
STATUTORY INSTRUMENTS

2011 No. 1824

**The Town and Country Planning (Environmental
Impact Assessment) Regulations 2011**

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and shall come into force on 24 August 2011.

(2) Subject to paragraph (4), these Regulations shall apply in relation to England only.

(3) Paragraphs (2) and (6)(a) of regulation 17 shall not apply to the Isles of Scilly and, in relation to the Isles of Scilly, the reference in paragraph (7) of that regulation to paragraph (6) of that regulation shall be construed as a reference to paragraph (6)(b).

(4) Regulations 55 to 57 shall apply in relation to Scotland, Wales and Northern Ireland respectively⁽¹⁾.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Town and Country Planning Act 1990 and references to sections are references to sections of that Act;

“the 1991 Act” means the Planning and Compensation Act 1991⁽²⁾;

“the 1995 Act” means the Environment Act 1995⁽³⁾;

“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;

“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 article 16 (consultations before the grant of permission) of the Order or of any direction under that article;

(1) Regulations 55 to 57 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 serving national defence purposes. 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. National defence is a reserved matter for Scotland (see paragraph 9 of Schedule 5 to the Scotland Act 1998 (c. 46)), an excepted matter for Northern Ireland (see paragraph 4 of Schedule 2 to the Northern Ireland Act 1998 (c.47)), and a matter not devolved to Wales.

(2) 1991 c. 34.

(3) 1995 c. 25.

- (b) the Marine Management Organisation(4), 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(5), except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
 - (iii) a Renewable Energy Zone(6), 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(7), 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 sub-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(8);
 - (iii) the Environment Agency(9);
 - (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;

“the Directive” means Council Directive [85/337/EEC](#);

“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;

“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” means a statement—

- (a) that includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but
- (b) that includes at least the information referred to in Part 2 of Schedule 4;

“exempt development” means development in respect of which the Secretary of State has made a direction under regulation 4(4);

(4) See section 1 of the Marine and Coastal Access Act 2009 (c. 23).

(5) See section 41 of the Marine and Coastal Access Act 2009.

(6) See section 84(4) of the Energy Act 2004 (c. 20), substituted by the Marine and Coastal Access Act 2009.

(7) 1964 c. 29.

(8) See section 1(1) and 1(2) of the Natural Environment and Rural Communities Act 2006 (c.16).

(9) See section 1(1) of the Environment Act 1995 (c. 25).

“further information” has the meaning given in regulation 22(1);

“General Regulations” means the Town and Country Planning General Regulations 1992(10);

“inspector” means a person appointed by the Secretary of State pursuant to Schedule 6(1) to the Act(11) to determine an appeal;

“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) where the relevant planning authority maintains a website for the purpose of advertisement of applications, by publication of the notice on the website;

“local development order” means a local development order made pursuant to section 61A(12);

“the Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2010(13);

“principal council” has the meaning given by section 270(1) (general provisions as to interpretation) of the Local Government Act 1972(14);

“register” means a register kept pursuant to section 69 (registers of applications etc) and “appropriate register” means the register on which particulars of an application for planning permission for the relevant development have been placed or would fall to be placed if such an application were made;

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

- (a) 7 of Schedule 2 to the 1991 Act;
- (b) 13 of Schedule 13 to the 1995 Act; or
- (c) 8 of Schedule 14 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 a direction under section 77(15) (reference of applications to Secretary of State), 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 paragraph—

- (a) 2(2) of Schedule 2 to the 1991 Act (registration of old mining permissions);
- (b) 9(1) of Schedule 13 to the 1995 Act (review of old mineral planning permissions); or
- (c) 6(1) of Schedule 14 to the 1995 Act (periodic review of mineral planning permissions);

“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—

(10) S.I. 1992/1492. Relevant amending instruments are S.I. 1992/1982 and S.I. 1997/3006.

(11) Schedule 6 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 44.

(12) Section 61A of the Town and Country Planning Act 1990 was inserted by section 40 of the Planning and Compulsory Purchase Act 2004 (c.5).

(13) S.I. 2010/2184.

(14) 1972 c. 70.

(15) Section 77 was amended by the Planning and Compensation Act 1991, Schedule 7, paragraph 18.

- (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 13;

“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⁽¹⁶⁾;
- (b) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949⁽¹⁷⁾;
- (c) the Broads⁽¹⁸⁾;
- (d) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage⁽¹⁹⁾;
- (e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979⁽²⁰⁾;
- (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⁽²¹⁾;
- (g) a European site within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010⁽²²⁾;

“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

⁽¹⁶⁾ 1981 c. 69, substituted by the Countryside and Rights of Way Act 2001 (c. 37) section 75(1) and Schedule 9, paragraph 1, and amended by the Natural Environment and Rural Communities Act 2006 (c. 16) section 105(1), Schedule 11, Part 1, paragraph 79, and by the Marine and Coastal Access Act 2009 (c. 23) section 148, schedule 13, Part 2, paragraph 2(1).

⁽¹⁷⁾ 1949 (c. 97), s section 5(3).

⁽¹⁸⁾ See the Norfolk and Suffolk Broads Act 1988 (c. 4).

⁽¹⁹⁾ See Command Paper 9424.

⁽²⁰⁾ 1979 c. 46. See the definition in section 1(11).

⁽²¹⁾ 2000 c. 37.

⁽²²⁾ S.I. 2010/490.

(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.

(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 any reference to a Council Directive is a reference to that Directive as amended at the date these Regulations were made.

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

Prohibition on granting planning permission or subsequent consent without consideration of environmental information

3.—(1) This regulation applies—

- (a) to every application for planning permission for EIA development received by the authority with whom it is lodged on or after the commencement of these Regulations;
- (b) to every application for planning permission for EIA development lodged by an authority pursuant to regulation 3 or 4 (applications for planning permission) of the General Regulations on or after that date;
- (c) to every subsequent application in respect of EIA development received by the authority with whom it is lodged on or after the commencement of these Regulations; and
- (d) to every subsequent application in respect of EIA development lodged by an authority pursuant to regulation 11 of the General Regulations on or after the commencement of these Regulations;

(2) For the purposes of paragraph (1)(a) and (b), the date of receipt of an application by an authority shall be determined in accordance with article 29(3) (time periods for decision) of the Order.

(3) For the purpose of paragraph (1)(c) and (d), the date of receipt of an application by an authority shall be determined in accordance with article 30 (applications made under planning condition) of the Order.

(4) The relevant planning authority or the Secretary of State or an inspector shall not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.