) suspend consideration of the application or appeal until receipt of the environmental statement and the other documents mentioned in paragraph (6); and must not determine it during the period of 30 days beginning with the last date on which the environmental statement and the other documents so mentioned are published in accordance with this regulation.

(9) Where it is proposed to submit an environmental statement in connection with an appeal, this regulation applies as if for references to the applicant there were substituted references to the appellant.

(10) The requirement in paragraph (2) to publish a notice in a local newspaper and the requirement in paragraph (6)(a) do not apply to the Isles of Scilly and, in relation to the Isles of Scilly, the reference in paragraph (8) to paragraph (6) must be construed as a reference to paragraph (6)(b).

[[F26](11) Paragraph (12) applies if—

(a) an application for planning permission or a subsequent application has been made without an environmental statement and the applicant for that application proposes to submit such a statement; and

(b) that applicant is not able to comply with the requirement to—

(i) post a notice under paragraph (4); or

(ii) publish a notice in a local newspaper under paragraph (2),

because it is not reasonably practicable to do so for reasons connected to the effects of coronavirus, including restrictions on movement.

(12) In a case falling within paragraph (11), the requirements of paragraph (1) do not apply and the applicant must, before submitting an environmental statement, comply with paragraphs (13) and (14).

(13) The applicant must take reasonable steps to inform persons who are likely to have an interest in the planning application of the following information contained in a notice—

(a) the applicant's name;

(b) a statement that an application is being made for planning permission or subsequent consent to the relevant planning authority;

(c) the name and address of the relevant planning authority;

(d) the date on which the application was made;

(e) (if relevant) a statement that the application has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;

(f) the address or location, and the nature of the proposed development;

(g) a statement that—

(i) a copy of the application for planning permission, any accompanying plan and other documents, and a copy of the environmental statement; and

(ii) in the case of a subsequent application, a copy of the planning permission in respect of which that subsequent application has been made and supporting documents,

may be inspected by members of the public on a website maintained by or on behalf of the authority ("the website");

(h) details of the website on which the environmental statement and the other documents referred to in sub-paragraph (g) have been made available under paragraph (7);

(i) a statement that the information mentioned in sub-paragraph (g)(i) and (ii) will be available to be inspected by the public on the website for 30 days beginning with the day on which both—

(i) that information is published on the website; and

(ii) a statement is made under sub-paragraph (g);

(j) a statement that any representations to be made by a person about the application must—

(i) be made in writing;

(ii) be submitted before the expiry of the 30 days mentioned in sub-paragraph (i); and

(iii) be submitted to the relevant planning authority or, in the case of an appeal or an application referred to the Secretary of State, to the Secretary of State; and

(k) the email address to which representations must be sent.

(14) If an applicant is notified under regulation 11(2), 12(5), 13(5) or 14(6) about any particular person as described in those regulations that applicant must serve a notice on that person containing the information specified in paragraph (13).

(15) In paragraph (13)—

(a) the persons who are likely to have an interest in a planning application must include the persons who live or work in, or otherwise have a direct connection with, the area in which the proposed development is located; and

(b) the reasonable steps that are taken by the applicant—

(i) may include use of social media and communication by electronic means;

(ii) must include posting on the site a notice containing the information set out in paragraph (13), or publishing in a local newspaper circulating in the locality in which the land is situated a notice containing the information set out in that paragraph, to the extent that it is reasonably practicable to so; and

(iii) must be proportionate to the scale and impact of the development.

(16) In a case falling within paragraph (11), the requirements of paragraph (6) do not apply and the environmental statement, when submitted, must be accompanied by—

(a) a copy of the information that is required to be provided under paragraph (13) and a statement made by or on behalf of the applicant confirming that information has been published in accordance with this regulation; and

(b) a statement made by or on behalf of the applicant which states the steps that were taken to bring the planning application to the attention of people who live or work in, or otherwise have a direct connection with, the area in which the proposed development is located.

(17) Where an applicant indicates that it is proposed to provide an environmental statement in the circumstances mentioned in paragraph (11), the requirements of paragraph (8) do not apply, and the relevant planning authority, the Secretary of State or the inspector, as the case may be, must (unless disposed to refuse the permission or subsequent consent sought) suspend consideration of the application or appeal until receipt of the environmental statement and the other documents mentioned in paragraph (16), and must not determine it during the period of 30 days beginning with the last

date on which the environmental statement and the other documents so mentioned are published in accordance with this regulation.**]**

Textual Amendments

F23 Words in reg. 20(2)(f) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(5)(a)**

F24 Words in reg. 20(7) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(5)(b)(i)**

F25 Words in reg. 20(7) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(5)(b)(ii)**

F26 Reg. 20(11)-(17) inserted (temp. untl 30.6.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **10** (with regs. 14, 16, 20)

Provision of copies of environmental statements, any other information and further information for the Secretary of State on referral or appeal

21. Where an applicant for planning permission or subsequent consent has submitted to the relevant planning authority in connection with that application an environmental statement, any other information or further information, and—

(a) the application is referred to the Secretary of State under section 77 [M35] of the Act (reference of applications to Secretary of State); or

(b) the applicant appeals under section 78 [M36] of the Act (right to appeal against planning decisions and failure to take such decisions),

the applicant must supply the Secretary of State with a copy of the environmental statement and, where relevant, any other information or further information unless, in the case of a referred application, the relevant planning authority has already done so.

Marginal Citations

M35 Section 77 has been amended by section 32 of, and paragraph 18 of Schedule 7 to, the 1991 Act; section 196 of, and paragraphs 1 and 2 of Schedule 10 to, the Planning Act 2008; section 121 of, and paragraphs 1 and 10 of Schedule 12 to, the Localism Act 2011; section 30 of, and paragraphs 2 and 11 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 20 of Schedule 12 to, the Housing and Planning Act 2016.

M36 Section 78 has been amended by section 17 of the 1991 Act; section 43 of the Planning and Compulsory Purchase Act 2004; sections 196 and 197 of, paragraphs 1 and 3 of Schedule 10 to, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008; sections 121 and 123 of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; section 1 of, and paragraphs 1 and 8 of Schedule 1 to, the Growth and Infrastructure Act 2013; article 3 of, and paragraphs 1 and 3 of Schedule 1 to, S.I. 2014/2773; section 30 of, and paragraphs 2 and 12 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016.

Procedure where an environmental statement is submitted to the Secretary of State

22.—(1) This regulation applies where an applicant submits an environmental statement to the Secretary of State in relation to an EIA application which is before the Secretary of State or an inspector for determination or is the subject of an appeal to the Secretary of State.

(2) The applicant or appellant must submit 2 copies of the environmental statement to the Secretary of State who must send a copy to the relevant planning authority.

(3) An applicant or appellant who submits an environmental statement to the Secretary of State may provide a copy of it to any other body, and if so must comply with regulation 19(2)(a) and (b) as if the reference in regulation 19(2)(b) to the relevant planning authority were a reference to the Secretary of State, and inform the Secretary of State of the matters mentioned in regulation 19(2)(c).

(4) The Secretary of State must comply with regulation 19(3) (except sub-paragraph (a) of that regulation) and the applicant or appellant must comply with regulation 19(4), as if—

(a) references in those provisions to the relevant planning authority were references to the Secretary of State; and,

(b) in the case of an appeal, references to the applicant were references to the appellant,

and the Secretary of State or the inspector must comply with regulation 19(6) as if it referred to the Secretary of State or the inspector instead of to the relevant planning authority.

Availability of copies of environmental statements

23. An applicant for planning permission or subsequent consent, or an appellant, who submits an environmental statement in connection with an application or appeal, must ensure that a reasonable number of copies of the statement are available at the address named in the notices published or posted pursuant to article 15 of the Order, articles 13 and 14 of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013[M37]**[**[F27], article 16 of the Town and Country Planning (Crown Development Applications) (Procedure and Written Representations) Order 2025, article 9 of the Town and Country Planning (Crown Development) (Urgent Applications) (Procedure) (England) Order 2025**]** or regulation 20.

Textual Amendments

F27 Words in reg. 23 inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(6)**

Marginal Citations

M37 S.I. 2013/2140. Article 14 was amended by articles 3 and 5 of S.I. 2014/1532.

[F28Exception to requirement to ensure availability of copies of environmental statements

23A.—(1) Paragraph (2) applies —

(a) in a case that falls within article 15 of the Order or regulation 20;

(b) in a case to which regulation 23 applies; and

(c) if an applicant for planning permission or subsequent consent, or an appellant, who submits an environmental statement in connection with an application or appeal is not able to make copies of an environmental statement available at a named address because it is not reasonably practicable to do so for reasons connected to the effects of coronavirus, including restrictions on movement.

(2) In a case falling within paragraph (1)(c), the applicant or appellant must—

(a) ensure that the any notices required under article 15 of the Order or regulation 20 state that the environmental statement is available on a website under that provision; and

(b) take reasonable steps to inform any persons who are likely to have an interest in the application or appeal to which the environmental statement relates, that the environmental statement is available on that website.

(3) In paragraph (2)—

(a) the persons who are likely to have an interest in a planning application must include the persons who live or work in, or otherwise have a direct connection with, the area in which the proposed development is located; and

(b) the reasonable steps that are taken—

(i) may include use of social media and communication by electronic means; and

(ii) must be proportionate to the scale and impact of the development.

(4) If the applicant or appellant complies with the requirements set out in paragraph (2) that applicant is treated as having discharged the obligation set out in regulation 23.

(5) Where, in relation to an application to which article 15 of the Order applies, an applicant notifies the local planning authority under paragraph (2)(a) that any notices required under that article must state that the environmental statement is available on a website under that article, the authority is discharged from the requirement to provide an address where copies of the environmental statement can be obtained when that authority gives requisite notice under article 15.**]**

Textual Amendments

F28 Reg. 23A inserted (temp.until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **11** (with regs. 13, 15, 17-20)

Charges for copies of environmental statements

24. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of an environmental statement made available in accordance with regulation 23.

Further information and evidence respecting environmental statements

25.—(1) If a relevant planning authority, the Secretary of State or an inspector is dealing with an application or appeal, as the case may be, in relation to which the applicant or appellant has submitted an environmental statement, and are of the opinion that, in order to satisfy the requirements of **[**[F29]regulation 18(3) and (4)**]**, it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the development described in the application in order to be an environmental statement, the relevant planning authority, Secretary of State or inspector as the case may be must notify the applicant or appellant in writing accordingly, and the applicant or appellant must provide that additional information; and such information provided by the applicant or appellant is referred to in these Regulations as "further information".

(2) **[**[F30]Subject to regulations 25A and 25B,**]** paragraphs (3) to (11) apply in relation to further information and any other information except in so far as the further information and any other information is provided for the purposes of an inquiry or hearing held under the Act and the request for the further information made pursuant to paragraph (1) stated that it was to be provided for such purposes.

(3) The recipient of further information pursuant to paragraph (1) or any other information must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the name of the applicant for planning permission or subsequent consent or the appellant (as the case may be) and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it be the case, that it has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;

(c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;

(d) the address or location and the nature of the proposed development;

(e) that further information or any other information is available in relation to an environmental statement which has already been provided;

(f) that a copy of the further information or any other information and of any environmental statement which relates to any application for planning permission or subsequent application may be inspected by members of the public at all reasonable hours;

(g) an address in the locality in which the land is situated at which the further information or any other information may be inspected and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(h) details of a website maintained by or on behalf of the relevant planning authority **[**[F31]or, as the case may be, the Secretary of State,**]** on which the further information or any other information may be inspected **[**[F32]in accordance with paragraph (9)**]**, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(i) an address (whether or not the same as that given pursuant to sub-paragraph (g)) in the locality in which the land is situated at which copies of the further information or any other information may be obtained;

(j) that copies may be obtained there so long as stocks last;

(k) if a charge is to be made for a copy, the amount of the charge;

(l) that any person wishing to make representations about the further information or any other information should make them in writing, before the latest date specified in accordance with sub-paragraph (g) or (h), to the relevant planning authority, the Secretary of State or the inspector (as the case may be); and

(m) the address to which representations should be sent.

(4) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.

(5) Where the recipient of the further information or any other information is the relevant planning authority they must send to the Secretary of State a copy of the further information or any other information.

(6) The recipient of the further information may by notice in writing require the applicant or appellant to provide such number of copies of the further information or any other information as is specified in the notice (being the number required for the purposes of paragraph (4) or (5)).

(7) Where further information is requested under paragraph (1) or any other information is provided, the relevant planning authority, the Secretary of State or the inspector, as the case may be, must suspend determination of the application or appeal, and must not determine it before the expiry of 30 days after the latest of—

(a) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent;

(b) the date that notice of it was published in a local newspaper; or

(c) the date that notice of it was published on a website.

(8) The applicant or appellant who provides further information, or any other information, in accordance with paragraph (1) must—

(a) ensure that a reasonable number of copies of the information are available at the address named in the notice published pursuant to paragraph (3) at the address at which such copies may be obtained; and

(b) take any reasonable steps required by the relevant planning authority to ensure that copies of the further information or any other information are made available for access on the website referred to in the notice published pursuant to paragraph (3).

(9) The relevant planning authority **[**[F33]or, in the case of an application made under section 293B or 293D of the Act, the Secretary of State,**]** must make the further information or any other information available for inspection on a website maintained by or on **[**[F34]behalf of the authority or, as the case may be, the Secretary of State**]**.

(10) A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of the further information or any other information made available in accordance with paragraph (8)(a).

(11) The relevant planning authority, the Secretary of State or an inspector may in writing require an applicant or appellant to produce such evidence as they may reasonably call for to verify any information in the environmental statement.

[[F35](12) Paragraphs (13) to (22) apply if the recipient of further information pursuant to paragraph (1) or any other information is not able to do one or more of the following—

(a) publish a notice in a local newspaper circulating in the locality under paragraph (3);

(b) make copies of the further information or any other information, or any environmental statement which relates to any application for planning permission or subsequent application, available for inspection at an address in the locality in which the land is situated, under paragraph (3); or

(c) make copies of the further information or any other information available to be obtained at an address in the locality in which the land is situated, under paragraph (8)(a);

because it is not reasonably practicable to do so for reasons connected with the effects of coronavirus, including restrictions on movement.

(13) In a case falling within paragraph (12), the recipient of further information pursuant to paragraph (1) or any other information must take reasonable steps to inform persons who are likely to have an interest in the planning application of the following information contained in a notice stating—

(a) the name of the applicant for planning permission or subsequent consent or the appellant (as the case may be) and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;

(c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;

(d) the address or location and the nature of the proposed development;

(e) a statement that further information or any other information is available in relation to an environmental statement which has already been provided;

(f) details of a website maintained by or on behalf of the relevant planning authority on which the further information or any other information may be inspected;

(g) a statement that the information mentioned in sub-paragraph (f) is available to be inspected by the public on that website for 30 days beginning with the day on which that information was published on that website;

(h) a statement that any representations to be made by a person about the further information or any other information must—

(i) be made in writing;

(ii) be submitted before the expiry of the 30 days mentioned in sub-paragraph (g); and

(iii) be submitted to the relevant planning authority, the Secretary of State or the inspector (as the case may be); and

(i) the email address to which representations must be sent.

(14) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.

(15) If the recipient of the further information or any other information is the relevant planning authority they must send a copy of the further information or any other information to the Secretary of State.

(16) In paragraph (13)—

(a) the persons who are likely to have an interest in a planning application must include the persons who live or work in, or otherwise have a direct connection with, the area in which the proposed development is located; and

(b) the reasonable steps that are taken—

(i) may include use of social media and communication by electronic means;

(ii) must include publishing in a local newspaper circulating in the locality in which the land is situated a notice containing the information set out in paragraph (13), to the extent that it is reasonably practicable to so; and

(iii) must be proportionate to the scale and impact of the development.

(17) Where further information is requested under paragraph (1) or any other information is provided, the relevant planning authority, the Secretary of State or the inspector, (as the case may be), must suspend determination of the application or appeal, and must not determine the application or appeal until the relevant time has elapsed.

(18) In paragraph (18) the "relevant time" means 30 days after—

(a) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent; or

(b) the date that notice of it was published on a website;

whichever is the later.

(19) The applicant or appellant who provides further information, or any other information, under paragraph (1) must take reasonable steps to ensure that copies of the further information or any other information are made available for access on the website referred to in the notice that is required under paragraph (13).

(20) The relevant planning authority must make the further information or any other information available for inspection on a website maintained by or on its behalf.

(21) The relevant planning authority, the Secretary of State or an inspector may require an applicant or appellant to produce such evidence as they may reasonably request to verify information contained in the environmental statement.

(22) For the purpose of paragraphs (14) and (15), references to sending of further information or any other information includes sending by electronic means.**]**

Textual Amendments

F29 Words in reg. 25(1) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(3)**

F30 Words in reg. 25(2) inserted (temp.until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **12(1)** (with regs. 13, 15, 17-20)

F31 Words in reg. 25(3)(h) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(7)(a)(i)**

F32 Words in reg. 25(3)(h) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(7)(a)(ii)**

F33 Words in reg. 25(9) inserted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(7)(b)(i)**

F34 Words in reg. 25(9) substituted (1.5.2025) by The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025 (S.I. 2025/412), regs. 1(1), **15(7)(b)(ii)**

F35 Reg. 25(12)-(22) inserted (temp. until the beginning of 24.12.2020) (14.5.2020) by The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/505), regs. 1, **17(3)** (with Pt. 5) (as substituted by S.I. 2020/1398, **reg. 5**)

[F36Exceptions to requirements in relation to publication of notice, inspection of copies and availability of copies for the period from 24th December 2020 to 30th June 2021

25A.—(1) Paragraphs (2) to (11) apply where during the period beginning with 24th December 2020 and ending with 30th June 2021 a recipient of further information pursuant to regulation 25(1) or any other information is not able to do one or more of the following—

(a) publish a notice in a local newspaper circulating in the locality under regulation 23(3);

(b) make copies of the further information or any other information, or any environmental statement which relates to an application for planning permission or subsequent application, available for inspection at an address in the locality in which the land is situated, under regulation 25(3); or

(c) make copies of further information or any other information available to be obtained at an address in the locality in which the land is situated, under regulation 25(8)(a),

because it is not reasonably practicable to do so for reasons connected with the effects of coronavirus, including restrictions on movement.

(2) In a case falling within paragraph (1), the recipient of the further information pursuant to regulation 25(1) or any other information, must take reasonable steps to inform persons who are likely to have an interest in the planning application of the following information contained in a notice—

(a) the name of the applicant for planning permission or subsequent consent or the appellant (as the case may be) and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;

(c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;

(d) the address or location and the nature of the proposed development;

(e) a statement that further information or any other information is available in relation to an environmental statement which has already been provided;

(f) details of a website maintained by or on behalf of the relevant planning authority on which the further information or any other information may be inspected;

(g) a statement that the information mentioned in sub-paragraph (f) is available to be inspected by the public on that website for 30 days beginning with the day on which that information was published on that website;

(h) a statement that any representations to be made by a person about the further information or any other information must—

(i) be made in writing;

(ii) be submitted before the expiry of the 30 days mentioned in sub-paragraph (g); and

(iii) be submitted to the relevant planning authority, the Secretary of State or the inspector (as the case may be); and

(i) the email address to which representations must be sent.

(3) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.

(4) If the recipient of the further information or any other information is the relevant planning authority they must send a copy of the further information or any other information to the Secretary of State.

(5) In paragraph (2)—

(a) the persons who are likely to have an interest in a planning application must include the persons who live or work in, or otherwise have a direct connection with, the area in which the proposed development is located; and

(b) the reasonable steps that are taken—

(i) may include use of social media and communication by electronic means;

(ii) must include publishing in a local newspaper circulating in the locality in which the land is situated a notice containing the information set out in paragraph (2), to the extent that it is reasonably practicable to do so; and

(iii) must be proportionate to the scale and impact of the development.

(6) Where further information is requested under regulation 25(1) or any other information is provided, the relevant planning authority, the Secretary of State or the inspector, (as the case may be), must suspend determination of the application or appeal, and must not determine the application or appeal until the relevant time has elapsed.

(7) In paragraph (6) the "relevant time" means 30 days after—

(a) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent; or

(b) the date that notice of it was published on a website,

whichever is the later.

(8) The applicant or appellant who provides further information, or any other information, under regulation 25(1) must take reasonable steps to ensure that copies of the further information or any other information are made available for access on the website referred to in the notice that is required under paragraph (2).

(9) The relevant planning authority must make the further information or any other information available for inspection on a website maintained by or on its behalf.

(10) The relevant planning authority, the Secretary of State or an inspector may require an applicant or appellant to produce such evidence as they may reasonably request to verify information contained in the environmental statement.

(11) For the purpose of paragraphs (3) and (4), references to sending of further information or any other information includes sending by electronic means.

Textual Amendments

F36 Regs. 25A, 25B inserted (temp.until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **12(2)** (with regs. 13, 15, 17-20)

Exceptions to requirements in relation to inspection of copies and availability of copies for the period from 1st July 2021 to 31st December 2021

25B.—(1) Paragraphs (2) to (9) apply where, during the period beginning with 1st July 2021 and ending with 31st December 2021 a recipient of further information pursuant to regulation 25(1) or any other information is not able to do one or both of the following—

(a) make copies of the further information or any other information or any environmental statement which relates to an application for permission or subsequent application, available for inspection at an address in the locality in which the land is situated, under regulation 25(3); or

(b) make copies of the further information available to be obtained at an address in the locality in which the land is situated, under regulation 25(3),

because it is not reasonably practicable to do so for reasons connected with the effect of coronavirus, including restrictions on movement.

(2) In a case falling within paragraph (1), the recipient of the further information pursuant regulation 25(1) or any other information, must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the name of the applicant for planning permission or subsequent consent or the appellant (as the case may be) and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;

(c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;

(d) the address or location and the nature of the proposed development;

(e) a statement that further information or any other information is available in relation to an environmental statement which has already been provided;

(f) details of a website maintained by or on behalf of the relevant planning authority on which the further information or any other information may be inspected;

(g) a statement that the information mentioned in sub-paragraph (f) is available to be inspected by the public on that website for 30 days beginning with the day on which that information was published on that website;

(h) a statement that any representations to be made by a person about the further information or any other information must—

(i) be made in writing;

(ii) be submitted before the expiry of the 30 days mentioned in sub-paragraph (g); and

(iii) be submitted to the relevant planning authority, the Secretary of State or the inspector (as the case may be); and

(i) the email address to which representations must be sent.

(3) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.

(4) If the recipient of the further information or any other information is the relevant planning authority they must send a copy of the further information or any other information to the Secretary of State.

(5) Where further information is requested under regulation 25(1) or any other information is provided, the relevant planning authority, the Secretary of State or the inspector, (as the case may be), must suspend determination of the application or appeal, and must not determine it before the expiry of 30 days after the latest of—

(a) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent;

(b) the date that notice of it was published in a local newspaper; or

(c) the date that notice of it was published on a website.

(6) The applicant or appellant who provides further information, or any other information, under regulation 25(1) must take reasonable steps to ensure that copies of the further information or any other information are made available for access on the website referred to in the notice that is required under paragraph (2).

(7) The relevant planning authority must make the further information or any other information available for inspection on a website maintained by or on its behalf.

(8) The relevant planning authority, the Secretary of State or an inspector may require an applicant or appellant to produce such evidence as they may reasonably request to verify information contained in the environmental statement.

(9) For the purpose of paragraphs (3) and (4) references to sending of further information or any other information includes sending by electronic means.**]**

Textual Amendments

F36 Regs. 25A, 25B inserted (temp.until 31.12.2021) (24.12.2020) by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/1398), regs. 1(2), **12(2)** (with regs. 13, 15, 17-20)

Consideration of whether planning permission or subsequent consent should be granted

26.—(1) When determining an application or appeal in relation to which an environmental statement has been submitted, the relevant planning authority, the Secretary of State or an inspector, as the case may be, must—

(a) examine the environmental information;

(b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, their own supplementary examination;

(c) integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and

(d) if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.

(2) The relevant planning authority, the Secretary of State or the inspector, as the case may be, must not grant planning permission or subsequent consent for EIA development unless satisfied that the reasoned conclusion referred to in paragraph (1)(b) is up to date, and a reasoned conclusion is to be taken to be up to date if, in the opinion of the relevant planning authority, the Secretary of State or the inspector, as the case may be, it addresses the significant effects of the proposed development on the environment that are likely to arise as a result of the proposed development.

(3) When considering whether to impose a monitoring measure under paragraph (1)(d), the relevant planning authority, the Secretary of State or inspector, as appropriate, must—

(a) if monitoring is considered to be appropriate, consider whether to make provision for potential remedial action;

(b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment; and

(c) consider, in order to avoid duplication of monitoring, whether any existing monitoring arrangements carried out in accordance with an obligation under the law of any part of the United Kingdom, other than under **[**[F37]any law that implemented**]** the Directive, are more appropriate than imposing a monitoring measure.

(4) In cases where no statutory timescale is in place the decision of the relevant authority or the Secretary of State, as the case may be, must be taken within a reasonable period of time, taking into account the nature and complexity of the proposed development, from the date on which the relevant authority or the Secretary of State has been provided with the environmental information.

Textual Amendments

F37 Words in reg. 26(3)(c) inserted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Co-ordination

27.—(1) Where in relation to EIA development there is, in addition to the requirement for an EIA to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulation Assessment, the relevant planning authority or the Secretary of State, as the case may be, must, where appropriate, ensure that the Habitats Regulation Assessment and the EIA are co-ordinated.

(2) In this regulation, a "Habitats Regulation Assessment" means an assessment under **[**[F38]regulation 63 of the Conservation of Habitats and Species Regulations 2017**]** (assessment of implications for European sites and European offshore marine sites).

Textual Amendments

F38 Words in reg. 27(2) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 79(3)**

PART 6

Availability of directions etc and notification of decisions

Availability of opinions, directions etc for inspection

28.—(1) Where particulars of an application for planning permission or of a subsequent application are placed on Part 1 of the register, the relevant planning authority must take steps to secure that there is also placed on that Part a copy of any relevant—

(a) screening opinion;

(b) screening direction;

(c) scoping opinion;

(d) scoping direction;

(e) notification given under regulation 11(2), 12(5), 13(5) or 14(6);

(f) direction under regulation 63;

(g) environmental statement, including any further information and any other information; and

(h) statement of reasons accompanying any of the above.

(2) Where the relevant planning authority adopts a screening opinion or scoping opinion, or receives a request under regulation 15(1) or 16(1), a copy of a screening direction, scoping direction, or direction under regulation 63 before an application is made for planning permission or subsequent consent for the development in question, the relevant planning authority must take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept, and copies of those documents must remain so available for a period of 2 years.

Information to accompany decisions

29.—(1) Where an EIA application or appeal in relation to which an environmental statement has been submitted is determined by a relevant planning authority, the Secretary of State or an inspector, as the case may be, the person making that determination must provide the developer with the information specified in paragraph (2).

(2) The information is—

(a) information regarding the right to challenge the validity of the decision and the procedures for doing so; and

(b) if the decision is—

(i) to grant planning permission or subsequent consent—

(aa) the reasoned conclusion of the relevant planning authority or the Secretary of State, as the case may be, on the significant effects of the development on the environment, taking into account the results of the examination referred to in regulation 26(1)(a) and (b);

(bb) any conditions to which the decision is subject which relate to the likely significant environmental effects of the development on the environment;

(cc) a description of any features of the development and any measures envisaged in order to avoid, prevent, reduce and, if possible, offset, likely significant adverse effects on the environment; and

(dd) any monitoring measures considered appropriate by the relevant planning authority or the Secretary of State, as the case may be; or

(ii) to refuse planning permission or subsequent consent, the main reasons for the refusal.

Duty to inform the public and the Secretary of State of final decisions

30.—(1) Where an EIA application is determined by a local planning authority, the authority must promptly—

(a) inform the Secretary of State of the decision in writing;

(b) inform the consultation bodies of the decision in writing;

(c) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and

(d) make available for public inspection at the place where the appropriate register (or relevant part of that register) is kept a statement containing—

(i) details of the matters referred to in regulation 29(2);

(ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; and

(iii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results (in particular, in circumstances where regulation 58 applies, the comments received from an EEA State pursuant to consultation under that regulation) have been incorporated or otherwise addressed.

(2) Where an EIA application or appeal is determined by the Secretary of State or an inspector, the Secretary of State must—

(a) notify the relevant planning authority of the decision; and

(b) provide the authority with such a statement as is mentioned in paragraph (1)(d).

(3) The relevant authority must, as soon as reasonably practicable after receipt of a notification under paragraph (2)(a), comply with sub-paragraph (b) to (d) of paragraph (1) in relation to the decision so notified as if it were a decision of the authority.

PART 7

Restrictions of grants of permission

New simplified planning zone schemes or enterprise zone orders

31. No—

(a) adoption or approval of a simplified planning zone scheme [M38];

(b) order designating an enterprise zone made [M39]; or

(c) approval of a modified scheme in relation to an enterprise zone,

shall grant planning permission for EIA development, but it may grant planning permission for Schedule 2 development where that grant is made subject to the prior adoption of a screening opinion or to the prior making of a screening direction that the particular proposed development is not EIA development.

Marginal Citations

M38 See section 83 of, and Schedule 7 to, the 1990 Act.

M39 See sections 88 and 89 of the 1990 Act, and Schedule 32 to the Local Government, Planning and Land Act 1980 (c. 65).

Local development orders

32.—(1) This regulation applies in relation to Schedule 2 development for which a local planning authority proposes to grant planning permission by local development order.

(2) Where this regulation applies, the local planning authority must not make a local development order unless it has prepared the information referred to in regulation 6(2) in accordance with regulation 6(4) and adopted a screening opinion, or the Secretary of State has made a screening direction; and regulation 5 shall apply in relation to that screening with the following modifications.

(3) In regulation 5—

(a) paragraph (2)(a) shall not apply;

(b) in paragraph (2)(b) for "relevant" substitute " local ";

(c) in paragraph (4)(a) for "provided by the applicant" substitute " prepared by the local planning authority in accordance with regulation 32(2) "; and

(d) in paragraph **[**[F39](12)**]** for "relevant" substitute " local ";

(4) Paragraphs (5) and (6) apply where—

(a) the local planning authority adopts a screening opinion; or

(b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the development is EIA development.

(5) The local planning authority must not make a local development order which would grant planning permission for EIA development unless—

(a) an environmental statement has been prepared in relation to that development; and

(b) the EIA has been carried out in respect of that development.

(6) In a case to which this regulation applies these Regulations apply subject to the following modifications—

(a) in regulation 2(1), in the definition of "any other information" for "applicant or the appellant as the case may be" substitute " local planning authority ";

(b) regulations 3, 6 to 14, 17, 21 and 22 shall not apply;

(c) in regulation 15—

(i) for paragraph (1) substitute—

"(1) Where a proposed local development order is EIA development, the local planning authority may state in writing its opinion as to the scope and level of detail of the information to be provided in the environmental statement ("a scoping opinion").";

(ii) in paragraph (2) for "A request under paragraph (1) must include—" substitute " Before issuing an opinion in accordance with paragraph (1) the local planning authority must prepare— ";

(iii) in paragraph (2)(a) omit "in relation to an application for planning permission—";

(iv) omit paragraph (2)(b);

(v) omit paragraph (3);

(vi) for paragraph (4) substitute—

"(4) An authority must not adopt a scoping opinion until they have consulted the consultation bodies.";

(vii) omit paragraph (5);

(viii) in paragraph (6)(a), for "provided by the applicant" substitute " prepared by the local planning authority in accordance with paragraph (2) ";

(ix) for paragraph (7) substitute—

"(7) A local planning authority may under regulation 16(1) ask the Secretary of State to make a direction as to the information to be provided in the environmental statement (a "scoping direction")"; and

(x) omit paragraphs (8) and (9);

(d) in regulation 16—

(i) for paragraph (1) substitute—

"(1) A request made under this paragraph pursuant to regulation 15(7) must include—

(a) the information referred to in regulation 15(2)(a); and

(b) any representations that the local planning authority making the request wishes to make.";

(ii) omit paragraph (2);

(iii) in paragraph (3)—

(aa) for "person" substitute " local planning authority "; and

(bb) omit "; and may request the relevant planning authority to provide such information as they can on any of those points.";

(iv) in paragraph (4)(b) for "person who made the **[**[F40]scoping direction**]** request and to the relevant" substitute " local ";

(e) in regulation 18—

(i) omit paragraphs (1) and (2); and

(ii) in paragraph (5)(a) and (b) for "developer" substitute " local planning authority ";

(f) for regulation 19 substitute—

"**Procedure where an environmental statement is prepared in relation to a local development order**

19.—(1) Where a statement, referred to as an "environmental statement" for the purposes of these Regulations, has been prepared in relation to EIA development for which a local planning authority proposes to grant planning permission by a local development order, the local planning authority must—

(a) send a copy of the statement to the consultation bodies and inform them that they may make representations; and

(b) notify any particular person of whom the authority is aware, who is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent.

(2) The local planning authority must not make the local development order until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.";

(g) in regulation 20—

(i) omit paragraph (1);

(ii) for paragraph (2) substitute—

"(2) The local planning authority must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the name and address of the local planning authority;

(b) the address or location and the nature of the development referred to in the proposed local development order;

(c) that a copy of the draft local development order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;

(d) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(e) details of a website maintained by or on behalf of the authority on which those documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(f) an address (whether or not the same as that given under sub-paragraph (d)) in the locality in which the land is situated at which copies of the statement may be obtained;

(g) that copies of the statement may be obtained there so long as stocks last;

(h) if a charge is to be made for a copy of the statement, the amount of the charge; and

(i) that any person wishing to make representations about the local development order should make them in writing, before the latest date named in accordance with sub-paragraph (d) or (e), to the local planning authority.";

(iii) omit paragraph (3);

(iv) in paragraph (4), for "applicant", in each place, substitute " local planning authority "; and

(v) omit paragraphs (6) to (10);

(h) for regulation 23 substitute—

"**Availability of copies of environmental statements**

23. The local planning authority must ensure that—

(a) a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for which the authority proposes to grant planning permission by a local development order are available at—

(i) their principal office during normal office hours; and

(ii) such other places within their area as they consider appropriate; and

(b) the environmental statement can be accessed at the website referred to in the notice required under regulation 20(2)(f).";

(i) in regulation 25—

(i) for paragraph (1) substitute—

"(1) Where an environmental statement has been submitted and the local planning authority is of the opinion, in order to satisfy the requirements of regulation 18(3) and (4), it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the development described in the application in order to be an environmental statement, the local planning authority must ensure that additional information is provided and such information provided is referred to in these Regulations as "further information"."";

(ii) for paragraph (3) substitute—

"(3) The local planning authority must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the name and address of the local planning authority;

(b) the address or location and the nature of the development referred to in the proposed local development order;

(c) that further information is available in relation to an environmental statement which has already been provided;

(d) that a copy of the further information may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which the further information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(f) details of a website maintained by or on behalf of the authority on which the further information or any other information may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the further information may be obtained;

(h) that copies of the further information may be obtained there so long as stocks last;

(i) if a charge is to be made for a copy of the further information, the amount of the charge;

(j) that any person wishing to make representations about the further information should make them in writing, before the latest date specified in accordance with sub-paragraph (e) or (f), to the local planning authority; and

(k) the address to which representations should be sent.";

(iii) for paragraph (4) substitute—

"(4) The local planning authority must send a copy of the further information to each person to whom, in accordance with these Regulations, the statement to which it relates was sent and to the Secretary of State.";

(iv) omit paragraphs (5) and (6);

(v) for paragraph (7) substitute—

"(7) Where information is provided under paragraph (1) the local planning authority must not make the local development order before the expiry of 30 days after the latest of—

(a) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent;

(b) the date that notice of it was published in a local newspaper; or

(c) the date that notice of it was published on a website.";

(vi) in paragraph (8)—

(aa) for "The applicant or appellant who provides further information or any other information, in accordance with paragraph (1)" substitute " The local planning authority ";

(bb) in sub-paragraph (a) after "number of copies of the" insert " further or other ";

(cc) in sub-paragraph (b) omit "required by the relevant planning authority";

(vii) in paragraph (9), for "relevant" substitute " local "; and

(viii) omit paragraph (11);

(j) in regulation 26(1) for "an application or appeal" substitute " whether to make a local development order ";

(k) in regulation 28—

(i) for paragraph (1) substitute—

"(1) Where particulars of a draft local development order are placed on Part 3 of the register, the local planning authority must take steps to secure that there is also placed on that Part a copy of any relevant—

(a) scoping opinion;

(b) screening opinion;

(c) screening direction;

(d) direction under regulation 63;

(e) the statement referred to as the environmental statement including any further information;

(f) statement of reasons accompanying any of the above.";

(ii) in paragraph (2)—

(aa) for "relevant planning authority" substitute " local planning authority " in both places; and

(bb) for "an application is made for planning permission or subsequent consent for the development in question" substitute " particulars of a draft local development order are placed on Part 3 of the register ";

(l) in regulation 29—

(i) for paragraph (1) substitute—

"(1) Where a local planning authority makes a local development order granting permission for development which constitutes EIA development it must prepare a statement setting out the information specified in paragraph (2)(a)."; and

(ii) omit paragraph (2)(b);

(m) in regulation 30—

(i) in paragraph (1) for "Where an EIA application is determined by a local planning authority" substitute " Where a local planning authority makes a local development order granting permission for development which constitutes EIA development "; and

(ii) omit paragraphs (2) and (3); and

(n) in regulation 58—

(i) in paragraph (1) for sub-paragraph (a) substitute—

"(a) it comes to the attention of the Secretary of State that EIA development proposed to be carried out in England for which a local planning authority proposes to grant planning permission by a local development order is likely to have significant effects on the environment in **[**[F41]an**]** EEA state; or"; and

(ii) in paragraphs (3) and (6) for "application" substitute " proposed local development order ".

Textual Amendments

F39 Word in reg. 32(3)(d) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(4)(a)**

F40 Words in reg. 32(6)(d)(iv) inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(4)(b)**

F41 Word in reg. 32(6)(n)(i) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Neighbourhood development orders

33.—(1) This regulation applies to Schedule 2 development for which an order proposal is submitted under paragraph 1 of Schedule 4B to the Act [M40].

(2) Paragraphs (3) and (4) apply where—

(a) the local planning authority adopts a screening opinion; or

(b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the proposed development is Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location, and regulation 5 shall apply in relation to that screening with the modifications set out in paragraph (3).

(3) In regulation 5—

(i) for paragraph (2)(a), substitute—

"(a) the submission by a qualifying body in relation to that development of a statement referred to by the qualifying body as an environmental statement for the purposes of these Regulations; or";

(ii) in paragraph (4)(a) for "applicant" substitute " qualifying body "; and

(iii) in paragraph (5)(c), for "person" substitute " qualifying body ".

(4) No referendum may be held under paragraph 12(4) of Schedule 4B to the Act on the making of a neighbourhood development order which would grant planning permission for Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location unless—

(a) an environmental statement has been prepared in relation to that development;

(b) the local planning authority is satisfied that the basic condition prescribed by paragraph 2 of Schedule 3 to the Neighbourhood Planning (General) Regulations 2012 [M41] is met; and

(c) the EIA has been carried out in respect of that development and the local planning authority has taken the environmental information into consideration.

(5) In a case to which this paragraph applies these Regulations have effect subject to the following modifications—

(a) in regulation 2(1), in the definition of "any other information" for "applicant or the appellant as the case may be" substitute " qualifying body ";

(b) regulation 3 shall not apply;

(c) in regulation 6—

(i) for paragraph (1), substitute—

"(1) A qualifying body which is minded to submit an order proposal may request the relevant local planning authority to adopt a screening opinion.";

(ii) in paragraph (2), for "A person making a request for a screening opinion in relation to development where an application for planning permission has been or is proposed to be submitted" substitute " A qualifying body making a request for a screening opinion ";

(iii) omit paragraph (3); and

(iv) in paragraphs (4) to (7) and (9) to (11) for each reference to "person" substitute " qualifying body ";

(d) in regulation 7 for each reference to "person" substitute " qualifying body ";

(e) in regulation 8—

(i) for paragraph (1)(a) substitute—

"(a) an order proposal which has been submitted to them under paragraph 1 of Schedule 4B to the Act relates to Schedule 2 development;";

(ii) in paragraph (1)(c)—

(aa) for "application" substitute " order proposal "; and

(bb) for "applicant" substitute " qualifying body ";

(iii) in paragraph [F42]...(1) for "or lodging of the proposal" substitute " of the order proposal "; and

(iv) in paragraph [F43]...(2) for "developer" substitute " qualifying body ";

(f) omit regulations 9 and 10;

(g) in regulation 11—

(i) for paragraph (1) substitute—

"(1) Where a qualifying body submits an EIA order proposal which is not accompanied by a statement referred to by the qualifying body as an environmental

statement for the purposes of these Regulations, the authority must notify the qualifying body in writing that the submission of an environmental statement is required.";

(ii) in paragraph (2)—

(aa) for "application" substitute " order proposal "; and

(bb) for "applicant" substitute " qualifying body ";

(iii) in paragraph (3)—

(aa) for each reference to "applicant" substitute " qualifying body "; and

(bb) for "application" substitute " order proposal ";

(iv) for paragraphs (4) to (7) substitute—

"(4) A qualifying body receiving a notification pursuant to paragraph (1) may, within 3 weeks beginning with the date of the notification, write to the relevant planning authority stating—

(a) that it accepts their view and is providing an environmental statement; or

(b) unless the condition referred to in paragraph (5) is satisfied, that it is writing to the Secretary of State to request a screening direction.

(5) For the purpose of paragraph (4)(b) the condition is that the Secretary of State has made a screening direction in respect of the development.

(6) If the qualifying body does not write to the authority in accordance with paragraph (4), unless the condition referred to in paragraph (7) is satisfied, at the end of the 3 week period the relevant planning authority must decline to consider the order proposal.

(7) For the purpose of paragraph (6) the condition is that the Secretary of State has made a screening direction to the effect that the development is not EIA development.";

(v) in paragraph (8) for "determine the relevant application only by refusing planning permission or subsequent consent if the applicant" substitute " decline to consider the order proposal of the qualifying body **[**[F44]if the qualifying body**]**"; and

(vi) in paragraph (9)—

(aa) for each reference to "person" substitute " qualifying body ";

(bb) in sub-paragraphs (c) and (d) for each reference to "application" substitute " order proposal ";

(cc) in sub-paragraph (e) for "applicant" substitute " qualifying body ";

(dd) omit sub-paragraphs (f) and (g);

(h) omit regulations 12 to 14;

(i) in regulation 15—

(i) for paragraphs (1) and (2) substitute—

"(1) A qualifying body which is minded to submit an order proposal in respect of EIA development may ask the relevant planning authority to state in writing their opinion as to the information to be provided in the environmental statement ("a scoping opinion").

(2) A request under paragraph (1) must include—

(a) a plan sufficient to identify the land;

(b) a brief description of the nature and purpose of the development, including its location and technical capacity;

(c) an explanation of the likely significant effects of the proposed development on the environment; and

(d) such other information or representations as the qualifying body may wish to provide or make.";

(ii) in paragraphs (3) to (5) and (7), for each reference to "person" substitute " qualifying body ";

(iii) in paragraph (6) for "applicant" substitute " qualifying body "; and

(iv) for paragraph (9) substitute—

"(9) An authority which has adopted a scoping opinion in response to a request under paragraph (1) shall not be precluded from requiring additional information from the qualifying body in connection with any statement that may be submitted as an environmental statement in connection with any order proposal that relates to the same development as was referred to in the request.";

(j) in regulation 16—

(i) for each reference to "person" substitute " qualifying body "; and

(ii) for paragraph (6) substitute—

"(6) Neither the Secretary of State who has made a scoping direction in response to a request under paragraph (1) nor the relevant planning authority shall be precluded from requiring additional information from the qualifying body in connection with any statement that may be submitted as an environmental statement in connection with any order proposal that relates to the same development as was referred to in the request.";

(k) in regulation 17—

(i) for each reference to "person" substitute " qualifying body "; and

(ii) in paragraph (3), omit "12(6), 13(6) or 14(7)";

(l) in regulation 18—

(i) omit paragraphs (1) and (2); and

(ii) in paragraph (5) for "developer" substitute " qualifying body ";

(m) in regulation 19—

(i) in paragraph (1) for "An applicant who makes an EIA application" substitute " A qualifying body which makes an EIA order proposal ";

(ii) in paragraphs (2) to (4), for each reference to "applicant" substitute " qualifying body ";

(iii) in paragraphs (2), (3) and (6) for each reference to "application" substitute " order proposal "; and

(iv) for paragraph (5) substitute—

"(5) The local planning authority must not submit the order proposal for independent examination under paragraph 7 of Schedule 4B to the Act until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.";

(n) in regulation 20—

(i) for paragraphs (1) and (2)(a) and (b) substitute—

"**Publicity where an environmental statement is submitted after the order proposal**

20.—(1) Where a qualifying body has submitted an order proposal without an environmental statement and the qualifying body later proposes to submit such a statement, it must, before submitting it, comply with paragraphs (2) to (5).

(2) The qualifying body must publish in a local newspaper circulating in the locality in which the land to which the order proposal relates is situated a notice stating—

(a) the qualifying body's name, that an order proposal has been submitted, and the name and address of the relevant planning authority;

(b) the date on which the order proposal was submitted;";

(ii) in paragraph (2)(d)(i) for "application" substitute " order proposal ";

(iii) omit paragraph (2)(d)(ii);

(iv) for paragraph (2)(j) substitute—

"(j) that any person wishing to make representations about the order proposal should make them in writing, before the latest date named in accordance with sub-paragraph (e) or (f), to the relevant planning authority.";

(v) in paragraph (3)—

(aa) for "An applicant who" substitute " A qualifying body which ";

(bb) omit "12(5), 13(5) or 14(6)";

(vi) in paragraphs (4) and (6) for each reference to "applicant" substitute " qualifying body ";

(vii) for paragraph (8) substitute—

"(8) Where a qualifying body indicates that it intends to provide a statement in the circumstances mentioned in paragraph (1), the relevant planning authority must not consider the order proposal further until 30 days beginning with the last date on which the statement and other documents so mentioned are published in accordance with this regulation."; and

(viii) omit paragraph (9);

(o) omit regulations 21 and 22;

(p) for regulation 23 substitute—

"**Availability of copies of environmental statements**

23. A qualifying body which submits an environmental statement in connection with an order proposal must ensure that a reasonable number of copies of the statement are available at the address named in the notices published or posted pursuant to regulation 23(2) of the Neighbourhood Planning (General) Regulations 2012 [M42] or regulation 20 as the address at which such copies may be obtained.";

(q) in regulation 25—

(i) for paragraph (1) substitute—

"(1) Where a relevant planning authority or independent examiner dealing with an order proposal in relation to which a qualifying body has submitted an

environmental statement is of the opinion that, in order to satisfy the requirements of **[**[F45]regulation 18(3) and (4)**]**, it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the development proposed in order to be an environmental statement, the authority or the examiner, as the case may be, must notify the qualifying body in writing accordingly, and the qualifying body must provide that additional information; and such information provided by the qualifying body is referred to in these Regulations as "further information".";

(ii) for paragraph (3)(a) substitute—

"(a) the name of the qualifying body and the name and address of the relevant planning authority;";

(iii) for paragraph (3)(b) substitute—

"(b) the date on which the order proposal was submitted;";

(iv) omit paragraph (3)(c);

(v) in paragraph (3)(f) for "**[**[F46]application for**]** planning permission or subsequent application" substitute " order proposal ";

(vi) in paragraph (3)(l) for ", the Secretary of State or the inspector (as the case may be)" substitute " or independent examiner ";

(vii) in paragraph (6) for "applicant or appellant" substitute " qualifying body ";

(viii) for paragraph (7), substitute—

"(7) Where information is requested under paragraph (1) or any other information is provided—

(a) the relevant planning authority must not consider the proposal further until 30 days following the receipt of the statement and of the other documents so mentioned;

(b) the independent examiner must not make their report until 30 days following the receipt of the statement and of the other documents so mentioned.";

(ix) in paragraph (8) for "applicant or appellant" substitute " qualifying body "; and

(x) for paragraph (11) substitute—

"(11) The relevant planning authority or independent examiner may in writing require a qualifying body to produce such evidence as they may reasonably call for to verify any information in the environmental statement.";

(r) in regulation 26—

(i) in paragraph (1)—

(aa) for "an application or appeal" substitute " whether to hold a referendum under paragraph 12(4) of Schedule 4B to the Act on the making of a neighbourhood development order ";

(bb) omit "the Secretary of State or an inspector, as the case may be," and

(cc) in sub-paragraphs (c) and (d) for "planning permission or subsequent consent is to be granted" substitute " a referendum is to be held "; and

(ii) in paragraph (2)—

(aa) for "grant planning permission or subsequent consent for EIA **[**[F47]development**]**" substitute " make an EIA order proposal subject to a referendum "; and

(bb) omit "[F48]...the Secretary of State or inspector, as the case may be," in both places;

(s) in regulation 28—

(i) for the opening words in paragraph (1) substitute—

"(1) Where particulars of an order proposal are placed on the register, the relevant planning authority must take steps to secure that there is also placed on the register a copy of any relevant—";

(ii) in paragraph (1)(e) for "11(2), 12(5), 13(5) or 14(6)", substitute " 11(2) "; and

(iii) in paragraph (2) for "application is made for planning permission or subsequent consent" substitute " order proposal is submitted by a qualifying body ";

(t) in regulation 29—

(i) in paragraph (1)—

(aa) for "Where an EIA application or appeal in relation to which an environmental statement has been submitted is determined by a relevant planning authority, the Secretary of State or an inspector, as the case may be, the person making that determination ," substitute " As soon as possible after making a decision to make the neighbourhood development order under section 61E(4) of the Act or to refuse to make it under section 61E(8) of the Act, the relevant planning authority "; and

(bb) for "developer" substitute " qualifying body ";

(ii) in paragraph (2)—

(aa) in sub-paragraph (b)(i) for "grant planning permission or subsequent consent" substitute " make the order "; and

(bb) in sub-paragraph (b)(ii) for "refuse planning permission or subsequent consent" substitute " not make the order ";

(u) in regulation 30—

(i) in paragraph (1), for "EIA application is determined by the local planning authority", substitute, "authority decides to make the neighbourhood development order under section 61E(4) or to refuse to make it under section 61E(8)"; and

(ii) omit paragraph (2);

(v) omit Parts 7, 9 and 10 (except regulation 58); and

(w) in regulation 58—

(i) in paragraph (1)(a) for "proposed to be carried out in England is the subject of an EIA application" substitute " in England for which an order proposal has been submitted may be EIA development ";

(ii) in paragraph (3) for each reference to "application" substitute " order proposal ";

(iii) in paragraph (4) for "before development consent for the development is granted" substitute " before a decision is made under paragraph 12(4) of Schedule 4B to the Act that the draft order meets the basic conditions "; and

(iv) in paragraph (6) for "on the determination of the application concerned" substitute " on a decision being made under paragraph 12(4) of Schedule 4B to the Act that the draft order meets the basic conditions ".

Textual Amendments

F42 Word in reg. 33(5)(e)(iii) omitted (1.10.2018) by virtue of The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(a)**

F43 Word in reg. 33(5)(e)(iv) omitted (1.10.2018) by virtue of The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(b)**

F44 Words in reg. 33(5)(g)(v) inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(c)**

F45 Words in reg. 33(5)(q)(i) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(d)**

F46 Words in reg. 33(5)(q)(v) inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(e)**

F47 Word in reg. 33(5)(r)(ii)(aa) inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(f)**

F48 Word in reg. 33(5)(r)(ii)(bb) omitted (1.10.2018) by virtue of The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(5)(g)**

Marginal Citations

M40 Schedule 4B to the Act was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 and amended by sections 140 and 141 of the Housing and Planning Act 2016.

M41 S.I. 2012/637 which was amended by S.I. 2015/20 and 2016/873.

M42 S.I. 2012/637 which was amended by S.I. 2015/20 and 2016/873.

[F49 Other orders made by a local planning authority

33A.—(1) This regulation applies where, in relation to Schedule 1 or Schedule 2 development, a local planning authority proposes to grant or modify a planning permission by making an order under section 97 or 102 of, or paragraph 1 of Schedule 9 to, the Act ("an EIA order").

(2) In a case to which this regulation applies regulation 32 shall apply with the following modifications—

(a) references to a local development order were references to an EIA order; and

(b) references to grant planning permission include the modification of planning permission.

Textual Amendments

F49 Regs. 33A, 33B inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(6)**

Miscellaneous orders and notices made by the Secretary of State

33B.—(1) This regulation applies where, in relation to Schedule 1 or Schedule 2 development, the Secretary of State proposes to grant or modify a planning permission—

(a) under section 98(6), 103(2) or 141(2) of the Act; or

(b) by making an order under section 100(1) or 104(1) of the Act,

("an EIA permission").

(2) Where this regulation applies the Secretary of State must not make an EIA permission unless the local planning authority in whose area the development will be situated has prepared the information referred to in regulation 6(2) in accordance with regulation 6(4) and adopted a screening opinion, or the Secretary of State has made a screening direction; and regulation 5 shall apply in relation to that screening with the modifications provided for in regulation 32(3).

(3) Paragraphs (4) and (5) apply where—

(a) the local planning authority adopts a screening opinion; or

(b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the development is EIA development.

(4) The Secretary of State must not make an EIA permission unless—

(a) an environmental statement has been prepared in relation to that development; and

(b) the EIA has been carried out in respect of that development.

(5) In a case to which this regulation applies these Regulations apply subject to the following modifications—

(a) in regulation 2(1)—

(i) after the definition of "EIA order proposal" insert—

""EIA permission" has the meaning given in regulation 33B(1);";

(ii) in the definition of "any other information" for "applicant or the appellant as the case may be" substitute "local planning authority";

(b) regulations 3, 6(10) and (11), 8 to 14, 16, 17, 21, 22 and 25 shall not apply;

(c) in regulation 7(1) the words "pursuant to regulation 6(10)" were omitted;

(d) in regulation 15—

(i) for paragraph (1) substitute—

"(1) Where a proposed EIA permission is EIA development, the Secretary of State may state in writing his opinion as to the scope and level of detail of the information to be provided in the environmental statement ("a scoping direction") and the Secretary of State must not adopt a scoping direction before he has consulted the consultation bodies.";

(ii) omit paragraphs (2) to (5) and sub-paragraph (a) of paragraph (6);

(iii) for paragraph (7) substitute—

"(7) A local planning authority may ask the Secretary of State to make a scoping direction as to the information to be provided in the environmental statement.";

(iv) omit paragraphs (8) and (9);

(e) in regulation 18—

(i) omit paragraphs (1) and (2); and

(ii) in paragraphs (3)(d) and (5)(a) and (b) for "the developer" substitute "the Secretary of State";

(f) for regulation 19 substitute the modified version of regulation 19 provided in regulation 32(6)(f) with the following modifications—

(i) for references to local planning authority substitute the Secretary of State;

(ii) for references to a local development order substitute an EIA permission; and

(iii) for references to grant planning permission include modify planning permission.

(g) for regulation 23 substitute—

"**Availability of copies of environmental statements**

23. The Secretary of State must ensure that—

(a) a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for the EIA permission are available at his principal office during normal office hours; and

(b) the environmental statement can be accessed at the website referred to in the notice required under regulation 20(2)(f).";

(h) in regulation 26(1) for "an application or appeal" substitute "whether to make an EIA permission";

(i) in regulation 28—

(i) in paragraph (1) for "Where particulars of an application for planning permission or of a subsequent application are placed on Part 1 of the register, the relevant planning authority" substitute "Each local planning authority must keep a record on the appropriate part of the register of any EIA permission relating to land in their area, and the authority";

(ii) for paragraph (2) substitute—

"(2) Where the local planning authority adopts a screening opinion or scoping opinion, or receives a request under regulation 15(1), a copy of a screening direction, scoping direction, or direction under regulation 63 before an EIA permission is made, the authority must take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept, and copies of those documents must remain so available for a period of 2 years.".

(j) in regulation 29 for paragraph (1) substitute—

"(1) Where the Secretary of State makes an EIA permission he must prepare a statement setting out the information specified in paragraph (2).";

(k) for regulation 30 substitute—

"**Duty to inform the public of final decisions**

30. Where the Secretary of State makes an EIA permission he must—

(a) notify the local planning authority;

(b) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and

(c) make available for public inspection, at his principal office during normal office hours, a statement containing—

(i) the content of the decision and any conditions attached to it;

(ii) the main reasons and considerations on which the decision is based;

(iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development permitted; and

(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.

(1) in regulation 58—

(i) in paragraph (1), for sub-paragraph (a) substitute—

“(a) it comes to the attention of the Secretary of State that EIA development proposed to be carried out in England for which an EIA permission is proposed to be granted is likely to have significant effects on the environment in another EEA state; or”; and

(ii) in paragraphs (3) and (6) for “application” substitute “proposed EIA permission”.**]**

Textual Amendments

F49 Regs. 33A, 33B inserted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(6)**

PART 8

Unauthorised development

Interpretation

34. In this Part—

“enforcement functions” means—

(a) the issuing of an enforcement notice under section 172 [M43] of the Act (Issue of enforcement notice);

(b) making an application for a planning enforcement order under section 171BA [M44] of the Act (Time limits in cases involving concealment);

(c) the issuing of a planning contravention notice under section 171C [M45] of the Act (Power to require information about activities on land);

(d) the issuing of a temporary stop notice under section 171E [M46] of the Act (Temporary stop notice);

(e) the issuing of a stop notice under section 183 [M47] of the Act (Stop notices);

(f) the service of a breach of condition notice under section 187A [M48] of the Act (Enforcement of conditions); or

(g) an application to the court for an injunction under section 187B [M49] of the Act (Injunctions restraining breaches of planning control); and

“ground (a) appeal” has the meaning given in regulation 40; and

“unauthorised EIA development” means EIA development which is the subject of an enforcement notice under section 172 of the Act.

Marginal Citations

M43 Section 172 was substituted by section 5 of the Planning and Compensation Act 1991 (c.34).

M44 Section 171BA was inserted by section 124 of the Localism Act 2011 (c.20).

M45 Section 171C was inserted by section 1 of the Planning and Compensation Act 1991, and amended by S.I. 2003/956.
M46 Section 171E was inserted by section 52 of the Planning and Compulsory Purchase Act 2004 (c.5).
M47 Section 183 was amended by section 9 of the Planning and Compensation Act 1991.
M48 Section 187A was inserted by section 2 of the Planning and Compensation Act 1991, and amended by section 126 of the Localism Act 2011.
M49 Section 187B was inserted by section 3 of the Planning and Compensation Act 1991.

Duty to ensure objectives of the Directive are met

35. Relevant planning authorities, in the exercise of their enforcement functions, must have regard to the need to secure compliance with the requirements **[**[F50]of any law that implemented the Directive**]** and **[**[F51]the**]** objectives of the Directive.

Textual Amendments
F50 Words in reg. 35 inserted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
F51 Word in reg. 35 inserted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Prohibition on the grant of planning permission for unauthorised EIA development

36. The Secretary of State or an inspector must not grant planning permission or subsequent consent under section 177(1) [M50] of the Act (grant or modification of planning permission on appeals against enforcement notices) in respect of unauthorised EIA development unless an EIA has been carried out in respect of that development.

Marginal Citations
M50 Section 177 was amended by sections 6 and 32 of, and paragraph 24 of Schedule 7 to, the Planning and Compensation Act 1991; and by section 123 of the Localism Act 2011.

Screening opinions of the local planning authority

37.—(1) Where it appears to the local planning authority by whom or on whose behalf an enforcement notice is to be issued that the matters constituting the breach of planning control comprise or include Schedule 1 development or Schedule 2 development they must, before the enforcement notice is issued—

(a) take such steps as appear reasonable to them in the circumstances, having regard to the requirements of regulation 6(2), to obtain information about the unauthorised development to inform a screening opinion; and

(b) adopt a screening opinion.

(2) The local planning authority must adopt the screening opinion mentioned in paragraph (1)(b) within—

(a) three weeks beginning with the date on which it obtained the information mentioned in paragraph (1)(a); or

(b) such longer period not exceeding 90 days beginning with the date on which it obtained the information mentioned in paragraph (1)(a) as may be reasonably required.

(3) Where it appears to the local planning authority by whom or on whose behalf an enforcement notice is to be issued that the matters constituting the breach of planning control comprise or include EIA development, they must serve with a copy of the enforcement notice a notice ("regulation 37 notice") which must—

(a) include the screening opinion required by paragraph (1); and

(b) require a person who gives notice of an appeal under section 174 [M51] of the Act (Appeal against enforcement notice) to submit to the Secretary of State with the notice 2 copies of an environmental statement relating to that EIA development.

(4) The authority which has served a regulation 37 notice must send a copy of it to—

(a) the Secretary of State;

(b) the consultation bodies; and

(c) any particular person of whom the authority is aware, who is likely to be affected by, or has an interest in, the regulation 37 notice.

(5) Where an authority provides the Secretary of State with a copy of a regulation 37 notice they must include with it a list of the other persons to whom a copy of the notice has been or is to be sent.

Marginal Citations

M51 Section 174 was amended by sections 6, 32 and 84 of, and paragraph 22 of Part 1 of Schedule 19 to, the Planning and Compensation Act 1991; S.I. 2003/956; section 123 of the Localism Act 2011; and section 63 of, and paragraphs 2 and 5 of Schedule 17 to, the Enterprise and Regulatory Reform Act 2013 (c.24).

Screening directions of the Secretary of State

38. Any person on whom a regulation 37 notice is served may, within 3 weeks beginning with the date the notice is served, apply to the Secretary of State for a screening direction and the following shall apply—

(a) an application for a screening direction under this regulation must be accompanied by—

(i) a copy of the regulation 37 notice;

(ii) a copy of the enforcement notice which accompanied it; and

(iii) the information required under regulation 6(2), such information to be prepared, where relevant, in accordance with regulation 6(4);

(b) at the same time as applying to the Secretary of State, the applicant must send to the authority by whom the regulation 37 notice was served a copy of the application under this regulation and of any information or representations provided or made in accordance with paragraph (a)(iii);

(c) if the Secretary of State considers that the information provided in accordance with sub-paragraph (a) is insufficient to make a direction, the Secretary of State must notify the applicant and the authority of the matters in respect of which additional information is required; and the information so requested must be provided by the applicant within such reasonable period as may be specified in the notice;

(d) the Secretary of State must make a screening direction within—

(i) 3 weeks beginning with the date of receipt of a request made pursuant to this regulation; or

(ii) where the Secretary of State gives notice under paragraph (c), such longer period not exceeding 90 days beginning with the date on which the person making the request for a screening direction submits the information required under paragraph (c) as may be reasonably required;

(e) the Secretary of State must send a copy of the direction to the applicant; and

(f) without prejudice to paragraph (e), where the Secretary of State directs that the matters which are alleged to constitute the breach of planning control do not comprise or include EIA development, the Secretary of State must send a copy of the direction to every person to whom a copy of the regulation 37 notice was sent.

Provision of information

39.—(1) The relevant planning authority and any person, other than the Secretary of State, to whom a copy of the regulation 37 notice has been sent ("the consultee") must, if requested by the person on whom the regulation 37 notice was served, declare to that person whether the consultee has in their possession any information which that person or the consultee consider relevant to the preparation of an environmental statement and, if they have, the consultee must make any such information available to that person.

(2) Regulation 17(5) shall apply to information under paragraph (1) as it applies to any information falling within regulation 17(4).

Appeal to the Secretary of State without a screening opinion or screening direction

40.—(1) Where on consideration of an appeal under section 174 of the Act (Appeal against enforcement notice) it appears to the Secretary of State that the matters which are alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, the Secretary of State must, before any notice is served pursuant to regulation 41, make a screening direction.

(2) Where an inspector is dealing with an appeal under section 174 of the Act (Appeal against enforcement notice) and a question arises as to whether the matters which are alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, the inspector must refer that question to the Secretary of State.

(3) Before receiving a screening direction the inspector must not determine the application which is deemed to have been made by virtue of the appeal under section 174 of the Act (Appeal against enforcement notice) ("the deemed application") except to refuse that application.

(4) The Secretary of State must make a screening direction—

(a) in a case where a question is referred to the Secretary of State under paragraph (2) within—

(i) 3 weeks beginning with the date on which the question was referred;

(ii) where no notice is given under paragraph (8), such longer period as may be reasonably required not exceeding 90 days from the date on which **[**[F52]the question was referred**]**; or

(iii) where the Secretary of State gives notice under paragraph (8), such longer period as may be reasonably required, not exceeding 90 days from the date on which the person making the request for a screening direction submits the information required by the notice given under paragraph (8).

(b) in all other cases falling within this regulation within—

(i) 3 weeks beginning with the date on which an appeal under section 174 of the Act (Appeal against enforcement notice) was lodged; or

(ii) where the Secretary of State gives notice under paragraph (8), such longer period not exceeding 90 days beginning with the date on which the person making the appeal submits the information required by notice given under paragraph (8) as may be reasonably required.

(5) Where the Secretary of State considers that, due to exceptional circumstances relating to the development, it is not practicable for the Secretary of State to adopt a screening direction within the period of 90 days beginning with the dates referred to in **[**[F53]paragraphs (4)(a)(ii) and (iii)**]** and (4)(b)(ii), the Secretary of State may extend that period by giving notice in writing to the person who made the request for a screening direction.

(6) The Secretary of State must state in any notice given under paragraph (5) the reasons justifying the extension and the date when the determination is expected.

(7) The Secretary of State must send a copy of any screening direction made pursuant to paragraph (2) to the inspector.

(8) If the Secretary of State considers that sufficient information to make a screening direction has not been provided, the Secretary of State must give notice in writing to the appellant and the authority **[**[F54]by whom or on whose behalf the enforcement notice was issued**]** of the matters in respect of which additional information is required; and the information so requested must be provided by the appellant within such reasonable period as may be specified in the notice.

(9) A person providing additional information pursuant to a notice under paragraph (8) must, where that information is of a type specified in regulation 6(2) or (3), prepare that information in accordance with the requirements of regulation 6(4).

(10) If an appellant to whom notice has been given under paragraph (8) fails to comply with the requirements of that notice the appeal in so far as it is brought under the ground mentioned in section 174(2)(a) of the Act (Appeal against enforcement notice) ("the ground (a) appeal") shall lapse at the end of the period specified in the notice.

Textual Amendments

F52 Words in reg. 40(4)(a)(ii) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(7)(a)**

F53 Words in reg. 40(5) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(7)(b)**

F54 Words in reg. 40(8) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(7)(c)**

Appeal to the Secretary of State without an environmental statement

41. Where the Secretary of State or an inspector is considering an appeal under section 174 of the Act and the matters which are alleged to constitute the breach of planning control comprise or include unauthorised EIA development, and the documents submitted for the purposes of the appeal do not include a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, the following procedure shall apply—

(a) the Secretary of State must, subject to sub-paragraph (b), within the period of 3 weeks beginning with the day on which the appeal is received, or such longer period as may be reasonably required, notify the appellant in writing of the requirements of paragraph (c);

(b) notice need not be given under paragraph (a) where the appellant has submitted an environmental statement to the Secretary of State for the purposes of an appeal under section 78 [M52] of the Act (right to appeal against planning decisions and failure to take such decisions) which—

(i) relates to the development to which the appeal under section 174 of the Act (Appeal against enforcement notice) relates; and

(ii) is to be determined at the same time as that appeal under section 174 of the Act (Appeal against enforcement notice),

and that statement, any further information, any other information and the representations (if any) made in relation to it must be treated as the environmental statement for the purpose of regulation 36;

(c) the appellant must, within the period specified in the notice or such longer period as the Secretary of State may allow, submit to the Secretary of State 2 copies of an environmental statement relating to the unauthorised EIA development in question;

(d) the Secretary of State must send to the relevant planning authority a copy of any notice sent to the appellant under paragraph (a);

(e) if an appellant to whom notice has been given under sub-paragraph (a) fails to comply with the requirements of paragraph (c), the ground (a) appeal shall lapse at the end of the period allowed; and

(f) as soon as reasonably practicable after the occurrence of the event mentioned in paragraph (e), the Secretary of State must notify the appellant and the local planning authority in writing that the ground (a) appeal has lapsed.

Marginal Citations

M52 Section 78 has been amended by section 17 of the 1991 Act; section 43 of the Planning and Compulsory Purchase Act 2004; sections 196 and 197 of, paragraphs 1 and 3 of Schedule 10 to, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008; sections 121 and 123 of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; section 1 of, and paragraphs 1 and 8 of Schedule 1 to, the Growth and Infrastructure Act 2013; article 3 of, and paragraphs 1 and 3 of Schedule 1 to, S.I. 2014/2773; section 30 of, and paragraphs 2 and 12 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016.

Procedure where an environmental statement is submitted to the Secretary of State

42. Where the Secretary of State receives (otherwise than as mentioned in regulation 41(b)) an environmental statement in connection with an enforcement appeal, the Secretary of State must—

(a) send a copy of that environmental statement to the relevant planning authority, advise the authority that the environmental statement will be taken into consideration in determining the ground (a) appeal, and inform them that they may make representations;

(b) notify the persons to whom a copy of the relevant regulation 37 notice was sent that the environmental statement will be taken into consideration in determining the ground (a) appeal, and inform them that they may make representations and that, if they wish to receive a copy of the environmental statement or any part of it, they must notify the Secretary of State within 7 days of the receipt of the Secretary of State's notice; and

(c) respond to notification under paragraph (b) by providing a copy of the environmental statement or of the part requested (as the case may be).

Further information and evidence respecting environmental statements

43. Regulation 25(1) and (11) applies to environmental statements provided in accordance with this Part with the following modifications—

(a) where the Secretary of State or an inspector, as the case may be, notifies the appellant under regulation 25(1) that further information is required, the appellant must provide that further information within such period as the Secretary of State or the inspector may specify in the notice, or such longer period as the Secretary of State or the inspector may allow; and

(b) if an appellant to whom a notice has been given under paragraph (a) fails to provide the further information within the period specified or allowed (as the case may be), the ground (a) appeal shall lapse at the end of that period.

Publicity for environmental statements or further information

44.—(1) Where a relevant planning authority receives a copy of an environmental statement or further information by virtue of regulation 42(a) or any other information it must publish by local advertisement a notice stating—

(a) the name of the appellant and that the enforcement notice has been appealed to the Secretary of State;

(b) the address or location of the land to which the notice relates and the nature of the development;

(c) sufficient information to enable any planning permission for the development to be identified;

(d) that a copy of the environmental statement, further information or any other information and of any planning permission may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which the environmental statement or further information or any other information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(f) details of a website maintained by or on behalf of the authority on which those documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(g) that any person wishing to make representations about any matter dealt with in the environmental statement or further information or any other information should make them in writing before the latest date named in accordance with sub-paragraph (e) or (f), to the Secretary of State; and

(h) the address to which any such representations should be sent.

(2) The authority must as soon as practicable after publication of a notice in accordance with paragraph (1) send to the Secretary of State a copy of the notice certified by or on behalf of the authority as having been published by local advertisement on a date specified in the certificate.

(3) Neither the Secretary of State receiving a certificate under paragraph (2) nor an inspector shall determine the ground (a) appeal in respect of the development to which the certificate relates until the expiry of 30 days from the date stated in the published notice as the last date on which the statement or further information was available for inspection.

Public inspection of documents

45.—(1) The relevant planning authority must make available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept a copy of—

(a) every regulation 37 notice given by the authority;

(b) every notice received by the authority under regulation 41(d); and

(c) every statement and all further information received by the authority under regulation 42(a);

and copies of those documents must remain so available for a period of 2 years or until they are entered in Part 2 of the register in accordance with paragraph (2), whichever is the sooner.

(2) Where particulars of any planning permission granted by the Secretary of State or an inspector under section 177 [M53] of the Act (Grant or modification of planning permission on appeals against enforcement notices) are entered in Part 2 of the register, the relevant planning authority must take steps to secure that that Part also contains a copy of any of the documents referred to in paragraph (1) as are relevant to the development for which planning permission has been granted.

(3) The provisions of regulation 30(2) and(3) apply to a grant of planning permission under section 177 of the Act (Grant or modification of planning permission on appeals against enforcement notices) as they apply to an application for and grant of planning permission under Part 3 of the Act (Control over development).

Marginal Citations

M53 Section 177 was amended by sections 6 and 32 of, and paragraph 24 of Schedule 7 to, the 1991 Act; and by section 123 of the Localism Act 2011.

Significant transboundary effects

46. Regulation 58 shall apply to unauthorised EIA development as if—

(a) for paragraph (1)(a) there were substituted—

"(a) on consideration of an appeal under section 174 of the Act (Appeal against enforcement notice), the Secretary of State is of the opinion that the matters which are alleged to constitute the breach of planning control comprise or include EIA development and that the development has or is likely to have significant effects on the environment in **[**[F55]an**]** EEA State; or";

(b) in paragraph (3)

(i) in sub-paragraph (a) for "a copy of the application concerned" there were substituted " a description of the development concerned "; and

(ii) in sub-paragraph (b) for "application" there were substituted " appeal ";

(c) in paragraph (3)(d) the words "to which that application relates" were omitted; and

(d) in paragraph (6) for "application" there were substituted " appeal ".

Textual Amendments

F55 Word in reg. 46(a) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(7)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 9

ROMP Applications

General application of the Regulations to ROMP applications

47. These Regulations shall apply to—

(a) a ROMP application as they apply to an application for planning permission;

(b) a ROMP subsequent application as they apply to a subsequent application;

(c) ROMP development as they apply to development in respect of which an application for planning permission is, has been, or is to be made;

(d) a relevant mineral planning authority as they apply to a relevant planning authority;

(e) a person making a ROMP application as they apply to an applicant for planning permission;

(f) a person making a ROMP subsequent application as they apply to a person making a subsequent application;

(g) the determination of a ROMP application as they apply to the granting of a planning permission; and

(h) the granting of ROMP subsequent consent as they apply to the granting of subsequent consent,

subject to the modifications and additions set out in this Part.

Modification of provisions on prohibition of granting planning permission or subsequent consent

48. In regulation 3 (prohibition on granting planning permission or subsequent consent for EIA development), after “for EIA development” insert “ pursuant to a ROMP application ”.

Modification of provisions on application to local planning authority without an environmental statement

49. In the case of a ROMP application, in regulation 11(4) (EIA applications made to a local planning authority without an environmental statement)—

(a) for “3” substitute “ 6 ”; and

(b) after “the notification” insert “ , or within such other period as may be agreed with the authority in writing ”.

Disapplication of regulations and modifications of provisions on application referred to or appealed to the Secretary of State without an environmental statement

50.—(1) In the case of a ROMP application, regulations 11(6) and (8), 13(7) and (8), 14(8) and (9) and 68 shall not apply.

(2) In the case of a ROMP application, in regulations 13(6) (application referred to the Secretary of State without an environmental statement) and 14(7) (appeal to the Secretary of State without an environmental statement)—

(a) for “3” substitute “ 6 ”; and

(b) after “the notification,” insert “ or within such other period as may be agreed with the Secretary of State in writing, ”.

Substitution of references to section 78 right of appeal and modification of provisions on appeal to the Secretary of State without an environmental statement

51.—(1) In the case of a ROMP application, in regulations 14(1) and 21(b), for each reference to "section 78 of the Act (right to appeal against planning decisions and failure to take such decisions)" substitute— " paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) ".

(2) In the case of a ROMP application, in regulation 14(2) (appeal to the Secretary of State without an environmental statement) omit ", except by refusing planning permission or subsequent consent,".

Modification of provisions on preparation, publicity and procedures on submission of environmental statements

52.—(1) In the case of a ROMP application, in regulations 15(9) and 16(6) for "an application for planning permission or a subsequent application for" substitute " a ROMP application which relates to another planning permission which authorises ".

(2) In the case of a ROMP application, in regulation 19 (procedure where an environmental statement is submitted to a local planning authority) for **[**[F56]paragraph (5)**]** substitute—

> **[**[F57]"(5)**]** Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 15 of, and Schedule 3 to, the Order (publicity for applications for planning permission) shall apply to a ROMP application under—
>
> (a) paragraph 2(2) of Schedule 2 to the 1991 Act; and
>
> (b) paragraph 6(1) of Schedule 14 to the 1995 Act [M54],
>
> as they apply to a planning application falling within **[**[F58]article 15(1A)**]** of the Order except that for each reference in the notice in Schedule 3 to the Order to "planning permission" there is substituted "determination of the conditions to which a planning permission is to be subject" and that notice must refer to the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made.".

(3) In the case of a ROMP application, in regulation 20 (publicity where an environmental statement is submitted after the planning application)—

[[F59](a) in paragraph (2)(a)—

(i) omit "for planning permission or subsequent consent"; and

(ii) after "to the relevant planning authority or the Secretary of State" insert "for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made"**]**.

(b) for paragraph (8) substitute—

> "(8) Where an applicant indicates that it is proposed to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant planning authority, the Secretary of State or the inspector, as the case may be, must suspend consideration of the application or appeal until the date specified by the authority or the Secretary of State for submission of the environmental statement and compliance with paragraph (6); and must not determine it during the period of 30 days beginning with the last date on which the statement and the other documents mentioned in paragraph (6) are published in accordance with this regulation.".

(4) In the case of a ROMP application, in regulation 21 (provision of copies of environmental statements and further information for the Secretary of State on referral or appeal)—

(a) in paragraph (a) for "section 77 of the Act (reference of applications to the Secretary of State)" substitute " paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act "; and

(b) in paragraph (b) for "section 78 of the Act (right to appeal against planning decisions and failure to take such decisions)" substitute "paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)".

(5) In the case of a ROMP application, in regulation 23 (availability of copies of environmental statements) after "the Order" insert "(as applied by **[**[F60]regulation 19(5)**]** or by paragraph 9(5) of Schedule 13 to the 1995 Act),".

(6) In the case of a ROMP application, in regulation 25 (further information and evidence respecting environmental statements)—

(a) in paragraph (3)(a) for "applicant for planning permission or subsequent consent or the appellant (as the case may be)" substitute— "person who has applied for or who has appealed in relation to the determination of the conditions to which the planning permission is to be subject, the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made";

(b) in paragraph (7) after "application or appeal" insert "until the date they specify for submission of the further information".

(7) In regulation 26 (consideration of whether planning permission or subsequent consent should be granted)—

(a) in paragraph (1)(d) omit "if planning permission or subsequent consent is to be granted"; and

(b) in paragraph (2) for "grant planning permission or subsequent consent for EIA development" substitute " determine the conditions to which a planning permission is to be subject ".

Textual Amendments

F56 Words in reg. 52(2) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(8)(a)(i)**

F57 Word in reg. 52(2) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(8)(a)(ii)**

F58 Words in reg. 52(2) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(8)(a)(iii)**

F59 Reg. 52(3)(a) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(8)(b)**

F60 Words in reg. 52(5) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(8)(c)**

Marginal Citations

M54 The provisions of the Order are not applied to applications under paragraph 9(1) of Schedule 13 to the 1995 Act as they are applied by paragraph 9(5) of Schedule 13 to the 1995 Act.

Modification of provisions on application to the High Court and giving of directions

53.—(1) In the case of a ROMP application, for regulation 66 (application to the High Court) substitute—

"**Application to the High Court**

66. For the purposes of Part 12 of the Act (validity of certain decisions), the reference in section 288 of the Act, as applied by paragraph 9(3) of Schedule 2 to the 1991 Act, paragraph 16(4) of Schedule 13 to the 1995 Act or paragraph 9(4) of Schedule 14 to the 1995 Act, to "action of the Secretary of State which is not within the powers of the Act" is taken to extend to the determination of a ROMP application by the Secretary of State in contravention of regulation 3.".

(2) The direction making power in article 31(2) of the Order shall apply to ROMP development as it applies to development in respect of which an application for planning permission is made.

Suspension of minerals development

54.—(1) Where the authority, the Secretary of State or an inspector is dealing with a ROMP application or an appeal arising from a ROMP application and notifies the applicant or appellant, as the case may be, that—

(a) the submission of an environmental statement is required under regulation 11(1), 13(3) or 14(5), then such notification must specify the period within which the environmental statement and compliance with regulation 20(6) is required; or

(b) a statement should contain further information under regulation 25(1), then such notification must specify the period within which that information is to be provided.

(2) Subject to paragraph (3), the planning permission to which the ROMP application relates shall not authorise any minerals development (unless the Secretary of State has made a screening direction to the effect that ROMP development is not EIA development) if the applicant or the appellant does not—

(a) write to the authority or Secretary of State within the 6 week or other period agreed pursuant to regulation 11(4), 13(6) or 14(7);

(b) submit an environmental statement and comply with regulation 20(6) within the period specified by the authority or the Secretary of State in accordance with paragraph (1) or within such extended period as is agreed in writing;

(c) provide additional information within the period specified by the authority, the Secretary of State or an inspector in accordance with paragraph (1) or within such extended period as is agreed in writing; or

(d) where a notification under regulation 6(5), 7(3), 15(3) or 16(3) has been received, provide the additional information requested within 3 weeks beginning with the date of the notification, or within such extended period as may be agreed in writing with the authority or Secretary of State, as the case may be.

(3) Where paragraph (2) applies, the planning permission shall not authorise any minerals development from the end of—

(a) the relevant 6 week or other period agreed in writing as referred to in paragraph (2)(a); and

(b) the period specified or agreed in writing as referred to in paragraph (2)(b), (c), and (d),

until the applicant has complied with all of the provisions referred to in paragraph (2) which are relevant to the application or appeal in question.

(4) Particulars of the suspension of minerals development and the date when that suspension ends must be entered in the appropriate part of the register as soon as reasonably practicable.

(5) Paragraph (2) shall not affect any minerals development carried out under the planning permission before the date of suspension of minerals development.

(6) For the purposes of paragraphs (2) to (5) "minerals development" means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.

Determination of conditions and right of appeal on non-determination

55.—(1) Where it falls to—

(a) a relevant mineral planning authority to determine a Schedule 1 or a Schedule 2 application, paragraph 2(6)(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act or paragraph 6(8) of Schedule 14 to the 1995 Act shall not have effect to treat the authority as having determined the conditions to which any relevant planning permission is to be subject unless either the relevant mineral planning authority has adopted a screening opinion or the Secretary of State has made a screening direction to the effect that the ROMP development in question is not EIA development;

(b) a relevant mineral planning authority or the Secretary of State to determine a Schedule 1 application or a Schedule 2 application—

(i) section 69 [M55] (register of applications, etc) of the Act, and any provisions of the Order made by virtue of that section, shall have effect with any necessary amendments as if references to applications for planning permission included ROMP applications under paragraph 9(1) of Schedule 13 to the 1995 Act and paragraph 6(1) of Schedule 14 to the 1995 Act; and

(ii) where the relevant mineral planning authority is not the authority required to keep the register, the relevant mineral planning authority must provide the authority required to keep it with such information and documents as that authority requires to comply with section 69 of the Act (Register of applications, etc) (as applied by paragraph (i)), with regulation 28 as applied by regulation 47, and with regulation 54(4).

(2) Where it falls to the relevant mineral planning authority or the Secretary of State to determine an EIA application which is made under paragraph 2(2) of Schedule 2 to the 1991 Act, paragraph 4(4) of that Schedule shall not apply.

(3) Where it falls to the relevant mineral planning authority to determine an EIA application, the authority must give written notice of their determination of the ROMP application within 16 weeks beginning with the date of receipt by the authority of the ROMP application or such extended period as may be agreed in writing between the applicant and the authority.

(4) For the purposes of paragraph (3) a ROMP application is received by the relevant mineral planning authority when it receives—

(a) a document referred to by the applicant as an environmental statement for the purposes of these Regulations;

(b) any documents required to accompany that statement; and

(c) any additional information which the authority has notified the applicant that the environmental statement should contain.

(5) Where paragraph (1)(a) applies—

(a) paragraph 5(2) [M56] of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act and paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) shall have effect as if there were also a right of appeal to the Secretary of State where the relevant

mineral planning authority has not given written notice of their determination of the ROMP application in accordance with paragraph (3); and

(b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) shall have effect as if they also provided for notice of appeal to be made within 6 months from the expiry of the 16 week or other period agreed pursuant to paragraph (3).

(6) In determining for the purposes of—

(a) **[**[F61]paragraph 2(6)(b)**]** of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act and paragraph 6(8) of Schedule 14 to the 1995 Act (determination of conditions); or

(b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal),

the time which has elapsed without the relevant mineral planning authority giving the applicant written notice of their determination in a case where the authority has notified an applicant in accordance with regulation 11(1) that the submission of an environmental statement is required and the Secretary of State has given a screening direction in relation to the ROMP development in question, no account shall be taken of any period before the issue of the direction.

Textual Amendments

F61 Words in reg. 55(6)(a) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(9)**

Marginal Citations

M55 Section 69 of the Act was substituted by section 118 of, and paragraphs 1 and 3 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 and amended by section 112 of, and paragraphs 1 and 7 of Schedule 12 to, the Localism Act 2011; section 190 of the Planning Act 2008; section 30 of, and paragraphs 2 and 8 of Part 2 of Schedule 4 to, the Infrastructure Act 2015 (c. 7); and section 150 of, and paragraphs 1 and 10 of Schedule 12 to, the Housing and Planning Act 2016.

M56 Paragraph 5 was amended by section 198 of the Planning Act 2008.

ROMP application by a mineral planning authority

56.—(1) Where a relevant mineral planning authority proposes to make or makes a ROMP application to the Secretary of State under regulation 11 (other consents) of the General Regulations which is a Schedule 1 application or a Schedule 2 application (or proposed application), these Regulations shall apply to that application or proposed application as they apply to a ROMP application referred to the Secretary of State under paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act (reference of applications to the Secretary of State) subject to the following modifications—

(a) subject to paragraph (2), regulations 6 to 12, 14 to 16, 19 (save for the purposes of regulations 22(3) and (4)), 21 and 30(1) do not apply;

(b) in regulation 5 (general provisions relating to screening), paragraph (11) shall not apply;

(c) in regulation 13(3) (application referred to the Secretary of State without an environmental statement), omit “and must send a copy of that notification to the relevant planning authority”;

(d) in regulation 17 (procedure to facilitate preparation of environmental statements)—

(i) in paragraph (3)(b) for “11(4)(a), 12(6), 13(6) or 14(7)” substitute “ 13(6) ”; and

(ii) in paragraph (4) omit "the relevant planning authority and" and "authority or";

(e) in regulation 20(2) (publicity where an environmental statement is submitted after the planning application)—

(i) in sub-paragraph (a) omit "and the name and address of the relevant planning authority"; and

(ii) for sub-paragraph (b) substitute—

"(b) the date on which the application was made and that it has been made to the Secretary of State under regulation 11 [M57] of the General Regulations;";

(f) in regulation 22 (procedure where an environmental statement is submitted to the Secretary of State), in paragraph (2) omit "who must send a copy to the relevant planning authority";

(g) in regulation 25(3) (further information and evidence respecting environmental statements)—

(i) in sub-paragraph (a) omit "and the name and address of the relevant planning authority"; and

(ii) for sub-paragraph (b) substitute—

"(b) the date on which the application was made and that it has been made to the Secretary of State under regulation 11 of the General Regulations;";

(h) regulations 28 (availability of opinions, directions etc for inspection), 29(1) (information to accompany decisions) and 30(2) (duties to inform the public and the Secretary of State of final decisions) shall apply as if the references to a "relevant planning authority" were references to a mineral planning authority; and

(i) regulation 63(2) shall not apply.

(2) A relevant mineral planning authority which is minded to make a ROMP application to the Secretary of State under regulation 11 of the General Regulations may request the Secretary of State in writing to make a screening direction, and paragraphs (3) to (7) of regulation 7 shall apply to such a request as they apply to a request made pursuant to regulation 6(10) but as if in paragraph (3) the words ", and may request the relevant planning authority to provide such information as they can on any of those points" were omitted.

(3) A request under paragraph (2) must be accompanied by—

(a) a plan sufficient to identify the land;

(b) a description of the nature and purpose of the ROMP development, including in particular—

(i) a description of the physical characteristics of the whole development and, where relevant, of demolition works; and

(ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment likely to be significantly affected by the development;

(d) to the extent the information is available, a description of any likely significant effects of the proposed development on the environment resulting from—

(i) the expected residues and emissions and the production of waste, where relevant; and

(ii) the use of natural resources, in particular soil, land, water and biodiversity; and

(e) such other information or representations as the authority may wish to provide or make including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) An authority making a request under paragraph (2) must send to the Secretary of State any additional information that the Secretary of State may request in writing to enable a direction to be made.

(5) In this regulation "the General Regulations" means the Town and Country Planning General Regulations 1992 [M58].

Marginal Citations

M57 Regulation 11 was amended by S.I. 1999/1810 and 1999/1892.

M58 S.I. 1992/1492. Relevant amending instruments are S.I. 1992/1982, 1997/3006, 1998/2800, 1999/1892, 2011/1589, 2013/2145, and 2015/807.

ROMP applications: duty to make a prohibition order after two years suspension of permission

57.—(1) This regulation applies if, in relation to a minerals development—

(a) a period of 2 years beginning with the suspension date has expired, and

(b) the steps specified in regulation 54(2) have yet to be taken.

(2) The "suspension date" is the date on which the suspension of minerals development (within the meaning of regulation 54(3)) begins.

(3) Paragraph 3 of Schedule 9 to the Act [M59] (prohibition of resumption of mineral working) has effect in relation to any part of a site as it has effect in relation to the whole site.

(4) Paragraph 3(1)(b) of Schedule 9 to the Act has effect as if for the words from "the mineral planning authority may by order" to the end there were substituted—

"the mineral planning authority—

(i) must by order prohibit the resumption of the winning and working or the depositing; and

(ii) may in the order impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).".

(5) In paragraphs 3(2)(a) and (b) of Schedule 9 to the Act, references to winning and working or depositing are to be read as references to winning and working or depositing for which permission is not suspended by virtue of regulation 54(3).

(6) Paragraph 4(7) of Schedule 9 to the Act has effect as if for "have effect" there were substituted " authorise that development ".

Marginal Citations

M59 Paragraph 3 was amended by section 21 of, and paragraph 15 of Schedule 1 to, the 1991 Act.

PART 10

Development with significant transboundary effects

Development in England likely to have significant effects in [F62an] EEA State

58.—(1) Where—

(a) it comes to the attention of the Secretary of State that development proposed to be carried out in England is the subject of an EIA application and is likely to have significant effects on the environment in **[**F63an**]** EEA State; or

(b) **[**F63an**]** EEA State likely to be significantly affected by such development so requests,

the Secretary of State must—

(i) send to the EEA State as soon as possible and no later than the date of publication in the London Gazette referred to in paragraph (ii), the particulars mentioned in paragraph (2) and, if relevant, the information referred to in paragraph (3);

(ii) publish the information in paragraph (i) in a notice placed in the London Gazette indicating the address where additional information is available; and

(iii) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.

(2) The particulars referred to in paragraph (1)(b)(i) are—

(a) a description of the development, together with any available information on its possible significant effect on the environment in **[**F64an**]** EEA State; and

(b) information on the nature of the decision which may be taken.

(3) Where an EEA State indicates, in accordance with paragraph (1)(b)(iii), that it wishes to participate in the procedure for which these Regulations provide, the Secretary of State must as soon as possible send to that EEA State the following information—

(a) a copy of the application concerned;

(b) details of the authority responsible for deciding the application;

(c) a copy of any planning permission relating to the development;

(d) a copy of any environmental statement in respect of the development to which that application relates; and

(e) relevant information regarding the procedure under these Regulations,

but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (1)(b)(i).

(4) The Secretary of State must also ensure that the EEA State concerned is given an opportunity, before **[**F65planning permission**]** for the development is granted, to forward to the Secretary of State, within a reasonable time, the opinions of its public and of the authorities **[**F66which the EEA State designated to be consulted about the project**]** on the information supplied.

(5) The Secretary of State must F67...—

(a) enter into consultations with the EEA State concerned regarding, inter alia, the potential significant effects of the development on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and

(b) determine in agreement with the F68... EEA State a reasonable period of time for the duration of the consultation period.

(6) Where an EEA State has been consulted in accordance with paragraph (5), on the determination of the application concerned the Secretary of State must inform the EEA State of the decision and must forward to it the information referred to in regulation 29.

Textual Amendments

F62 Word in reg. 58 heading substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F63 Word in reg. 58(1) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F64 Word in reg. 58(2) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F65 Words in reg. 58(4) substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(10)**

F66 Words in reg. 58(4) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(8)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F67 Words in reg. 58(5) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(8)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F68 Word in reg. 58(5)(b) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(8)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Projects in [F69an] EEA State likely to have significant transboundary effects

59.—(1) Where the Secretary of State receives from **[**F70an**]** EEA State F71... information which that EEA State has gathered from the developer of a proposed project in that EEA State which is likely to have significant effects on the environment in England, the Secretary of State must F72...—

(a) enter into consultations with that EEA State regarding the potential significant effects of the proposed project on the environment in England and the measures envisaged to reduce or eliminate such effects; and

(b) determine in agreement with that EEA State a reasonable period, before development consent for the project is granted, during which members of the public in England may submit to the competent authority **[**F73(which the EEA State designated as responsible for performing the duties arising from the Directive)**]** representations F74....

(2) The Secretary of State must also—

(a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time and for a time period of no fewer than 30 days, both to the authorities in England which are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in England;

(b) ensure that those authorities and the public concerned in England are given an opportunity, before development consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied; and

(c) make available to the public concerned any information received from the competent authority of the relevant EEA State [F75]...

Textual Amendments

F69 Word in reg. 59 heading substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F70 Word in reg. 59(1) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F71 Words in reg. 59(1) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F72 Words in reg. 59(1) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F73 Words in reg. 59(1)(b) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(b)(iv)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)

F74 Words in reg. 59(1)(b) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(b)(iv)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)

F75 Words in reg. 59(2)(c) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(9)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 11

Exemptions

Projects serving national defence purposes in Scotland

60.—(1) If a development comprises or forms part of a project having national defence as its sole purpose and in the opinion of the Secretary of State compliance with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 [M60] would have an adverse effect on those purposes, the Secretary of State may direct that those Regulations shall not apply to a project specified in the direction.

(2) The Secretary of State must notify the Scottish Ministers prior to making a direction under paragraph (1).

(3) The Secretary of State must send a copy of a direction made under paragraph (1) to the Scottish Ministers and the relevant planning authority.

Marginal Citations

M60 S.S.I. 2017/102.

Projects serving national defence purposes in Wales

61.—(1) If a development comprises or forms part of a project having national defence as its sole purpose and in the opinion of the Secretary of State compliance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 [M61] would have an adverse effect on those purposes, the Secretary of State may direct that these Regulations shall not apply to a project specified in the direction.

(2) The Secretary of State must notify the Welsh Ministers prior to making a direction under paragraph (1).

(3) The Secretary of State must send a copy of a direction made under paragraph (1) to the Welsh Ministers and the relevant planning authority.

Marginal Citations

M61 S.I. 2017/567 (W.134).

Projects serving national defence purposes in Northern Ireland

62.—(1) If a development comprises or forms part of a project having national defence as its sole purpose and in the opinion of the Secretary of State compliance with the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 [M62] would have an adverse effect on those purposes, the Secretary of State may direct that those Regulations shall not apply to a project specified in the direction.

(2) The Secretary of State must notify the Department of Infrastructure prior to making a direction under paragraph (1).

(3) The Secretary of State must send a copy of a direction made under paragraph (1) to the Department for Infrastructure.

(4) Where the Department for Infrastructure receives a copy of a direction as described in paragraph (2), but it is not, or would not be, the body responsible for determining an application for planning permission for the development in question, it must send a copy of the direction to the relevant district council.

Marginal Citations

M62 S.R. (NI) 2015 No. 74.

Exemptions

63.—(1) The Secretary of State may direct that a proposed development is exempt from the requirements of these Regulations where—

(a) the circumstances are exceptional and the Secretary of State considers that—

(i) compliance with these Regulations in respect of the development would have an adverse effect on the fulfilment of the development's purpose; and

(ii) (despite an EIA not being carried out) the objectives of the Directive will be met; or

(b) the development comprises or forms part of a development having national defence as its sole purpose, or comprises a development having the response to civil emergencies as its sole purpose, and in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on those purposes.

(2) Where a direction is given under paragraph (1) the Secretary of State must send a copy of that direction to the relevant planning authority.

(3) The Secretary of State must not make a direction under paragraph (1)(a) that a project is exempt unless—

(a) the Secretary of State has considered whether another form of assessment is appropriate; and

(b) where the Secretary of State considers that the development is likely to have significant effects on the environment in **[**[F76]an**]** EEA State, or where **[**[F76]an**]** EEA State likely to be significantly affected so requests, the Secretary of State has carried out a form of consultation with that EEA State broadly equivalent to the form described in regulation 58 or 59, as appropriate, or is satisfied that such an equivalent consultation has been carried out, before planning permission or subsequent consent is granted in respect of the development.

(4) After the Secretary of State directs that a development is exempt under paragraph (1)(a), the Secretary of State must as soon as practicable make available to the public—

(a) the determination, including an explanation of the reasons for it; and

(b) the information obtained under any other assessment considered appropriate by the Secretary of State under paragraph (3)(a).

(5) Before planning permission or subsequent consent is given in respect of a development which is exempt under paragraph (1)(a), the relevant planning authority or Secretary of State, as appropriate, must take into account the results of —

(a) any other assessment considered appropriate by the Secretary of State under paragraph (3)(a); and

(b) any consultation with **[**[F77]an**]** EEA State carried out under paragraph (3)(b) about the development.

[F78](6) . . . . . .

(7) The effect of a direction under paragraph (1) is that these Regulations do not apply to it save to the extent set out in this regulation.

Textual Amendments

F76 Word in reg. 63(3)(b) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(10)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F77 Word in reg. 63(5)(b) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(10)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F78 Reg. 63(6) omitted (31.12.2020) by virtue of The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(10)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 12

Miscellaneous

Objectivity and bias

64.—(1) Where an authority or the Secretary of State has a duty under these Regulations, they must perform that duty in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.

(2) Where an authority, or the Secretary of State, is bringing forward a proposal for development and that authority or the Secretary of State, as appropriate, will also be responsible for determining its own proposal, the relevant authority or the Secretary of State must make appropriate administrative arrangements to ensure that there is a functional separation, when performing any duty under these Regulations, between the persons bringing forward a proposal for development and the persons responsible for determining that proposal.

Service of notices etc

65. Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 329 (service of notices) [M63] of the Act.

Marginal Citations

M63 Section 329 was amended by section 32 of, and paragraph 51 of Schedule 7 to, the 1991 Act; S.I. 2003/956; and section 192 of, and paragraphs 7 and 18 of Schedule 8 to, the Planning Act 2008.

Application to the High Court

66. For the purposes of Part 12 of the Act (validity), the reference in section 288 [M64] of the Act (Proceedings for questioning the validity of other orders, decisions and directions) to action of the Secretary of State which is not within the powers of the Act shall be taken to extend to a grant of planning permission or subsequent consent by the Secretary of State in contravention of regulation 3 or 36.

Marginal Citations

M64 Section 288 was amended by section 91 of, and paragraphs 1 and 4 of Schedule 16 to, the Criminal Justice and Courts Act 2015 (c. 2).

Hazardous waste and material change of use

67. A change in the use of land or buildings to a use for a purpose mentioned in paragraph 9 of Schedule 1 involves a material change in the use of that land or those buildings for the purposes of section 55(1) of the Act (meaning of "development" and "new development") [M65].

Marginal Citations

M65 Section 55 was amended by sections 13, 14, 31 and 84 of, paragraph 9 of Schedule 6 to, and Parts I and II of Schedule 19 to, the 1991 Act; S.I. 1999/293; sections 49, 118 and 120 of, paragraphs 1 and 2 of Schedules 6 to, and Schedule 9 to, the Planning and Compulsory Purchase Act 2004.

Extension of the period for an authority's decision on a planning application

68.—(1) In determining for the purposes of section 78 [M66] of the Act (right to appeal against planning decisions and failure to take such decisions) the time which has elapsed without the relevant planning authority giving notice to the applicant of their decision in a case where—

(a) the authority has notified an applicant in accordance with regulation 11(1) that the submission of an environmental statement is required; and

(b) the Secretary of State has given a screening direction in relation to the development in question,

no account shall be taken of any period before the issuing of the direction.

(2) Subject to paragraph (3), where it falls to an authority to determine an EIA application, articles 27 (applications made under planning condition) and 34 (time periods for decision) of the Order shall have effect as if for each of the references in article 27(2) and 34(2)(a) and (b) to a period of 8 and 13 weeks respectively there were substituted a reference to a period of 16 weeks.

(3) Where it falls to an authority to determine an application for technical details consent [M67] for EIA development, article 34 (time periods for decisions) of the Order shall have effect as if for each reference in article 34(2) to a period of 5 or 10 weeks respectively there were substituted a reference to a period of 16 weeks.

Marginal Citations

M66 Section 78 has been amended by section 17 of the Planning and Compensation Act 1991; section 43 of the Planning and Compulsory Purchase Act 2004; sections 196 and 197 of, paragraphs 1 and 3 of Schedule 10 to, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008; sections 121 and 123 of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; section 1 of, and paragraphs 1 and 8 of Schedule 1 to, the Growth and Infrastructure Act 2013; article 3 of, and paragraphs 1 and 3 of Schedule 1 to, S.I. 2014/2773; section 30 of, and paragraphs 2 and 12 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016.

M67 An application for technical details consent is a form of application for planning permission, see section 70(2ZZB) of the 1990 Act, which was inserted by section 150(3) of the Housing and Planning Act 2016 (c. 22).

Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with

69. The provisions enabling the Secretary of State to give directions which may be included in a development order by virtue of section 60 (permission granted by development order) [M68] of the Act shall include provisions enabling the Secretary of State to direct that development which is both of a description mentioned in column 1 of the table in Schedule 2, and of a class described in the direction, is EIA development for the purposes of these Regulations.

Marginal Citations

M68 Section 60 was amended by section 4 of the Growth and Infrastructure Act 2013, and by section 152 of the Housing and Planning Act 2016.

Application to the Crown

70.—(1) These Regulations shall apply to the Crown with the following modifications.

(2) In regulation 13 (application referred to the Secretary of State without an environmental statement)—

(a) in paragraph (1)—

(i) before "referred" insert " made or "; and

(ii) before "referral" insert " making or the "; and

(b) in paragraph (3), for "application referred" substitute " application made or referred ".

Review

71.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations; and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 16th May 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 [M69] requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Directive are implemented in other Member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves a less onerous regulatory provision.

(6) In this regulation "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Marginal Citations

M69 2015 c.26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c.12).

Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2015

72.—(1) The Order [M70] is amended in accordance with paragraphs (2) to (9).

(2) In article 2—

(a) for the definition of "the 2011 Regulations" substitute—

"the 2017 Regulations" means the Town and Country Planning (Environmental Impact Assessment) Regulations 2017;"; and

(b) in the definition of "EIA application", for "2011" substitute " 2017 ".

(3) In article 15—

(a) after paragraph (1) insert—

"(1A) In the case of any EIA application accompanied by an environmental statement, the application must be publicised in accordance with the requirements of paragraph (7) and by giving requisite notice—

(a) by site display in at least one place on or near the land to which the application relates for not less than 30 days; and

(b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.";

(b) omit paragraph (2)(a);

(c) in paragraph (4), for "not a paragraph (2) application" substitute " neither an application to which paragraph (1A) applies nor a paragraph (2) application ";

(d) in paragraph (5), for "neither paragraph (2) nor paragraph (4)" substitute " , paragraph (1A), (2) or (4) ";

(e) in paragraph (6), after "or (5)(a)" insert " , or before the period of 30 days referred to in paragraph (3A)(a), "; and

(f) in paragraph (7)—

(i) after sub-paragraph (b), insert—

"(ba) in the case of EIA application accompanied by an environmental statement, that statement;" and

(ii) in sub-paragraph (c), after "14 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days, ".

(4) In article 31(2), for "2011" substitute " 2017 ".

(5) In article 33(1)—

(a) in sub-paragraph (a), after "21 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days, "; and

(b) in sub-paragraph (c), after "14 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days, ".

(6) In article 34(9)—

(a) in sub-paragraph (a), after "21 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days, "; and

(b) in sub-paragraph (c), after "14 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days, ".

(7) Omit article 35(4).

(8) In article 38(12) for "2011" substitute " 2017 ".

(9) In the second notice set out in Schedule 3, in the bottom box beginning with the word "Insert", in paragraph (f)—

(a) for "21" substitute " 30 "; and

(b) omit "a period of 14 days, beginning with the date".

Marginal Citations

M70 S.I. 2015/595.

Amendment of the Town and Country Planning (General Permitted Development) (England) Order 2015

73.—(1) Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 [M71] is amended in accordance with paragraph (2).

(2) In paragraph (10)—

(a) for "the Town and Country Planning (Environmental Impact Assessment) Regulations 2011" substitute " the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 "; and

(b) in sub-paragraphs (a) and (b) after each reference to "EIA development" insert " within the meaning of those Regulations ".

(3) In paragraph (11) after "EIA development" in each place where it occurs in sub-paragraphs (a) and (b) insert " within the meaning of those Regulations ".

(4) In paragraphs (10) and (11)—

(a) for "regulation 5" substitute " regulation 6 ";

(b) for "regulation 4(7) or 6(4)" substitute " regulation 5(3) "; and

(c) for "regulation 4(4)" substitute " regulation 63(1)(a) ".

Marginal Citations

M71 S.I. 2015/596 amended by S.I. 2016/332 and 2016/1040.

Amendment of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

74.—(1) The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 [M72] is amended in accordance with paragraphs (2) to (7).

(2) In article 2, for the definition of "EIA development" substitute—

(3) " "EIA application", "EIA development", "environmental information" and "environmental statement" have the meanings given in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017;";

(4) In article 13(4)(c), after "14 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days, ".

(5) In article 14—

(a) in paragraph (2)(a) after "21 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days ";

(b) in paragraph (3)(a)(i) after "21 days" insert " , or in the case of an EIA application accompanied by an environmental statement 30 days "; and

(c) in paragraph (2), for "21 day period" substitute " 21 or 30 day period, as appropriate, and as ".

(6) In article 23—

(a) in paragraph (4), for "The Secretary of State" substitute " Subject to paragraph (4A), the Secretary of State "; and

(b) after paragraph (4), insert—

"(4A) In the case of an EIA application accompanied by an environmental statement, the Secretary of State must not determine a relevant application, where any notice of, or information about, the application has been—

(a) published on a website under article 13(1), within the period of 30 days beginning with the date on which the information was published;

(b) published in a newspaper under article 13(2), within the period of 30 days beginning with the date on which the notice was published; or

(c) given by site display under article 14, within the period of 30 days beginning with the date when the notice was first displayed by site display.".

(7) Omit article 24(2).

(8) In the notice set out in Schedule 2, in the bottom box beginning with the word "Insert", in paragraph (e) after "21 days," insert " or in the case of an EIA application accompanied by an environmental statement 30 days, ".

Marginal Citations

M72 S.I. 2013/2140. Articles 13 and 14 were substituted by S.I. 2016/944.

Amendment of the Neighbourhood Planning (General) Regulations 2012

75.—(1) The Neighbourhood Planning (General) Regulations 2012 [M73] are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3, in the definition of "EIA Regulations", for "2011" substitute " 2017 ".

(3) For regulation 23(2) substitute—

"(2) As soon as possible after receiving an order proposal to which regulation 33 of the EIA Regulations applies, the local planning authority must, in addition to any publicity required under paragraph (1), publicise the information described in paragraph (1)(a) and the environmental statement submitted in accordance with the EIA Regulations by giving notice—

(a) by site display in at least one place on or near the land to which the order proposal relates for not less than 30 days;

(b) by publication of the notice in a newspaper circulating in the locality in which the land to which the order proposal relates is situated; and

(c) by publication on a website maintained by or on behalf of the authority.".

(4) In regulation 24(c), for "regulation 29A" substitute " regulation 33 ".

Marginal Citations

M73 S.I. 2012/637 which was amended by S.I. 2015/20 and 2016/873.

Revocation and transitional provisions

76.—(1) Subject to paragraphs (2) to (4), the 2011 Regulations are revoked.

(2) Notwithstanding the revocation in paragraph (1), the 2011 Regulations continue to apply where before the commencement of these Regulations—

(a) an applicant, appellant or qualifying body, as the case may be, has submitted an environmental statement or requested a scoping opinion; or

(b) in respect of local development orders, the local planning authority has in connection with that order prepared an environmental statement or a scoping opinion or requested a scoping direction.

(3) Notwithstanding the revocation in paragraph (1), Parts 1 and 2 of the 2011 Regulations continue to apply to—

(a) requests for a screening opinion or direction;

(b) screening opinions adopted by the relevant planning authority; and

(c) screening directions made by the Secretary of State;

where, before the coming into force of these Regulations, such requests were made or the relevant planning authority or the Secretary of State, as the case may be, initiated the making or adoption of such screening opinions or screening directions.

(4) In this regulation—

"the 2011 Regulations" means the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 [M74]; and

"environmental statement", "scoping direction", "scoping opinion", "screening direction and "screening opinion" have the meanings given by regulation 2 of the 2011 Regulations.

Marginal Citations

M74 S.I. 2011/1824.

Signed by authority of the Secretary of State for Communities and Local Government

Department for Communities and Local Government

Gavin Barwell
Minister of State

SCHEDULE 1 Regulation 2(1)

DESCRIPTIONS OF DEVELOPMENT FOR THE PURPOSES OF THE DEFINITION OF "SCHEDULE 1 DEVELOPMENT"

Interpretation

In this Schedule—

"airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14) [M75];

"express road" means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15th November 1975 [M76]; and

"nuclear power station" and "other nuclear reactor" do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor is **[**[F79]not**]** to be treated as development of the description mentioned in paragraph 2(2) of this Schedule.

Textual Amendments

F79 Word in Sch. 1 inserted (6.8.2018) by The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018 (S.I. 2018/834), regs. 1(2), **20** (with reg. 22)

Marginal Citations

M75 Command Paper 6614.

M76 Command Paper 6993.

Textual Amendments

F79 Word in Sch. 1 inserted (6.8.2018) by The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018 (S.I. 2018/834), regs. 1(2), **20** (with reg. 22)

Marginal Citations

M75 Command Paper 6614.

M76 Command Paper 6993.

Descriptions of development

The carrying out of development to provide any of the following—

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude-oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2.—(1) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more.

(2) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

3.—(1) Installations for the reprocessing of irradiated nuclear fuel.

(2) Installations designed—

(a) for the production or enrichment of nuclear fuel;

(b) for the processing of irradiated nuclear fuel or high-level radioactive waste;

(c) for the final disposal of irradiated nuclear fuel;

(d) solely for the final disposal of radioactive waste;

(e) solely for the storage (planned for more than ten years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

4.—(1) Integrated works for the initial smelting of cast-iron and steel.

(2) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.

5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—

(a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;

(b) for friction material, with an annual production of more than 50 tonnes of finished products; and

(c) for other uses of asbestos, utilisation of more than 200 tonnes per year.

6. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—

(a) for the production of basic organic chemicals;

(b) for the production of basic inorganic chemicals;

(c) for the production of phosphorous–, nitrogen– or potassium-based fertilisers (simple or compound fertilisers);

(d) for the production of basic plant health products and of biocides;

(e) for the production of basic pharmaceutical products using a chemical or biological process; or

(f) for the production of explosives.

7.—(1) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more.

(2) Construction of motorways and express roads.

(3) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road, would be 10 kilometres or more in a continuous length.

8.—(1) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.

(2) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.

9. Waste disposal installations for the incineration, chemical treatment (as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council **[**[F80]on waste, as last amended

by **[**[F81]Directive (EU) 2018/851**],]** under heading D9), or landfill of hazardous waste as defined in Article 3(2) of that Directive.

Textual Amendments

F80 Words in Sch. 1 para. 9 substituted (5.7.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575), regs. 1(2)(e), **13**

F81 Words in Sch. 1 para. 9 substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), 22

10. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

12.—(1) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year.

(2) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.

13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2(6) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment [M77].

Marginal Citations

M77 OJ No. L 135, 30.5.1991, p.40, last amended by Regulation (EC) No. 1137/2008 (O.J. No. L 311, 21.11.2008, p.1).

14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.

15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

16. Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres for the transport of—

(a) gas, oil or chemicals; or

(b) carbon dioxide streams for the purposes of geological storage, including associated booster stations.

17. Installations for the intensive r earing of poultry or pigs with more than—

(a) 85,000 places for broilers or 60,000 places for hens;

(b) 3,000 places for production pigs (over 30 kg); or

(c) 900 places for sows.

18. Industrial plants for—

(a) the production of pulp from timber or similar fibrous materials;or

(b) the production of paper and board with a production capacity exceeding 200 tonnes per day.

19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.

20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.

21. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

22. Storage sites pursuant to **[**[F82]Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented**]** Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide.

Textual Amendments

F82 Words in Sch. 1 para. 22 inserted (31.12.2020) by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2018/1232), regs. 1(2), **6(11)(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**

23. Installations for the capture of carbon dioxide streams for the purposes of geological storage **[**[F83](pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented Directive 2009/31/EC)**]** from installations referred to in this Schedule, or where the total yearly capture of carbon dioxide is 1.5 megatonnes or more

Textual Amendments

F83 Words in Sch. 1 para. 23 substituted (31.12.2020) by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2018/1232), regs. 1(2), **6(11)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

24. Any change to or extension of development listed in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.

Textual Amendments

F80 Words in Sch. 1 para. 9 substituted (5.7.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575), regs. 1(2)(e), **13**

F81 Words in Sch. 1 para. 9 substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), 22

F82 Words in Sch. 1 para. 22 inserted (31.12.2020) by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2018/1232), regs. 1(2), **6(11)(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F83 Words in Sch. 1 para. 23 substituted (31.12.2020) by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2018/1232), regs. 1(2), **6(11)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Marginal Citations

M77 OJ No. L 135, 30.5.1991, p.40, last amended by Regulation (EC) No. 1137/2008 (O.J. No. L 311, 21.11.2008, p.1).

SCHEDULE 2 Regulation 2(1)

DESCRIPTIONS OF DEVELOPMENT AND APPLICABLE THRESHOLDS AND CRITERIA FOR THE PURPOSES OF THE DEFINITION OF "SCHEDULE 2 DEVELOPMENT"

1. In the table below—

"area of the works" includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

"controlled waters" has the same meaning as in the Water Resources Act 1991[M78]; and

"floorspace" means the floorspace in a building or buildings.

The carrying out of development to provide any of the following—

Column 1 Description of development	***Column 2 Applicable thresholds and criteria***
1 Agriculture and aquaculture	
(a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;	The area of the development exceeds 0.5 hectare.
(b) Water management projects for agriculture, including irrigation and land drainage projects;	The area of the works exceeds 1 hectare.
(c) Intensive livestock installations (unless included in Schedule 1);	The area of new floorspace exceeds 500 square metres.
(d) Intensive fish farming;	The installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year.
(e) Reclamation of land from the sea.	All development.
2 Extractive industry	
(a) Quarries, open cast mining and peat extraction (unless included in Schedule 1); (b) Underground mining;	All development except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres.
(c) Extraction of minerals by fluvial or marine dredging;	All development.
(d) Deep drillings, in particular— (i) geothermal drilling; (ii) drilling for the storage of nuclear waste material;	(i) In relation to any type of drilling, the area of the works exceeds 1 hectare; or (ii) in relation to geothermal drilling and drilling for the storage of nuclear waste material, the drilling is within 100 metres of any controlled waters

	(iii) drilling for water supplies; with the exception of drillings for investigating the stability of the soil.	
(e)	Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.	The area of the development exceeds 0.5 hectare.
3 Energy industry		
(a)	Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1);	The area of the development exceeds 0.5 hectare.
(b)	Industrial installations for carrying gas, steam and hot water;	The area of the works exceeds 1 hectare.
(c) (d) (e)	Surface storage of natural gas; Underground storage of combustible gases; Surface storage of fossil fuels;	(i) The area of any new building, deposit or structure exceeds 500 square metres; or (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled waters.
(f)	Industrial briquetting of coal and lignite;	The area of new floorspace exceeds 1,000 square metres.
(g)	Installations for the processing and storage of radioactive waste (unless included in Schedule 1);	(i) The area of new floorspace exceeds 1,000 square metres; or (ii) the installation resulting from the development will require the grant of an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016[M79] in relation to a radioactive substances activity described in paragraphs 11(2)(b), (2)(c) or (4) of Part 2 of Schedule 23 to those Regulations, or the variation of such a permit.
(h)	Installations for hydroelectric energy production;	The installation is designed to produce more than 0.5 megawatts.
(i)	Installations for the harnessing of wind power for energy production (wind farms).	(i) The development involves the installation of more than 2 turbines; or (ii) the hub height of any turbine or height of any other structure exceeds 15 metres.
(j)	Installations for the capture of carbon dioxide streams for the purposes of geological storage	All development.

[[F84](pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented Directive 2009/31/EC)**]** from installations not included in Schedule 1.	
4 Production and processing of metals	
(a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting; (b) Installations for the processing of ferrous metals— (i) hot-rolling mills; (ii) smitheries with hammers; (iii) application of protective fused metal coats. (c) Ferrous metal foundries; (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc); (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process; (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines; (g) Shipyards; (h) Installations for the construction and repair of aircraft; (i) Manufacture of railway equipment; (j) Swaging by explosives; (k) Installations for the roasting and sintering of metallic ores.	The area of new floorspace exceeds 1,000 square metres.
5 Mineral industry	

(a) Coke ovens (dry coal distillation); (b) Installations for the manufacture of cement; (c) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1); (d) Installations for the manufacture of glass including glass fibre; (e) Installations for smelting mineral substances including the production of mineral fibres; (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.	The area of new floorspace exceeds 1,000 square metres.	
6 Chemical industry (unless included in Schedule 1)		
(a) Treatment of intermediate products and production of chemicals; (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;	The area of new floorspace exceeds 1,000 square metres.	
(c) Storage facilities for petroleum, petrochemical and chemical products.	(i) The area of any new building or structure exceeds 0.05 hectare; or (ii) more than 200 tonnes of petroleum, petrochemical or chemical products is to be stored at any one time.	
7 Food industry		
(a) Manufacture of vegetable and animal oils and fats; (b) Packing and canning of animal and vegetable products; (c) Manufacture of dairy products; (d) Brewing and malting; (e) Confectionery and syrup manufacture; (f) Installations for the slaughter of animals;	The area of new floorspace exceeds 1,000 square metres.	

(g) Industrial starch manufacturing installations; (h) Fish-meal and fish-oil factories; (i) Sugar factories.	
8 Textile, leather, wood and paper industries	
(a) Industrial plants for the production of paper and board (unless included in Schedule 1); (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles; (c) Plants for the tanning of hides and skins; (d) Cellulose-processing and production installations.	The area of new floorspace exceeds 1,000 square metres.
9. Rubber industry	
Manufacture and treatment of elastomer-based products.	The area of new floorspace exceeds 1,000 square metres.
10. Infrastructure projects	
(a) Industrial estate development projects;	The area of the development exceeds **[**[F85]5 hectares**]**.
(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;	(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellings; or (iii) the overall area of the development exceeds 5 hectares.
(c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1);	The area of the development exceeds 0.5 hectare.
(d) Construction of railways (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(e) Construction of airfields (unless included in Schedule 1);	(i) The development involves an extension to a runway; or (ii) the area of the works exceeds 1 hectare.

(f)	Construction of roads (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(g)	Construction of harbours and port installations including fishing harbours (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(h) (i) (j)	Inland-waterway construction not included in Schedule 1, canalisation and flood-relief works; Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1); Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;	The area of the works exceeds 1 hectare.
(k) (l)	Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the purposes of geological storage (unless included in Schedule 1); Installations of long-distance aqueducts;	(i) The area of the works exceeds 1 hectare; or, (ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.
(m)	Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;	All development.
(n)	Groundwater abstraction and artificial groundwater recharge	The area of the works exceeds 1 hectare.

	schemes not included in Schedule 1;	
(o)	Works for the transfer of water resources between river basins not included in Schedule 1;	
(p)	Motorway service areas.	The area of the development exceeds 0.5 hectare.
11 Other projects		
(a)	Permanent racing and test tracks for motorised vehicles;	The area of the development exceeds 1 hectare.
(b)	Installations for the disposal of waste (unless included in Schedule 1);	(i) The disposal is by incineration; or (ii) the area of the development exceeds 0.5 hectare; or (iii) the installation is to be sited within 100 metres of any controlled waters.
(c)	Waste-water treatment plants (unless included in Schedule 1);	The area of the development exceeds 1,000 square metres.
(d) (e)	Sludge-deposition sites; Storage of scrap iron, including scrap vehicles;	(i) The area of deposit or storage exceeds 0.5 hectare; or (ii) a deposit is to be made or scrap stored within 100 metres of any controlled waters
(f) (g) (h) (i)	Test benches for engines, turbines or reactors; Installations for the manufacture of artificial mineral fibres; Installations for the recovery or destruction of explosive substances; Knackers' yards.	The area of new floorspace exceeds 1,000 square metres.
12 Tourism and leisure		
(a)	Ski-runs, ski-lifts and cable-cars and associated developments;	(i) The area of the works exceeds 1 hectare; or (ii) the height of any building or other structure exceeds 15 metres.
(b)	Marinas;	The area of the enclosed water surface exceeds 1,000 square metres.
(c) (d)	Holiday villages and hotel complexes outside urban areas and associated developments; Theme parks;	The area of the development exceeds 0.5 hectare.
(e)	Permanent camp sites and caravan sites;	The area of the development exceeds 1 hectare.
(f)	Golf courses and associated developments.	The area of the development exceeds 1 hectare.
13 Changes and extensions		

(a)	Any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph 24 of that Schedule) where that development is already authorised, executed or in the process of being executed.	Either— (i) The development as changed or extended may have significant adverse effects on the environment; or (ii) in relation to development of a description mentioned in a paragraph in Schedule 1 indicated below, the thresholds and criteria in column 2 of the paragraph of this table indicated below applied to the change or extension are met or exceeded. *Paragraph in Schedule 1* — *Paragraph of this table* 1 — 6(a) 2(a) — 3(a) 2(b) — 3(g) 3 — 3(g) 4 — 4 5 — 5 6 — 6(a) 7(a) — 10(d) (in relation to railways) or 10(e) (in relation to airports) 7(b) and (c) — 10(f) 8(a) — 10(h) 8(b) — 10(g) 9 — 11(b) 10 — 11(b) 11 — 10(n) 12 — 10(o) 13 — 11(c) 14 — 2(e) 15 — 10(i) 16 — 10(k) 17 — 1(c) 18 — 8(a) 19 — 2(a) 20 — 6(c)
(b)	Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already	Either— (i) The development as changed or extended may have significant adverse effects on the environment; or (ii) in relation to development of a description mentioned in column 1 of this table, the thresholds and criteria in the corresponding part of column 2 of this table applied to the change or extension are met or exceeded.

	authorised, executed or in the process of being executed.	
(c)	Development of a description mentioned in Schedule 1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.	All development.

Textual Amendments

F84 Words in Sch. 2 para. 1 Table substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(12)**; 2020 c. 1, Sch. 5 para. 1(1)

F85 Words in Sch. 2 substituted (1.10.2018) by The Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018 (S.I. 2018/695), regs. 1, **2(11)**

Marginal Citations

M78 1991 c. 37 (see section 104).

M79 S.I. 2016/1154.

SCHEDULE 3 Regulation 5(4)

SELECTION CRITERIA FOR SCREENING SCHEDULE 2 DEVELOPMENT

Characteristics of development

1. The characteristics of development must be considered with particular regard to—

(a) the size and design of the whole development;

(b) cumulation with other existing development and/or approved development;

(c) the use of natural resources, in particular land, soil, water and biodiversity;

(d) the production of waste;

(e) pollution and nuisances;

(f) the risk of major accidents and/or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge;

(g) the risks to human health (for example, due to water contamination or air pollution).

Location of development

2.—(1) The environmental sensitivity of geographical areas likely to be affected by development must be considered, with particular regard, to—

(a) the existing and approved land use;

(b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;

(c) the absorption capacity of the natural environment, paying particular attention to the following areas—

(i) wetlands, riparian areas, river mouths;

(ii) coastal zones and the marine environment;

(iii) mountain and forest areas;

(iv) nature reserves and parks;

(v) European sites and other areas classified or protected under national legislation;

(vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in **[**[F86]**[**[F87]assimilated**]** law**]** and relevant to the project, or in which it is considered that there is such a failure;

(vii) densely populated areas;

(viii) landscapes and sites of historical, cultural or archaeological significance.

Textual Amendments

F86 Words in Sch. 3 para. 2(1)(c)(vi) substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(13)**; 2020 c. 1, Sch. 5 para. 1(1)

F87 Word in Sch. 3 para. 2(1)(c)(vi) substituted (27.2.2025) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025 (S.I. 2025/82), reg. 1(2), **Sch. 5 para. 4(b)**

Types and characteristics of the potential impact

3. The likely significant effects of the development on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 above, with regard to the impact of the development on the factors specified in regulation 4(2), taking into account—

(a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);

(b) the nature of the impact;

(c) the transboundary nature of the impact;

(d) the intensity and complexity of the impact;

(e) the probability of the impact;

(f) the expected onset, duration, frequency and reversibility of the impact;

(g) the cumulation of the impact with the impact of other existing and/or approved development;

(h) the possibility of effectively reducing the impact.

SCHEDULE 4 Regulation 18(3)

INFORMATION FOR INCLUSION IN ENVIRONMENTAL STATEMENTS

1. A description of the development, including in particular:

(a) a description of the location of the development;

(b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;

(c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;

(d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.

2. A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5. A description of the likely significant effects of the development on the environment resulting from, inter alia:

(a) the construction and existence of the development, including, where relevant, demolition works;

(b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;

(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;

(d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);

(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;

(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;

(g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in regulation 4(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established at Union **[**[F88]level (as they had effect immediately before exit day) or United Kingdom**]** level which are

relevant to the project, including in particular those established under **[**[F89]the law of any part of the United Kingdom that implemented**]** Council Directive 92/43/EEC[M80] and Directive 2009/147/EC[M81].

Textual Amendments

F88 Words in Sch. 4 para. 5 substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(14)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F89 Words in Sch. 4 para. 5 inserted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(14)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M80 OJ No. L 206, 22.7.1992, p.7.

M81 OJ No. L 20, 26.1.2010, p.7.

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8. A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to **[**[F90]**[**[F91]assimilated**]** law such as any law that implemented**]** Directive 2012/18/EU [M82] of the European Parliament and of the Council or Council Directive 2009/71/Euratom [M83] or UK environmental assessments may be used for this purpose provided that the requirements of **[**[F92]any law that implemented**]** this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

Textual Amendments

F90 Words in Sch. 4 para. 8 substituted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(14)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F91 Word in Sch. 4 para. 8 substituted (27.2.2025) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025 (S.I. 2025/82), reg. 1(2), **Sch. 5 para. 4(c)**

F92 Words in Sch. 4 para. 8 inserted (31.12.2020) by The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1232), regs. 1(2), **6(14)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M82 OJ No. L 197, 24.7.2012, p. 1.

M83 OJ No. L 172, 2.7.2009, p. 18.

9. A non-technical summary of the information provided under paragraphs 1 to 8.

10. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.

EXPLANATORY NOTE

(This note is not part of the Regulations)

[M84]These Regulations consolidate with amendments the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 ("the 2011 Regulations") and subsequent amending instruments.

[M85M86]These Regulations also implement amendments to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ("the Directive") which were made by Directive 2014/52/EU .

These Regulations implement the Directive in respect of the town and country planning system in England only. Regulations 60, 61 and 62 extend to Scotland, Wales and Northern Ireland respectively; they enable the Secretary of State to exempt developments having national defence as their sole purpose from the environmental impact assessment ("EIA") procedures which would ordinarily be applicable under the town and country planning systems in each of the devolved administrations.

The main changes from the 2009 Regulations are:

— to the circumstances in which a project may be exempt from the EIA process;

[M87M88]— to the introduction of co-ordinated procedures for projects which are also subject to assessment under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora or Directive 2009/147/EC of the European Parliament and of the Council on the conservation of Wild Birds ;

— to the list of environmental factors to be considered as part of the EIA process;

— to the information to be provided to inform a screening decision and the criteria to be applied when making a screening decision;

— to the way in which an environmental statement is to be prepared, including an amendment to the information to be included in it, the introduction of a requirement that it be based upon a scoping opinion (where one has been obtained) and a requirement that it be prepared by a competent expert;

— to the means by which the public is to be informed of projects which are subject to the EIA process; and

— the introduction of a requirement for decision-makers to avoid conflicts of interest.

[M89]These Regulations were notified to the European Commission in accordance with Article 2 of Directive 2014/52/EU .

It is normal practice to make available to Parliament, alongside primary or secondary legislation giving effect to European Directives, a Transposition Note that sets out how the Government will transpose the main elements of those Directives into UK law. The Transposition Note accompanying the Explanatory Memorandum to these Regulations is available from legislation.gov.uk.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Changes to legislation:
There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.