

1988 No. 1199

**TOWN AND COUNTRY PLANNING, ENGLAND
AND WALES**

**The Town and Country Planning (Assessment of
Environmental Effects) Regulations 1988**

Made - - - - - *12th July 1988*

Coming into force *15th July 1988*

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The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, being designated(a) Ministers for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred upon them by the said section 2 hereby make the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988.

(2) These Regulations shall come into force on the third day after the day on which they are made.

(3) These Regulations apply throughout England and Wales: but in the Isles of Scilly regulations 12, 13 and 17(7) apply subject to the modifications set out in regulation 26.

Interpretation

2.—(1) In these Regulations, unless the contrary intention appears—

“the Act” means the Town and Country Planning Act 1971(c), references to sections are references to sections of that Act and expressions used in that Act and these Regulations have the meaning they have in the Act save that, in relation to an appeal, references to the Secretary of State shall not be construed as references to an inspector;

“aerodrome” means a defined area on land or water (including any buildings and other installations) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“controlled waste” has the meaning assigned to it by section 30(1) of the Control of Pollution Act 1974(d);

“documents” include photographs, drawings, maps and plans;

“environmental information” means the environmental statement prepared by the applicant or appellant or in a case falling within regulation 17 by the authority, any representations made by any body required by these Regulations to be invited to make representations or to be consulted and any representations duly

(a) S.I. 1988/785.

(b) 1972 c.68.

(c) 1971 c.78.

(d) 1974 c.40.

made by any other person about the likely environmental effects of the proposed development;

“environmental statement” means such a statement as is described in Schedule 3;

“exempt development” means particular proposed development which is the subject of a direction by the Secretary of State that these Regulations do not apply in relation to it;

“the General Development Order” means the Town and Country Planning General Development Order 1977(a);

“the General Regulations” means the Town and Country Planning General Regulations 1976(b);

“inspector” means a person appointed by the Secretary of State pursuant to Schedule 9 to the Act to determine an appeal;

“the land” means the land on which proposed development would be carried out;

“local planning authority” means the body to whom it falls or would but for a direction under section 35 fall, to determine an application for planning permission, or to whom it would fall (but for any such direction) to determine a proposed application;

“principal council” has the meaning assigned to that term by section 270(1) of the Local Government Act 1972(c);

“register” means a register kept pursuant to section 34 and “appropriate register” means the register on which particulars of an application for planning permission for the relevant development would fall to be placed when such an application is made;

“Schedule” means a Schedule to these Regulations;

“Schedule 1 application” means an application for planning permission (other than an application made pursuant to section 31A(d) or section 32) for the carrying out of development of any description mentioned in Schedule 1, which is not exempt development;

“Schedule 2 application” means, subject to paragraph (2), an application for planning permission (other than an application made pursuant to section 31A or section 32) for the carrying out of development of any description mentioned in Schedule 2, which is not exempt development and which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“special road” means a special road authorised by a scheme made by a local highway authority under section 16 of the Highways Act 1980(e) for the use of traffic within Classes I and II of Schedule 4 to that Act; and

“special waste” means waste to which that term is applied by regulation 2 of the Control of Pollution (Special Waste) Regulations 1980(f).

(2) Where the Secretary of State gives a direction which includes a statement that in his opinion proposed development would be likely, or would not be likely, to have significant effects on the environment by virtue of factors such as its nature, size or location, or includes such a statement in a notification under regulation 10(1), that statement shall determine whether an application for planning permission for that development is, or is not, a Schedule 2 application by reason of the effects the development would be likely to have; and references in these Regulations to a Schedule 2 application shall be interpreted accordingly.

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

3. The provisions enabling the Secretary of State to give directions which may be

(a) S.I. 1977/289; relevant amendments are noted under references to specific articles.

(b) S.I. 1976/1419, amended by S.I. 1981/558, 1986/443.

(c) 1972 c.70.

(d) Section 31A was added by the Housing and Planning Act 1986 (c.63), Schedule 11, paragraph 4.

(e) 1980 c.66.

(f) S.I. 1980/1709.

included in a development order by virtue of section 31 shall include provisions enabling him to direct—

- (a) that particular proposed development of a description set out in Schedule 1 or 2 is exempt development to which these Regulations do not apply;
- (b) that particular proposed development is not development in respect of which the consideration of environmental information is required before planning permission can be granted;
- (c) that particular proposed development or development of any class is development in respect of which such consideration is required.

Prohibition on the grant of planning permission without consideration of environmental information

4.—(1) This regulation applies to any Schedule 1 or Schedule 2 application received by the authority with whom it is lodged on or after 15th July 1988 and any such application lodged with the Secretary of State by an authority pursuant to regulation 7 of the General Regulations on or after that date.

For the purposes of this paragraph, the date of receipt of an application by an authority shall be determined in accordance with article 7(6A) of the General Development Order(a).

(2) The local planning authority or the Secretary of State or an inspector shall not grant planning permission pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration.

(3) Subject to any direction of the Secretary of State, the occurrence of an event mentioned in paragraph (4) shall determine in the case of an application for planning permission for development, other than exempt development, that, for the purposes of this regulation, the application is a Schedule 1 or 2 application.

(4) The events referred to in paragraph (3) are—

- (i) the submission by the applicant of an environmental statement expressed to be for the purposes of these Regulations;
- (ii) a failure by the applicant to apply to the Secretary of State for a direction where the local planning authority have given such an opinion as is mentioned in regulation 5(6)(a); and
- (iii) the making to that authority by the applicant of a written statement agreeing or conceding that the submission of an environmental statement is required.

Opinion as to whether an application will be a Schedule 1 or 2 application

5.—(1) A person who is minded to apply for planning permission may ask the local planning authority to state in writing whether in their opinion the proposed development would be within a description mentioned in Schedule 1 or 2 and, if so,—

- (a) within which such description; and
- (b) if it falls within a description in Schedule 2, whether its likely effects would be such that regulation 4 would apply.

(2) A request made pursuant to paragraph (1) shall be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment;
- (c) 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) shall, if they consider that they have not been provided with sufficient information to give an opinion on the questions raised, notify the person making the request of the particular points on which they require further information.

(a) Article 7(6A) was added by S.I. 1980/1946.

(4) An authority shall respond to a request under paragraph (1) within 3 weeks beginning with the date of the request or such longer period as may be agreed in writing with the person making the request; and if they express an opinion to the effect that the consideration of environmental information would be required before planning permission could be granted for the proposed development, they shall provide with the opinion a written statement giving clearly and precisely their full reasons for their conclusion.

(5) An authority shall make a copy of any opinion given pursuant to a request under paragraph (1), and any accompanying statement of reasons and a copy of the relevant request and the accompanying documents available for public inspection at any reasonable hour at the place where the appropriate register (or relevant section of that register) is kept until such time, if any, as a copy of that opinion is required by regulation 7 to be placed on Part I of that register.

(6) Where an authority—

(a) give an opinion to the effect mentioned in paragraph (4); or

(b) fail to give an opinion within the relevant period mentioned in paragraph (4), the person who requested the opinion may apply in accordance with regulation 6 to the Secretary of State for a direction on the matter.

(7) Paragraph (6)(b) applies notwithstanding that the authority may not have received further information which they have sought under paragraph (3).

Pre-application directions

6.—(1) A person applying to the Secretary of State for a direction pursuant to regulation 5(6) shall submit with his application—

(a) a copy of his request under regulation 5(1) to the local planning authority and the documents which accompanied it;

(b) a copy of any notification under regulation 5(3) which he has received and of any response;

(c) a copy of any opinion given by the authority and of the accompanying statement of reasons; and

(d) any representations he wishes to make.

(2) A person applying as aforesaid shall, when he makes the application, send the local planning authority a copy of the application and of any representations he makes to the Secretary of State.

(3) The Secretary of State shall notify an applicant in writing of any points on which he considers the information provided pursuant to paragraph (1) is insufficient to enable him to give a direction; and may request the local planning authority to provide such information as they can on any of those points.

(4) The Secretary of State shall issue a direction within 3 weeks beginning with the date of the application or such longer period as he may reasonably require.

(5) The Secretary of State shall upon giving a direction send a copy to the applicant and the local planning authority; and where he gives a direction that the proposed application would be a Schedule 1 or Schedule 2 application, he shall at the same time send them a written statement giving his full reasons for his conclusion clearly and precisely.

Availability of directions etc. for inspection

7.—(1) Where particulars of a planning application are placed on Part I of the register, the local planning authority shall take steps to secure that there is also placed on that Part a copy of any direction which the Secretary of State has given as to whether the application is, or is not, a Schedule 1 or 2 application; and of any relevant opinion given pursuant to regulation 5.

(2) Where the Secretary of State gives any such direction as is mentioned in paragraph (1) after particulars of the relevant application have been placed on Part I of the register or sends the applicant a notification under regulation 10, the local planning authority

shall take steps to secure that a copy of that direction or notification is also placed on that Part of the register.

(3) Where the local planning authority notify an applicant under regulation 9 that they consider his application cannot be granted unless he submits an environmental statement, they shall take steps to secure that a copy of that notification is placed on Part I of the register.

(4) Where the Secretary of State gives, otherwise than pursuant to regulation 6, a direction as to whether the consideration of environmental information is required before planning permission can be granted for a particular proposed development he shall forthwith send a copy of the direction to the local planning authority and to such other persons as he considers it desirable to send a copy together, where necessary, with documents sufficient to identify the land and the development.

(5) Where a copy of a direction is received by the local planning authority before application is made for planning permission for the development in question, the authority shall take steps to secure that a copy of the direction and any documents sent with it are available for public inspection at all reasonable hours at the place where the appropriate register (or section of that register) is kept.

Procedure to facilitate preparation of environmental statements

8.—(1) A prospective applicant may give the local planning authority notice in writing that he intends to make a Schedule 1 or Schedule 2 application and to submit an environmental statement with his application.

(2) A notice under paragraph (1) shall include the information necessary to identify, or be accompanied by documents identifying, the land and the nature and purpose of the proposed development, and shall indicate the main environmental consequences to which the prospective applicant proposes to refer in his environmental statement.

(3) Paragraph (4) applies where—

(a) the local planning authority receive in relation to a proposed planning application—

- (i) such a notice as is mentioned in paragraph (1); or
- (ii) such a statement as is mentioned in regulation 4(4)(iii); or
- (iii) a copy of a direction by the Secretary of State under regulation 6 that a proposed application would be a Schedule 1 or Schedule 2 application; or

(b) an authority proposes to prepare an environmental statement in connection with an application for planning permission to be made to the Secretary of State under regulation 7 of the General Regulations;

but only paragraph (4)(a) shall apply by virtue of sub paragraph (b).

(4) Where this paragraph applies, the authority in question shall—

(a) notify the bodies mentioned in paragraph (5) in writing of the name and address of the prospective applicant and of the duty imposed upon them by regulation 22 to make information available to the prospective applicant;

(b) inform the prospective applicant in writing of the names and addresses of the bodies so notified.

(5) The bodies referred to in paragraph (4) are—

(a) any body which the local planning authority would be required by article 15 of the General Development Order(a) or any direction under that article to consult if the application were before them;

(b) the following bodies if not referred to in subparagraph (a),—

- (i) any principal council for the area where the land is situated, if not the local planning authority;
- (ii) the Countryside Commission;
- (iii) the Nature Conservancy Council;

(a) Amended by S.I. 1986/435.

- (c) where the proposed development is a development of a description referred to in paragraph (6), Her Majesty's Inspectorate of Pollution.
- (6) The development referred to in paragraph (5)(c) is any development which in the opinion of the local planning authority will-
 - (a) involve mining operations, or manufacturing industry or the disposal of waste; and
 - (b) is likely either-
 - (i) to give rise to waste, the disposal of which requires an authorisation under the Radioactive Substances Act 1960(a), or to discharges (other than of domestic sewage) which are controlled waste or special waste or are likely to require the licence or consent of a water authority; or
 - (ii) to involve works specified in Schedule 1 to the Health and Safety (Emissions to the Atmosphere) Regulations 1983(b).
- (7) Paragraph (4) shall apply (but subject to the modifications mentioned in paragraph (8)) where a Schedule 1 or Schedule 2 application has been made without an environmental statement and-
 - (i) the Secretary of State has given a direction to the effect that the consideration of environmental information is required before planning permission can be granted; or
 - (ii) the applicant has informed the local planning authority or, where the application has been referred to the Secretary of State or is the subject of an appeal, the Secretary of State, that he proposes to submit an environmental statement.
- (8) In its application by virtue of paragraph (7), paragraph (4) shall have effect-
 - (a) as if references to the prospective applicant were references to the applicant or appellant, as appropriate; and
 - (b) where the application has been referred to the Secretary of State or is the subject of an appeal, as if references to the local planning authority in paragraphs (4) and (6) were references to the Secretary of State and regulation (5)(a) referred to such bodies as the Secretary of State considers would be required to be consulted by or under article 15 of the General Development Order if the case were before the local planning authority.

Application made to a planning authority without an environmental statement

9.—(1) Where it appears to the local planning authority that an application for planning permission is a Schedule 1 or a Schedule 2 application, and it is not accompanied by an environmental statement, they shall (unless the application is the subject of a direction under section 35) within 3 weeks beginning with the date of receipt of the application, or such longer period as they may agree with the applicant in writing, notify the applicant in writing that they consider the submission of such a statement is required, giving their full reasons for their view clearly and precisely.

(2) An applicant receiving a notification pursuant to paragraph (1) may within 3 weeks beginning with the date of the notification write to the authority to inform them that he-

- (i) accepts their view and is providing an environmental statement; or
- (ii) is applying in writing to the Secretary of State for his direction on the matter.

(3) If the applicant does not write in accordance with paragraph (2), the permission sought shall be deemed to be refused at the end of the 3 week period; but no appeal shall lie to the Secretary of State by virtue of section 36 or 37(c).

The deemed refusal shall be treated as a decision of the authority for the purposes of article 21(2)(c) of the General Development Order.

(a) 1960 c.34.

(b) S.I. 1983/943.

(c) These sections were amended by the Local Government, Planning and Land Act 1980 (c.65), Schedule 15, paragraph 4.

(4) Except where the Secretary of State gives a direction to the effect that regulation 4 does not apply, an authority which has given a notification in accordance with paragraph (1) shall determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 13(5).

(5) A person applying to the Secretary of State for a direction pursuant to paragraph (2) shall send with his application copies of—

- (a) his application for planning permission;
- (b) all documents sent to the authority as part of the application; and
- (c) all correspondence with the authority relating to the development proposed, and paragraphs (3) to (5) of regulation 6 shall apply in relation to the application.

Application referred to the Secretary of State without an environmental statement

10.—(1) Where it appears to the Secretary of State that an application for planning permission which has been referred to him for determination is a Schedule 1 or a Schedule 2 application, and it is not accompanied by an environmental statement, he shall within 3 weeks beginning with the date he received the application, or such longer period as he may reasonably require, notify the applicant in writing that the submission of an environmental statement is required, giving his full reasons for his view clearly and precisely.

(2) An applicant receiving a notification pursuant to paragraph (1) may within 3 weeks beginning with the date of the notification write to the Secretary of State to inform him that he proposes to provide an environmental statement.

(3) If the applicant does not write in accordance with paragraph (2), the Secretary of State shall be under no duty to deal with the application: and at the end of the 3 week period he shall inform the applicant in writing that no further action is being taken on the application.

(4) Where the Secretary of State has given a notification in accordance with paragraph (1), he shall determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 13(5).

(5) The Secretary of State shall send a copy of any notification under paragraph (1) to the local planning authority.

Appeal to the Secretary of State without an environmental statement

11.—(1) Where the Secretary of State on consideration of an appeal under section 36(a) forms the view that the relevant application is a Schedule 1 or a Schedule 2 application, and the documents sent to him for the purposes of the appeal do not include a copy of an environmental statement, regulation 10 shall apply subject to any necessary modifications.

(2) Where an inspector is dealing with an appeal and any question arises as to whether the relevant application is a Schedule 1 or a Schedule 2 application and it appears to the inspector that it may be such an application and no environmental statement has been submitted, the inspector shall refer the matter to the Secretary of State.

(3) Where a question is referred pursuant to paragraph (2), the Secretary of State shall direct whether or not the application is a Schedule 1 or Schedule 2 application; and the inspector shall not determine the appeal, except by refusing planning permission, before he receives a direction.

(4) Where the Secretary of State directs as aforesaid, he shall forthwith send copies of the direction to the appellant, the local planning authority and the inspector, and to any other person he considers desirable, and where he directs that the application is a Schedule 1 or Schedule 2 application he shall at the same time send those persons a written statement giving his full reasons for his conclusions clearly and precisely.

(a) Applied by section 37.

(5) Where the Secretary of State directs that the application is a Schedule 1 or Schedule 2 application, the appellant may within 3 weeks beginning with the date of the direction write to the Secretary of State to inform him that he proposes to provide an environmental statement.

(6) If the appellant does not write in accordance with paragraph (5), the inspector shall be under no duty to deal with the appeal; and at the end of the 3 week period he shall inform the appellant that no further action is being taken on the appeal.

(7) Where the Secretary of State has directed that the relevant application is a Schedule 1 or Schedule 2 application, the inspector shall determine the appeal only by refusing planning permission if the appellant does not submit an environmental statement and comply with regulation 13(5).

Publicity where a planning application is accompanied by an environmental statement

12.—(1) Section 26 (publication of notices of an application)(a) shall apply to development which is the subject of a Schedule 1 or Schedule 2 application accompanied by an environmental statement as it applies to a class of development prescribed for the purposes of that section, but subject to the following provisions of this regulation.

(2) The notice mentioned in section 26(2)(a) or required by section 26(3) shall, in addition to complying with the requirements set out in section 26(6) and the General Development Order, state—

- (a) that a copy of the environmental statement is included in documents which will be open to inspection by the public;
- (b) an address in the locality in which the land is situated at which copies of the environmental statement may be obtained;
- (c) that copies may be obtained there so long as stocks last; and
- (d) if a charge is to be made for a copy, the amount of the charge.

(3) For the purposes of section 26, the requirements of paragraph (2) shall be regarded as requirements of section 26(6); and references to the relevant form of notice prescribed by a development order shall be read as references to a form which also provides the information mentioned in paragraph (2).

(4) Where section 26 applies by virtue of this regulation, that section shall not otherwise apply.

Publicity where an environmental statement is submitted in course of planning procedures

13.—(1) Where a Schedule 1 or a Schedule 2 application has been made without an environmental statement and the applicant proposes to submit one, he shall before submitting it, comply with paragraphs (2) to (5).

(2) The applicant shall publish in a local newspaper circulating in the locality in which the land is situated (hereinafter referred to as "the locality") a notice stating—

- (a) his name and that he is the applicant for planning permission and the name and address of the local 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 him;
- (c) the address or location and the nature of the proposed development;
- (d) that a copy of the application and of the plans and other documents submitted with it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
- (e) an address in the locality 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 20 days later than the date on which the notice is published);
- (f) an address in the locality (whether or not the same as that given pursuant to sub-paragraph (e)) at which copies of the environmental statement may be obtained;

(a) Section 26 was amended by the Criminal Justice Act 1982 (c.48), sections 38 and 46.

- (g) that copies may be obtained there so long as stocks last;
- (h) if a charge is to be made for a copy, the amount of the charge; and
- (i) that any person wishing to make representations about the application should make them in writing, before the date named in accordance with sub-paragraph (e), to the local planning authority or (in the case of an application referred to the Secretary of State or an appeal) to the Secretary of State.

(3) The applicant shall, unless he has not, and was not reasonably able to acquire, such rights as would enable him to do so, post on the land a notice containing the information specified in paragraph (2), except that the date named as the latest date on which the documents will be available for inspection shall be not less than 20 days later than the date on which the notice is first posted.

(4) The notice mentioned in paragraph (3) must—

- (a) be left in position for not less than 7 days in the month immediately preceding the date of the submission of the environmental 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.

(5) The environmental statement, when submitted, shall 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 a named newspaper on a date specified in the certificate; and
- (b) a certificate by or on behalf of the applicant which states either—
 - (i) that he has posted a notice on the land in compliance with this regulation and when he did so, and that the notice was left in position for not less than 7 days in the month immediately preceding the date of the submission of the statement, or that, without any fault or intention on his part, it was removed, obscured or defaced before 7 days had elapsed and he took reasonable steps for its protection or replacement, specifying the steps taken; or
 - (ii) that the applicant was unable to comply with paragraphs (3) and (4) above because he did not have the necessary rights to do so; that he has taken such reasonable steps as are open to him to acquire those rights; and has been unable to do so, specifying the steps taken.

(6) Where an applicant proposes to provide an environmental statement in the circumstances mentioned in paragraph (1), the local planning authority, the Secretary of State or the inspector, as the case may be, shall (unless disposed to refuse the permission sought) suspend consideration of the application or appeal until receipt of the statement and the other documents mentioned in paragraph (5); and shall not determine it during the period of 21 days beginning with the date of receipt of the statement and the other documents so mentioned.

(7) If any person issues a certificate which purports to comply with the requirements of paragraph (5)(b) and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) The reference in paragraph (7) to a fine not exceeding level 3 on the standard scale shall be construed in accordance with section 37 (standard scale of fines for summary offences) of the Criminal Justice Act 1982.

(9) Where it is proposed to submit an environmental statement in connection with an appeal, this regulation applies with the substitution, except in paragraph 2(a), of references to the appellant for references to the applicant.

Procedure where the planning authority receive an environmental statement

14.—(1) When an applicant making a Schedule 1 or Schedule 2 application submits an environmental statement to the local planning authority he shall provide the authority

with an additional copy of the statement for transmission to the Secretary of State and, if at the same time he serves a copy of the statement or of a part of it on any other body, he shall—

- (a) serve with it a copy of the application and any plan submitted with it (unless he has already served these documents on the body in question);
- (b) inform the body that representations may be made to the local planning authority;
- (c) inform the authority of the name of every body whom he has so served, of the date of service and, where he has not served a copy of the whole of the statement, of the part of which a copy was served.

(2) When a local planning authority receive an environmental statement in connection with a Schedule 1 or Schedule 2 application the authority shall—

- (a) take steps to secure that a copy of the statement is placed on Part I of the register with the application;
- (b) send to the Secretary of State a copy of the statement, of the relevant application and of any documents submitted with the application;
- (c) advise any body mentioned in regulation 8(5) on whom the applicant has not served a copy of the statement or a part of it, that a statement will be taken into consideration in determining the application, elicit whether they wish to receive a copy of the statement or any part of it and inform them that they may make representations;
- (d) inform the applicant of the copies required by those bodies and of the names and addresses of the bodies concerned and enquire of him whether he proposes to serve the required copy on each of those bodies or send the required copies to the authority for service;
- (e) serve on the relevant body any copy sent to them by the applicant for service.

(3) The applicant shall inform the authority which of the courses mentioned in paragraph 2(d) he proposes to follow and shall serve copies of the environmental statement or a part of it on each body on whom he has said he will serve a copy or send the necessary copies to the authority, as the case may be. Where the applicant elects to send copies to the bodies directly he shall inform the authority as mentioned in paragraph (1)(c).

(4) The local planning authority shall not determine the application until the expiry of 14 days from the last date on which a copy of the environmental statement or a part of it was served in accordance with this regulation.

Procedure where the Secretary of State receives an environmental statement

15.—(1) This regulation applies where an applicant submits to the Secretary of State an environmental statement relating to a Schedule 1 or Schedule 2 application which is before the Secretary of State for determination or is the subject of an appeal to him.

(2) The applicant shall submit two copies of the statement to the Secretary of State who shall transmit one copy to the local planning authority.

(3) The local planning authority shall take steps to secure that the copy so transmitted is placed on the register.

(4) If at the same time as he submits a statement to the Secretary of State the applicant serves a copy of it or a part of it on any other body, the applicant shall comply with regulation 14(1)(a) and (b) and inform the Secretary of State of the matters mentioned in regulation 14(1)(c).

(5) The Secretary of State shall comply with regulation 14(2)(c) to (e) and the applicant with regulation 14(3) as if—

- (a) references in any of those provisions and regulation 8(6) to the local planning authority were references to the Secretary of State; and
- (b) regulation 8(5)(a) referred to such bodies as the Secretary of State considers would be required to be consulted by or under article 15 of the General Development Order if the matter were before the local planning authority;

and the Secretary of State or the inspector shall comply with regulation 14(4) as if referred to him instead of to the local planning authority.

(6) Where an application is deemed to be referred to the Secretary of State under regulation 7 (applications by local planning authorities) of the General Regulations, paragraph (2) above shall only require the submission of a single copy of the environmental statement.

(7) In this regulation, references to the applicant include references to an appellant.

Extension of the period for an authority's decision on a planning application

16.—(1) In determining for the purposes of section 37 (appeal in default of planning decision) the time which has elapsed without the local planning authority giving notice to the applicant of their decision in a case where—

(a) the authority have notified an applicant in accordance with regulation 9(1) that the submission of an environmental statement is required; and

(b) the Secretary of State has given a direction in the matter,
no account shall be taken of any period before the issue of the direction.

(2) Where it falls to an authority determining an application for planning permission to take environmental information into consideration, article 7 of the General Development Order shall have effect as if—

(a) there were substituted for the reference in paragraph (6)(a) thereof to a period of 8 weeks, a reference to a period of 16 weeks; and

(b) there were included in paragraph (6A)(a) and (b) thereof references to the environmental statement and the documents required by virtue of regulation 12 or 13 to accompany it.

Obtaining of planning permission by local authorities

17.—(1) Where this paragraph applies an authority shall not—

(i) pass a resolution pursuant to regulation 4(1) or 5(2) of the General Regulations without first preparing an environmental statement in respect of the proposed development; or

(ii) pass a resolution pursuant to regulation 4(5) thereof or that regulation as applied by regulation 5(4) thereof without first taking the environmental information into consideration.

(2) Paragraph (1) applies where a resolution is passed pursuant to regulation 4(1) or 5(2) of the General Regulations on or after 15th July 1988 and an application for planning permission for the relevant development would be a Schedule 1 or Schedule 2 application.

(3) An authority may request the Secretary of State in writing for a direction as to whether proposed development in relation to which they are minded to pass such a resolution as is mentioned in paragraph (1) is development in relation to which that paragraph applies. Any such application shall be accompanied by—

(i) a plan sufficient to identify the land; and

(ii) a brief description of the nature and purpose of the proposed development.

(4) An authority applying under paragraph (3) shall send the Secretary of State any further information he may request in writing to enable him to give a direction.

(5) An authority proposing to prepare an environmental statement shall consult the bodies mentioned in regulation 8(5).

(6) Regulation 22 (and 20(2)) shall apply to any body consulted under paragraph (5) as it applies where that body is notified pursuant to regulation 8(4)(a); but with the substitution of references to the consulting authority for references to the applicant.

(7) Where an authority pass a resolution pursuant to regulation 4(1) or 5(2) of the General Regulations in a case where paragraph (1) applies, regulation 4(2)(b) thereof shall apply (whether or not it would otherwise apply) with the additional requirement that the notice shall—

(a) Article 7(6) was substituted by S.I. 1980/1946.

- (i) state that an environmental statement has been prepared;
- (ii) name an address at which a copy of it may be inspected; and
- (iii) state that copies of the statement may be obtained, for so long as stocks last, at that address and, if a charge is to be made for a copy, the amount of the charge.

(8) An authority passing such a resolution as is mentioned in paragraph (1)(i) shall take steps to secure that a copy of any relevant environmental statement is placed on Part I of the register with the copy of the resolution.

(9) When they publicise their proposals in accordance with paragraph (7) an authority shall also—

- (i) send a copy of the relevant resolution and the environmental statement to the Secretary of State;
- (ii) supply to any body consulted pursuant to paragraph (5) which requests a copy of the statement or of any part of it, the copy requested and inform the body that it may make representations;
- (iii) ensure that a reasonable number of copies of the statement are available at the address named in the notice referred to in paragraph (7),

and shall not pass a resolution pursuant to regulation 4(5) or 5(4) of the General Regulations in relation to the proposed development until the expiry of 14 days from the date on which any body was last supplied with any document under subparagraph (ii).

(10) Without prejudice to paragraph (1), an authority shall comply with the procedures set out in this regulation in any case where the Secretary of State gives a direction to the effect that environmental information is required to be taken into consideration before planning permission can be deemed to be granted by regulation 4(5) or 5(4).

Availability of copies of an environmental statement

18. An applicant for planning permission or an appellant who submits an environmental statement in connection with his application or appeal shall 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 12 or 13 as the address at which such copies may be obtained.

Provision of a copy of an environmental statement for the Secretary of State

19. Where an applicant for planning permission has submitted an environmental statement in connection with his application and the application—

- (a) is directed to be referred to the Secretary of State under section 35; or
- (b) occasions an appeal under section 36,

the applicant shall supply the Secretary of State with a copy of the statement unless, in the case of a referred application, the local planning authority have done so when referring the application to him.

Charges

20.—(1) 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 17(9)(iii) or 18 and for any copy, in excess of one, of the whole or part of a statement supplied to a body pursuant to regulation 14, 15 or 17(9)(ii).

(2) A reasonable charge reflecting the cost of making the relevant information available may be made by a body supplying in accordance with regulation 22(1) information sought by an applicant or appellant.

Further information and evidence respecting environmental statements

21.—(1) The local planning authority or the Secretary of State or an inspector, when dealing with an application or appeal in relation to which an environmental statement

has been provided, may in writing require the applicant or appellant to provide such further information as may be specified concerning any matter which is required to be, or may be, dealt with in the statement; and where in the opinion of the authority or the Secretary of State or the inspector—

- (a) the applicant or appellant could (having regard in particular to current knowledge and methods of assessment) provide further information about any matter mentioned in paragraph 3 of Schedule 3; and
- (b) that further information is reasonably required to give proper consideration to the likely environmental effects of the proposed development,

they or he shall notify the applicant or appellant in writing accordingly, and the applicant or appellant shall provide that further information.

(2) The local planning authority or 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 his environmental statement.

Provision of information

22.—(1) Subject to paragraph (2), the local planning authority and any body notified in accordance with these Regulations that a person has made or is proposing to make a Schedule 1 or Schedule 2 application, shall, if requested by the applicant (or prospective applicant) or may without such a request, enter into consultation with him to determine whether the body has in its possession any information which he or they consider relevant to the preparation of an environmental statement and, if they have, the body shall make any such information available to him.

(2) Paragraph (1) shall not require the disclosure by a body of confidential information.

Duty to inform the Secretary of State

23. Where after environmental information has been taken into consideration a local planning authority—

- (i) determine an application for planning permission; or
- (ii) pass a resolution whereby planning permission is by regulation 4 or 5 of the General Regulations deemed to be granted for the development to which the information relates; or
- (iii) decide not to pass such a resolution,

the authority shall inform the Secretary of State of the decision taken or of the resolution passed and furnish him with particulars of any conditions subject to which any planning permission was granted or deemed to be granted.

Service of notices etc.

24. 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 283(1).

Application to the High Court

25. For the purposes of Part XII of the Act (validity of certain decisions), the reference in section 245(a) 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 in contravention of regulation 4 of these Regulations.

Isles of Scilly

26. In their application to the Isles of Scilly—

- (a) regulations 12 and 13 shall not be taken to require the publication of a notice in a local newspaper; and
- (b) regulation 17(7) shall not require the publication of a notice in a local newspaper, but shall require the display on or near the land for not less than 7

(a) Section 245 was amended by the Local Government Act 1972, Schedule 16, paragraph 46.

days of a notice describing the development proposed, giving the information respecting the environmental statement that is mentioned in that regulation and stating that any objection to the proposed development should be made to the authority in writing within such period (not being less than 21 days) as may be specified in the notice.

12th July 1988

Nicholas Ridley
Secretary of State for the Environment

12th July 1988

Peter Walker
Secretary of State for Wales

SCHEDULE 1

Regulation 2(1)

DESCRIPTIONS OF DEVELOPMENT

(1) The carrying out of building or other operations, or the change of use of buildings or other land (where a material change) to provide any of the following—

1. A crude-oil refinery (excluding an undertaking manufacturing only lubricants from crude oil) or an installation for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2. A thermal power station or other combustion installation with a heat output of 300 megawatts or more, other than a nuclear power station or other nuclear reactor.

3. An installation designed solely for the permanent storage or final disposal of radioactive waste.

4. An integrated works for the initial melting of cast-iron and steel.

5. An installation for the extraction of asbestos or for the processing and transformation of asbestos or products containing asbestos:—

- (a) where the installation produces asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products; or
- (b) where the installation produces friction material, with an annual production of more than 50 tonnes of finished products; or
- (c) in other cases, where the installation will utilise more than 200 tonnes of asbestos per year.

6. An integrated chemical installation, that is to say, an industrial installation or group of installations where two or more linked chemical or physical processes are employed for the manufacture of olefins from petroleum products, or of sulphuric acid, nitric acid, hydrofluoric acid, chlorine or fluorine.

7. A special road; a line for long-distance railway traffic; or an aerodrome with a basic runway length of 2,100m or more.

8. A trading port, an inland waterway which permits the passage of vessels of over 1,350 tonnes or a port for inland waterway traffic capable of handling such vessels.

9. A waste-disposal installation for the incineration or chemical treatment of special waste.

(2) The carrying out of operations whereby land is filled with special waste, or the change of use of land (where a material change) to use for the deposit of such waste.

DESCRIPTIONS OF DEVELOPMENT

Development for any of the following purposes—

1. *Agriculture*

- (a) water-management for agriculture
- (b) poultry-rearing
- (c) pig-rearing
- (d) a salmon hatchery
- (e) an installation for the rearing of salmon
- (f) the reclamation of land from the sea

2. *Extractive industry*

- (a) extracting peat
- (b) deep drilling, including in particular—
 - (i) geothermal drilling
 - (ii) drilling for the storage of nuclear waste material
 - (iii) drilling for water suppliesbut excluding drilling to investigate the stability of the soil
- (c) extracting minerals (other than metalliferous and energy-producing minerals) such as marble, sand, gravel, shale, salt, phosphates and potash
- (d) extracting coal or lignite by underground or open-cast mining
- (e) extracting petroleum
- (f) extracting natural gas
- (g) extracting ores
- (h) extracting bituminous shale
- (i) extracting minerals (other than metalliferous and energy-producing minerals) by open-cast mining
- (j) a surface industrial installation for the extraction of coal, petroleum, natural gas or ores or bituminous shale
- (k) a coke oven (dry distillation of coal)
- (l) an installation for the manufacture of cement

3. *Energy industry*

- (a) a non-nuclear thermal power station, not being an installation falling within Schedule 1, or an installation for the production of electricity, steam and hot water
- (b) an industrial installation for carrying gas, steam or hot water; or the transmission of electrical energy by overhead cables
- (c) the surface storage of natural gas
- (d) the underground storage of combustible gases
- (e) the surface storage of fossil fuels
- (f) the industrial briquetting of coal or lignite
- (g) an installation for the production or enrichment of nuclear fuels
- (h) an installation for the reprocessing of irradiated nuclear fuels
- (i) an installation for the collection or processing of radioactive waste, not being an installation falling within Schedule 1
- (j) an installation for hydroelectric energy production

4. *Processing of metals*

- (a) an ironworks or steelworks including a foundry, forge, drawing plant or rolling mill (not being a works falling within Schedule 1)
- (b) an installation for the production (including smelting, refining, drawing and rolling) of non-ferrous metals, other than precious metals
- (c) the pressing, drawing or stamping of large castings
- (d) the surface treatment and coating of metals
- (e) boilermaking or manufacturing reservoirs, tanks and other sheet-metal containers
- (f) manufacturing or assembling motor vehicles or manufacturing motor-vehicle engines
- (g) a shipyard

- (h) an installation for the construction or repair of aircraft
- (i) the manufacture of railway equipment
- (j) swaging by explosives
- (k) an installation for the roasting or sintering of metallic ores

5. *Glass making*

the manufacture of glass

6. *Chemical industry*

- (a) the treatment of intermediate products and production of chemicals, other than development falling within Schedule 1
- (b) the production of pesticides or pharmaceutical products, paints or varnishes, elastomers or peroxides
- (c) the storage of petroleum or petrochemical or chemical products

7. *Food industry*

- (a) the manufacture of vegetable or animal oils or fats
- (b) the packing or canning of animal or vegetable products
- (c) the manufacture of dairy products
- (d) brewing or malting
- (e) confectionery or syrup manufacture
- (f) an installation for the slaughter of animals
- (g) an industrial starch manufacturing installation
- (h) a fish-meal or fish-oil factory
- (i) a sugar factory

8. *Textile, leather, wood and paper industries*

- (a) a wool scouring, degreasing and bleaching factory
- (b) the manufacture of fibre board, particle board or plywood
- (c) the manufacture of pulp, paper or board
- (d) a fibre-dyeing factory
- (e) a cellulose-processing and production installation
- (f) a tannery or a leather dressing factory

9. *Rubber industry*

the manufacture and treatment of elastomer-based products

10. *Infrastructure projects*

- (a) an industrial estate development project
- (b) an urban development project
- (c) a ski-lift or cable-car
- (d) the construction of a road, or a harbour, including a fishing harbour, or an aerodrome, not being development falling within Schedule 1
- (e) canalisation or flood-relief works
- (f) a dam or other installation designed to hold water or store it on a long-term basis
- (g) a tramway, elevated or underground railway, suspended line or similar line, exclusively or mainly for passenger transport
- (h) an oil or gas pipeline installation
- (i) a long-distance aqueduct
- (j) a yacht marina

11. *Other projects*

- (a) a holiday village or hotel complex
- (b) a permanent racing or test track for cars or motor cycles
- (c) an installation for the disposal of controlled waste or waste from mines and quarries, not being an installation falling within Schedule 1
- (d) a waste water treatment plant
- (e) a site for depositing sludge
- (f) the storage of scrap iron
- (g) a test bench for engines, turbines or reactors

- (h) the manufacture of artificial mineral fibres
- (i) the manufacture, packing, loading or placing in cartridges of gunpowder or other explosives
- (j) a knackers' yard

12. The modification of a development which has been carried out, where that development is within a description mentioned in Schedule 1.

13. Development within a description mentioned in Schedule 1, where it is exclusively or mainly for the development and testing of new methods or products and will not be permitted for longer than one year.

SCHEDULE 3

Regulation 2(1)

1. An environmental statement comprises a document or series of documents providing for the purpose of assessing the likely impact upon the environment of the development proposed to be carried out, the information specified in paragraph 2 (referred to in this Schedule as "the specified information").

2. The specified information is-

- (a) a description of the development proposed, comprising information about the site and the design and size or scale of the development;
- (b) the data necessary to identify and assess the main effects which that development is likely to have on the environment;
- (c) a description of the likely significant effects, direct and indirect, on the environment of the development, explained by reference to its possible impact on-
 - human beings;
 - flora;
 - fauna;
 - soil;
 - water;
 - air;
 - climate;
 - the landscape;
 - the inter-action between any of the foregoing;
 - material assets;
 - the cultural heritage;
- (d) where significant adverse effects are identified with respect to any of the foregoing, a description of the measures envisaged in order to avoid, reduce or remedy those effects; and
- (e) a summary in non-technical language of the information specified above.

3. An environmental statement may include, by way of explanation or amplification of any specified information, further information on any of the following matters-

- (a) the physical characteristics of the proposed development, and the land-use requirements during the construction and operational phases;
- (b) the main characteristics of the production processes proposed, including the nature and quality of the materials to be used;
- (c) the estimated type and quantity of expected residues and emissions (including pollutants of water, air or soil, noise, vibration, light, heat and radiation) resulting from the proposed development when in operation;
- (d) (in outline) the main alternatives (if any) studied by the applicant, appellant or authority and an indication of the main reasons for choosing the development proposed, taking into account the environmental effects;
- (e) the likely significant direct and indirect effects on the environment of the development proposed which may result from-
 - (i) the use of natural resources;
 - (ii) the emission of pollutants, the creation of nuisances, and the elimination of waste;

- (f) the forecasting methods used to assess any effects on the environment about which information is given under subparagraph (e); and
- (g) any difficulties, such as technical deficiencies or lack of know-how, encountered in compiling any specified information.

In paragraph (e), "effects" includes secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative effects.

4. Where further information is included in an environmental statement pursuant to paragraph 3, a non-technical summary of that information shall also be provided.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are concerned with the implementation in England and Wales of Council Directive 85/337/EEC (OJ No. L175, 5.7.85, p. 40.) on the assessment of the effects of certain public and private projects on the environment.

The Regulations impose new procedural requirements in connection with the consideration of applications for planning permission under Part III of the Town and Country Planning Act 1971 and the deemed grant under the Town and Country Planning General Regulations 1976 ("the 1976 Regulations") of planning permission for development by local planning authorities or for development on land they own.

The descriptions of development which are affected by the Regulations are set out in Schedules 1 and 2. Development mentioned in Schedule 2 is only affected if it would be likely to have significant effects on the environment by virtue of factors such as its nature, size and location.

Regulation 3 extends the statutory power to provide in a development order for the giving of directions so that the Secretary of State can be empowered to direct whether development is, or is not, within the ambit of the Regulations. He may also be given power to exempt particular development by direction.

Regulation 4 prohibits the grant of planning permission for affected development unless the local planning authority, the Secretary of State or an inspector have first taken account of the environmental information (as defined in regulation 2) which is before them, including a statement by the applicant or appellant of the likely significant effects on the environment of the proposed development. Such a statement ("an environmental statement") must conform with Schedule 3.

The prohibition applies where an application is lodged on or after 15th July 1988.

Similarly regulation 17 prohibits local planning authorities from resolving under regulation 4 or 5 of the 1976 Regulations to seek planning permission for their own development or development on their own land without preparing an environmental statement, where required. The regulation also prohibits them from passing a further resolution under the 1976 Regulations whereby deemed planning permission for such development is granted without first considering the available environmental information.

Persons proposing to apply for planning permission may seek a preliminary opinion from the local planning authority as to whether the proposed application would be subject to the provisions of these Regulations (regulation 5) and may seek a direction of the Secretary of State if they do not accept an authority's opinion that that is the case (regulation 6).

Regulation 7 provides that particular directions and opinions and notifications about the application of these Regulations and the need to submit an environmental statement are included in local planning registers or otherwise made available for inspection.

Regulations 8 and 22 provide for public bodies to assist in the preparation of environmental statements.

Regulations 9 to 11 apply where a planning application is submitted without an environmental statement and the local planning authority or the Secretary of State or an inspector form the view that one is required; and specify the procedures to be followed.

Regulations 12 and 13 provide for public notice to be given of all applications for planning permission where an environmental statement is submitted. Regulations 14 and 15 require the local planning authority or where appropriate, the Secretary of State, to consult certain public bodies about such applications. The bodies in question are those mentioned in regulation 8(5).

Regulation 16 extends the time allowed to a local planning authority to consider an application for planning permission from 8 weeks to 16 weeks where consideration of environmental information is required; and also provides that time does not run until an environmental statement is submitted or, in certain circumstances, while the need for this is under consideration.

Regulations 18 to 20 are concerned with the provision of copies of an environmental statement. A person preparing a statement may charge the public for copies and consultees for additional copies (regulation 20).

Regulation 21 empowers a person considering an environmental statement to require further information or the verification of information given.

Regulation 22 requires the local planning authority and public bodies mentioned in regulation 8(5) to supply information (other than confidential information) for the preparation of an environmental statement where they are asked to do so.

Regulation 23 requires the Secretary of State to be notified of planning decisions by local planning authorities involving consideration of environmental information in accordance with these Regulations.

Regulation 25 modifies the operation of section 245 of the Town and Country Planning Act 1971 so that decisions by the Secretary of State (or an inspector) may be challenged on the ground that regulation 4 has been contravened.

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