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STATUTORY INSTRUMENTS

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**1999 No. 293**

**The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999**

**PART III**

**PROCEDURES CONCERNING APPLICATIONS FOR PLANNING PERMISSION**

**Application made to a local planning authority without an environmental statement**

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

- (a) an application for planning permission which is before them for determination is a Schedule 1 application or Schedule 2 application; and
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

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

(3) An authority shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Secretary of State, after the expiry of that period of three weeks or of any longer period so agreed, makes a screening direction to the effect that the development is EIA development, the authority shall so notify the applicant within seven days beginning with the date the authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (2) may, within three weeks beginning with the date of the notification, write to the authority stating—

- (a) that he accepts their view and is providing an environmental statement; or
- (b) unless the Secretary of State has made a screening direction in respect of the development, that he is writing to the Secretary of State to request a screening direction.

(5) If the applicant does not write to the authority in accordance with paragraph (4), the permission sought shall, unless the Secretary of State has made a screening direction to the effect that the development is not EIA development, be deemed to be refused at the end of the relevant three week period, and the deemed refusal—

- (a) shall be treated as a decision of the authority for the purposes of paragraph (4)(c) of article 25 (register of applications) of the Order; but

(b) shall not give rise to an appeal to the Secretary of State by virtue of section 78 (right to appeal against planning decisions and failure to take such decisions).

(6) An authority which has given a notification in accordance with paragraph (2) shall, unless the Secretary of State makes a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 14(5).

(7) A person who requests a screening direction pursuant to sub-paragraph (4)(b) shall send to the Secretary of State with his request copies of—

- (a) his application for planning permission;
- (b) all documents sent to the authority as part of the application; and
- (c) all correspondence between the applicant and the authority relating to the proposed development,

and paragraphs (2) to (5) of regulation 6 shall apply to a request under this regulation as they apply to a request made pursuant to regulation 5(6).

#### **Application referred to the Secretary of State without an environmental statement**

**8.—(1)** Where it appears to the Secretary of State that an application for planning permission which has been referred to him for determination—

- (a) is a Schedule 1 application or Schedule 2 application; and
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the referral of the application were a request made by the applicant pursuant to regulation 5(6).

(2) Where it appears to the Secretary of State that an application which has been referred to him for determination is an EIA application and is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, he shall notify the applicant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(3) The Secretary of State shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date he received the application or such longer period as he may reasonably require.

(4) An applicant who receives a notification under paragraph (2) may within three weeks beginning with the date of the notification write to the Secretary of State stating that he proposes to provide an environmental statement.

(5) If the applicant does not write in accordance with paragraph (4), the Secretary of State shall be under no duty to deal with the application; and at the end of the three week period he shall inform the applicant in writing that no further action is being taken on the application.

(6) Where the Secretary of State has given a notification under paragraph (2), he shall determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 14(5).

#### **Appeal to the Secretary of State without an environmental statement**

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

- (a) the relevant application is a Schedule 1 application or Schedule 2 application; and
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the appeal were a request made by the appellant pursuant to regulation 5(6).

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

(3) Paragraphs (3) and (4) of regulation 6 shall apply to a question referred under paragraph (2) as if the referral of that question were a request made by the appellant pursuant to regulation 5(6).

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

(5) An appellant who receives a notification under paragraph (4) may within three weeks beginning with the date of the notification write to the Secretary of State stating that he proposes to provide an environmental statement.

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

(7) Where the Secretary of State has given a notification under paragraph (4), the Secretary of State or, where relevant, the inspector shall determine the appeal only by refusing planning permission if the appellant does not submit an environmental statement and comply with regulation 14(5).