

1988 No. 1217

LAND DRAINAGE

The Land Drainage Improvement Works (Assessment of Environmental Effects) Regulations 1988

Made - - - - - *13th July 1988*

Coming into force in accordance with regulation 1(1) *16th July 1988*

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, acting jointly, being Ministers designated(a) 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(2) and of all other powers enabling them in that behalf, hereby make the following Regulations of which a draft has been laid before and approved by resolution of each House of Parliament:

Title, application and commencement

1.—(1) These Regulations, which apply to England and Wales only, may be cited as the Land Drainage Improvement Works (Assessment of Environmental Effects) Regulations 1988, and shall come into force on the third day after the day on which they are made.

(2) These Regulations shall not apply in the case of improvement works commenced before these Regulations come into force.

Interpretation

2.—(1) In these Regulations –

“the appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food, and in relation to Wales, the Secretary of State for Wales;

“the Court” means the County Court for the district in which improvement works which are being carried out are situated or the High Court;

“drainage” includes defence against water including sea water;

“drainage body” means –

- (a) a water authority;
- (b) an internal drainage board;
- (c) the council of a county, district or London borough or the Common Council of the City of London;

“environmental statement” has the meaning assigned to it by the Schedule to these Regulations;

“improvement works” means works which deepen, widen, straighten or otherwise improve any existing watercourse or remove or alter mill dams, weirs or other obstructions to watercourses, or raise, widen or otherwise improve any existing drainage work;

“watercourse” includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Public Health Act 1936(a)) and passages through which water flows.

(2) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

Requirement for environmental statement

3.—(1) No drainage body shall carry out any improvement works unless they have first completed the procedure prescribed by these Regulations.

(2) Where a drainage body propose to carry out any improvement works they shall consider whether, by reason inter alia of their nature, size or location, the proposed works are likely to have significant effects on the environment and ought therefore to be made the subject of an environmental statement, and shall then, by notice in at least two local newspapers –

- (a) announce that they propose to carry out the improvement works in question;
- (b) describe briefly the nature, size and location of the proposed improvement works;
- (c) state whether or not they propose to prepare an environmental statement in respect of the proposed improvement works; and
- (d) if they propose not to prepare such a statement, give notice that any person or body who wishes to do so may make representations to them in writing in relation to the likely environmental effects with regard to that proposal at an address specified in the notice within 28 days of the date of publication of the notice.

(3) Where no representations made in accordance with paragraph (2)(d) above are received in relation to proposed improvement works within the time specified the drainage body may proceed to carry out those works without preparing an environmental statement.

Preparation of environmental statement

4.—(1) Where a drainage body have stated in pursuance of regulation 3(2)(c) that they propose to prepare an environmental statement in relation to proposed improvement works that body shall proceed to prepare such a statement.

(2) The drainage body shall consider any representations made in accordance with regulation 3(2)(d), and if, having done so, –

- (a) the drainage body decide to prepare such an environmental statement, they shall so inform those persons or bodies who have made representations, and shall proceed to prepare the statement; or
- (b) if they decide not to prepare such a statement they shall apply to the appropriate Minister for his direction as to whether an environmental statement is required, providing him with all the relevant facts and copies of all relevant documents in their possession.

(3) Where the appropriate Minister considers that the information put before him in pursuance of paragraph (2)(b) above does not provide him with sufficient information to enable him to give a direction he shall notify the drainage body in writing of the points on which he requires further information, and may make a written request to that body for such information as they may be able to provide on the points raised.

(a) 1936 c.49.

(4) Where an application for a direction is made to the appropriate Minister under paragraph (2)(b) above, the Minister shall, on the basis of the considerations referred to in regulation 3(2), the information supplied to him under paragraph (2)(b) above and any information provided pursuant to paragraph (3) above, give his direction accordingly, and inform the drainage body or bodies and those persons who made representations of his decision.

(5) If the appropriate Minister directs that an environmental statement is required, the drainage body which applied for his direction shall forthwith proceed to prepare one.

Publicity for environmental statements

5. Where an environmental statement has been prepared as required by these Regulations the drainage body shall –

- (a) by notice in at least two local newspapers announce the preparation of the statement including details of the time and place where copies may be inspected by members of the public at all reasonable times and stating that any person or body wishing to make representations in relation to the likely environmental effects regarding the works to which the statement relates should make them in writing to the drainage body at the address specified in the notice within 28 days from the publication of the notice; and
- (b) at the same time as the notice is published, supply copies of it to –
 - (i) the Nature Conservancy Council;
 - (ii) the Countryside Commission; and
 - (iii) any other public authority, statutory body or organisation which appears to them to have an interest in the matter;
- (c) provide copies of the statement on request to interested members of the public.

Charges

6. 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 5(c) and for any copy in excess of one of the whole or part of a statement supplied to a body pursuant to regulation 5(b).

Provision of information

7.—(1) Subject to paragraph (2) below, where a drainage body propose to or are required to prepare an environmental statement they may enter into consultations with any organisation to determine whether that organisation has in its possession any information which the drainage body considers relevant to the preparation of a statement, and if they have, the organisation shall make such information available to the drainage body.

(2) Nothing in paragraph (1) above shall require the disclosure by any organisation of confidential information.

(3) A reasonable charge reflecting the cost of making the relevant information available may be made by any organisation supplying it.

Consent to improvement works

8.—(1) Where an environmental statement has been prepared in accordance with these Regulations, the drainage body shall consider the proposal and that statement and any representations and comments made thereon by any person or body in relation to the likely environmental effects which are received by the drainage body within the time limit specified in regulation 5(a).

(2) Where having carried out the requirements of paragraph (1) above the drainage body consider that the improvement works should proceed and any objections to those works made in relation to their likely environmental effects by any person or body have been withdrawn the drainage body may decide to proceed with the works.

(3) Where having carried out the requirements of paragraph (1) above a drainage body consider that the improvement works should proceed but there are objections to those works made in relation to their likely environmental effects by any person or body which have not been withdrawn, the drainage body shall refer the proposal for works together with the environmental statement and any representations and comments on it to the appropriate Minister for his decision.

(4) Where the appropriate Minister considers that the information put before him in pursuance of paragraph (3) above does not provide him with sufficient information to enable him to give a direction he shall notify the drainage body in writing of the points on which he requires further information, and may make a written request to that body for such information as they may be able to provide on the points raised.

(5) The appropriate Minister after –

- (a) considering any proposal, statement, representations and comments referred to him under paragraph (3) above and any information provided pursuant to paragraph (4) above; and
- (b) having regard both to the effect of the proposed works on the environment and to the desirability of those works being carried out in the interests of efficient land drainage,

may consent to the carrying out of the proposed improvement works either absolutely or subject to such conditions as he considers appropriate or refuse consent to such works, and shall inform the drainage body and those persons or bodies who made representations of his decision and the reasons and considerations upon which it was based.

Enforcement

9.—(1) If a drainage body carries out improvement works –

- (a) without first observing the requirements of these Regulations; or
- (b) without the consent of the appropriate Minister under regulation 8(5) above where a proposal is referred to that Minister under regulation 8(3), or in breach of a condition of such a consent,

the appropriate Minister may apply to the Court for an order requiring that the drainage body shall not proceed with the works and shall remove any works already carried out and reinstate the site.

(2) An order made pursuant to paragraph (1) above may provide that, if the drainage body fails to comply with the order within a specified period, the appropriate Minister may remove the works and reinstate the site himself and recover the reasonable costs and expenses of doing so from the drainage body as a debt due from that body.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 13th July 1988.



John MacGregor
Minister of Agriculture, Fisheries and Food

12th July 1988

Ian Grist
Parliamentary Under-Secretary of State, Welsh Office

THE SCHEDULE

Regulation 2

1. The term "environmental statement" shall be construed in accordance with the following provisions of this Schedule.

2. An environmental statement comprises a document or series of documents providing, for the purpose of assessing the likely impact of the proposed improvement works upon the environment, the information specified in paragraph 3 (referred to in this Schedule as "the specified information").

3. The specified information is –

- a. a description of the improvement works proposed, comprising information about the site and the design and size or scale of the improvement works;
- b. the data necessary to identify and assess the main effects which the improvement works are likely to have on the environment;
- c. a description of the likely significant effects, direct and indirect, on the environment of the improvement works, explained by reference to possible impact on –
human beings;
flora;
fauna;
soil;
water;
air;
climate;
the landscape;
the interaction 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.

4. 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 improvement works, the nature and quality of the materials to be used and the land-use requirements during the construction and operational phases;
- (b) 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 improvement works when in operation;
- (c) (in outline) the main alternatives (if any) studied by the drainage body and an indication of the main reasons for choosing the improvement works proposed, taking into account the environmental effects;
- (d) the likely significant direct and indirect effects on the environment of the improvement works 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;
- (e) the forecasting methods used to assess any effects on the environment about which information is given under subparagraph (d); and
- (f) any difficulties, such as technical deficiencies or lack of know-how, encountered in compiling any item of specified information.

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

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

6. The appropriate Minister may make available to the drainage body any information in his possession (not being information provided to him in confidence) which is relevant to the preparation of the environmental statement.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement for England and Wales, in respect of land drainage improvement works proposed by a water authority, internal drainage board or local authority ("the drainage body"), the Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (O.J. No. L175, 5.7.85, p.40). They provide a procedure for the provision of an environmental statement covering the matters specified in the Schedule, relating to such improvements by the drainage body where that body considers that by reason of, inter alia, their nature, size or location the proposed works are likely to have a significant effect on the environment (regulation 3).

The drainage body is required to give notice of proposed works in two local papers, stating whether it intends to prepare an environmental statement. If representations concerning the likely environmental effects are then made by persons in a case where the drainage body proposes not to prepare a statement, the proposals must be referred to the Minister of Agriculture, Fisheries and Food (in relation to England) or the Secretary of State for Wales (in relation to Wales). The drainage body must then prepare an environmental statement if the appropriate Minister so directs (regulations 3 and 4).

Where a statement is prepared, the drainage body shall announce its preparation in two local newspapers, and supply copies to interested bodies. In a case where no environmental objection to a proposal is maintained the drainage body may decide to proceed with the works. Where such an objection is made and not withdrawn the drainage body shall refer the decision as to whether the works are carried out to the appropriate Minister, who shall inform the drainage body and those persons who made representations of his decision (regulations 5 and 8).

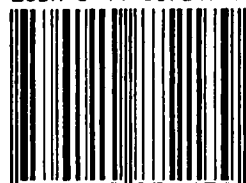
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