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STATUTORY INSTRUMENTS

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**2011 No. 1824**

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

PART 10

ROMP Applications

**General application of the Regulations to ROMP applications**

**42.** These Regulations shall apply to—

- (a) a ROMP application as they apply to an application for planning permission;
- (b) a ROMP subsequent application as they apply to a subsequent application;
- (c) ROMP development as they apply to development in respect of which an application for planning permission is, has been, or is to be made;
- (d) a relevant mineral planning authority as they apply to a relevant planning authority;
- (e) a person making a ROMP application as they apply to an applicant for planning permission;
- (f) a person making a ROMP subsequent application as they apply to a person making a subsequent application;
- (g) the determination of a ROMP application as they apply to the granting of a planning permission; and
- (h) the granting of ROMP subsequent consent as they apply to the granting of subsequent consent,

subject to the modifications and additions set out in this Part.

**Modification of provisions on prohibition of granting planning permission or subsequent consent**

**43.** In regulation 3(1) (prohibition on granting planning permission or subsequent consent without consideration of environmental information)—

- (a) in sub-paragraph (1)(b) for “3 or 4 (applications for planning permission)” substitute “11 (other consents)”;
- (b) in paragraph (2), in the case of a ROMP application, for the words “determined in accordance with article 29(2) (time periods for decision) of the Order”, substitute “ the date on which a ROMP application has been made which complies with the provisions of paragraphs 2(3) to (5) and 4(1) of Schedule 2 to the 1991 Act, 9(2) of Schedule 13 to the 1995 Act, or 6(2) of Schedule 14 to the 1995 Act”.

**Modification of provisions on application to local planning authority without an environmental statement**

**44.** In the case of a ROMP application, in regulation 10(4) (application made to a local planning authority without an environmental statement)—

- (a) for “3” substitute “6”; and
- (b) after “the notification” insert “, or within such other period as may be agreed with the authority in writing”.

**Disapplication of Regulations and modifications of provisions on application referred to or appealed to the Secretary of State without an environmental statement**

**45.**—(1) In the case of a ROMP application, regulations 10(6) and (8), 11(6) and (7), 12(7) and (8), 25 and 61 shall not apply.

(2) In the case of a ROMP application, in regulation 11(5) (application referred to the Secretary of State without an environmental statement) and in regulation 12(6) (appeal to the Secretary of State without an environmental statement)—

- (a) for “3” substitute “6”;
- (b) after “the notification” insert “, or within such other period as may be agreed with the Secretary of State in writing.”.

**Substitution of references to section 78 right of appeal and modification of provisions on appeal to the Secretary of State without an environmental statement**

**46.**—(1) In the case of a ROMP application, in regulations 12(1) and 18(b), for the references to “section 78 (right to appeal against planning decisions and failure to take such decisions)” substitute—

“paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)”.

(2) In the case of a ROMP application, in regulation 12(2) (appeal to the Secretary of State without an environmental statement) omit the words “, except by refusing planning permission or subsequent consent.”.

**Modification of provisions on preparation, publicity and procedures on submission of environmental statements**

**47.**—(1) In the case of a ROMP application, in regulations 13(9) and 14(6) for the words “an application for planning permission or a subsequent application for” substitute “a ROMP application which relates to another planning permission which authorises”.

(2) In the case of a ROMP application, in regulation 16 (procedure where an environmental statement is submitted to a local planning authority) for paragraph (4) substitute—

“(3A) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 13 of and Schedule 3 to the Order (publicity for applications for planning permission) shall apply to a ROMP application under paragraph—

- (a) 2(2) of Schedule 2 to the 1991 Act, and
- (b) 6(1) of Schedule 14 to the 1995 Act(1),

(1) The provisions of the Order are not applied to applications under paragraph 9(1) of Schedule 13 to the 1995 Act as they are applied by paragraph 9(5) of Schedule 13 to the 1995 Act.

as they apply to a planning application falling within paragraph 13(2) of the Order except that for the references in the notice in Schedule 3 to the Order to “planning permission” there shall be substituted “determination of the conditions to which a planning permission is to be subject” and that notice shall refer to the relevant provisions of the 1991 or 1995 Act pursuant to which the application is made.”

(3) In the case of a ROMP application, in regulation 17 (publicity where an environmental statement is submitted after the planning application)—

(a) in paragraph (2)(a) for the words “that an application is being made for planning permission or subsequent consent” substitute—

“that an application is being made for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 or 1995 Act pursuant to which the application is made”;

(b) for paragraph (7) substitute—

“(7) Where an applicant indicates that it is proposed to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant planning authority, the Secretary of State or the inspector, as the case may be, shall suspend consideration of the application or appeal until the date specified by the authority or the Secretary of State for submission of the environmental statement and compliance with paragraph (6); and shall not determine it during the period of 21 days beginning with the date of receipt of the statement and the other documents mentioned in paragraph (6).”

(4) In the case of a ROMP application, in regulation 18 (provision of copies of environmental statements and further information for the Secretary of State on referral or appeal), in paragraph (a) for “section 77” substitute “paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act”.

(5) In the case of a ROMP application, in regulation 20 (availability of copies of environmental statements) after “the Order” insert “(as applied by regulation 16(4) or by paragraph 9(5) of Schedule 13 to the 1995 Act).”.

(6) In the case of a ROMP application, in regulation 22 (further information and evidence respecting environmental statements)—

(a) in paragraph (3)(a) for the words “applicant for planning permission or subsequent consent or the appellants (as the case may be)” substitute—

“person who has applied for or who has appealed in relation to the determination of the conditions to which the planning permission is to be subject, the relevant provisions of the 1991 or 1995 Act pursuant to which the application is made”;

(b) in paragraph (7) after the words “application or appeal” insert “until the date they specify for submission of the further information”.

### **Modification of provisions on application to the High Court and giving of directions**

**48.**—(1) In the case of a ROMP application, for regulation 59 (application to the High Court) substitute—

#### **“Application to the High Court**

**59.** For the purposes of Part 12 of the Act (validity of certain decisions), the reference in section 288, as applied by paragraph 9(3) of Schedule 2 to the 1991 Act, paragraph 16(4) of Schedule 13 to the 1995 Act or paragraph 9(4) of Schedule 14 to the 1995 Act, to action of the Secretary of State which is not within the powers of the Act shall be taken to extend

to the determination of a ROMP application by the Secretary of State in contravention of regulation 3.”

(2) The direction making power in article 25(2) of the Order shall apply to ROMP development as it applies to development in respect of which a planning application is made.

### **Suspension of minerals development**

**49.**—(1) Where the authority, the Secretary of State or an inspector is dealing with a ROMP application or an appeal arising from a ROMP application and notifies the applicant or appellant, as the case may be, that—

- (a) the submission of an environmental statement is required under regulation 10(1), 11(2) or 12(4) then such notification shall specify the period within which the environmental statement and compliance with regulation 17(6) is required; or
- (b) a statement should contain additional information under regulation 22(1) then such notification shall specify the period within which that information is provided.

(2) Subject to paragraph (3), the planning permission to which the ROMP application relates shall not authorise any minerals development (unless the Secretary of State has made a screening direction to the effect that ROMP development is not EIA development) if the applicant or the appellant does not—

- (a) write to the authority or Secretary of State within the 6 week or other period agreed pursuant to regulation 10(4), 11(5) or 12(6);
- (b) submit an environmental statement and comply with regulation 17(6) within the period specified by the authority or the Secretary of State in accordance with paragraph (16) or within such extended period as is agreed in writing;
- (c) provide additional information within the period specified by the authority, the Secretary of State or an inspector in accordance with paragraph (16) or within such extended period as is agreed in writing; or
- (d) where a notification under regulation 5(4), 6(3), 13(3) or 14(3) has been received, provide the additional information requested within 3 weeks beginning with the date of the notification, or within such extended period as may be agreed in writing with the authority or Secretary of State, as the case may be.

(3) Where paragraph (2) applies, the planning permission shall not authorise any minerals development from the end of—

- (a) the relevant 6 week or other period agreed in writing as referred to in sub-paragraph (2)(a); and
- (b) the period specified or agreed in writing as referred to in sub-paragraphs (2)(b), (c), and (d),

until the applicant has complied with all of the provisions referred to in paragraph (2) which are relevant to the application or appeal in question.

(4) Particulars of the suspension of minerals development and the date when that suspension ends must be entered in the appropriate part of the register as soon as reasonably practicable.

(5) Paragraph (2) shall not affect any minerals development carried out under the planning permission before the date of suspension of minerals development.

(6) For the purposes of paragraphs (2) to (5) “minerals development” means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.

### **Determination of conditions and right of appeal on non-determination**

**50.**—(1) Where it falls to—

- (a) a mineral planning authority to determine a Schedule 1 or a Schedule 2 application, paragraph 2(6)(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act or paragraph 6(8) of Schedule 14 to the 1995 Act shall not have effect to treat the authority as having determined the conditions to which any relevant planning permission is to be subject unless either the mineral planning authority has adopted a screening opinion or the Secretary of State has made a screening direction to the effect that the ROMP development in question is not EIA development;
- (b) a mineral planning authority or the Secretary of State to determine a Schedule 1 or a Schedule 2 application—
  - (i) section 69 (register of applications, etc), and any provisions of the Order made by virtue of that section, shall have effect with any necessary amendments as if references to applications for planning permission included ROMP applications under paragraph 9(1) of Schedule 13 to the 1995 Act and paragraph 6(1) of Schedule 14 to the 1995 Act<sup>(2)</sup>; and
  - (ii) where the relevant mineral planning authority is not the authority required to keep the register, the relevant mineral planning authority must provide the authority required to keep it with such information and documents as that authority requires to comply with section 69 as applied by sub-paragraph (i), with regulation 23 as applied by regulation 42, and with regulation 49(4).
- (2) Where it falls to the mineral planning authority or the Secretary of State to determine an EIA application which is made under paragraph 2(2) of Schedule 2 to the 1991 Act, paragraph 4(4) of that Schedule shall not apply.
- (3) Where it falls to the mineral planning authority to determine an EIA application, the authority shall give written notice of their determination of the ROMP application within 16 weeks beginning with the date of receipt by the authority of the ROMP application or such extended period as may be agreed in writing between the applicant and the authority.
- (4) For the purposes of paragraph (3) a ROMP application is received by the authority when it receives—
  - (a) a document referred to by the applicant as an environmental statement for the purposes of these Regulations;
  - (b) any documents required to accompany that statement; and
  - (c) any additional information which the authority has notified the applicant that the environmental statement should contain.
- (5) Where paragraph (1)(a) applies—
  - (a) paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act and paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) shall have effect as if there were also a right of appeal to the Secretary of State where the mineral planning authority have not given written notice of their determination of the ROMP application in accordance with paragraph (3); and
  - (b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) shall have effect as if they also provided for notice of appeal to be made within 6 months from the expiry of the 16 week or other period agreed pursuant to paragraph (3).
- (6) In determining for the purposes of paragraphs—

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(2) These provisions are not applied to applications under paragraph 2(2) of Schedule 2 to the 1991 Act as they are applied by paragraph 9 of Schedule 2 to the 1991 Act.

- (a) 2(6)(b) of Schedule 2 to the 1991 Act, 9(9) of Schedule 13 to the 1995 Act and 6(8) of Schedule 14 to the 1995 Act (determination of conditions); or
- (b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) as applied by paragraph (26)(b),

the time which has elapsed without the mineral planning authority giving the applicant written notice of their determination in a case where the authority have notified an applicant in accordance with regulation 10(1) that the submission of an environmental statement is required and the Secretary of State has given a screening direction in relation to the ROMP development in question no account shall be taken of any period before the issue of the direction.

### **ROMP application by a mineral planning authority**

**51.**—(1) Where a mineral planning authority proposes to make or makes a ROMP application to the Secretary of State under regulation 11 (other consents) of the General Regulations which is a Schedule 1 or a Schedule 2 application (or proposed application), these Regulations shall apply to that application or proposed application as they apply to a ROMP application referred to the Secretary of State under paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act (reference of applications to the Secretary of State) subject to the following modifications—

- (a) subject to paragraph (2) below, regulations 5 to 10, 12, 13, 14, 16 (save for the purposes of regulations 19(3) and (4)), 18 and 24(1) shall not apply;
- (b) in regulation 4 (general provisions relating to screening), paragraphs (4)(b) and (10) shall not apply;
- (c) in regulation 11(2) (application referred to the Secretary of State without an environmental statement), omit the words “and shall send a copy of that notification to the relevant planning authority”;
- (d) in regulation 15 (procedure to facilitate preparation of environmental statements)—
  - (i) in sub-paragraph (3)(b) for the words “10(4)(a), or 11(5) or 12(6)” substitute “11(5)”;
  - (ii) in paragraph (4) omit the words “the relevant planning authority and” and “authority or”;
- (e) in regulation 17(2) (publicity where an environmental statement is submitted after the planning application)—
  - (i) in sub-paragraph (a) omit the words “and the name and address of the relevant planning authority”;
  - (ii) for sub-paragraph (b) substitute—
    - “(b) the date on which the application was made and that it has been made to the Secretary of State under regulation 11 of the General Regulations;”;
- (f) in regulation 19 (procedure where an environmental statement is submitted to the Secretary of State), in paragraph (2) omit the words “who shall send 1 copy to the relevant planning authority”;
- (g) in regulation 22(3) (further information and evidence respecting environmental statements)—
  - (i) in sub-paragraph (a) omit the words “and the name and address of the relevant planning authority”;
  - (ii) for sub-paragraph (b) substitute—

- “(b) the date on which the application was made and that it has been made to the Secretary of State under regulation 11 of the General Regulations;”;
- (h) regulations 23 (availability of opinions, directions etc for inspection) and 24(2) (duties to inform the public and the Secretary of State of final decisions) shall apply as if the references to a “relevant planning authority” were references to a mineral planning authority.
- (2) A mineral planning authority which is minded to make a ROMP application to the Secretary of State under regulation 11 of the General Regulations may request the Secretary of State in writing to make a screening direction, and paragraphs (3) and (4) of regulation 6 shall apply to such a request as they apply to a request made pursuant to regulation 5(7) except that in paragraph (3) the words “, and may request the relevant planning authority to provide such information as they can on any of those points” shall be omitted.
- (3) A request under paragraph (2) shall be accompanied by—
- (a) a plan sufficient to identify the land;
  - (b) a brief description of the nature and purpose of the ROMP development and of its possible effects on the environment; and
  - (c) such other information as the authority may wish to provide or make.
- (4) An authority making a request under paragraph (2) shall send to the Secretary of State any additional information he may request in writing to enable him to make a direction.

**ROMP applications: duty to make a prohibition order after two years suspension of permission**

- 52.—(1) This regulation applies if, in relation to a minerals development—
- (a) a period of 2 years beginning with the suspension date has expired, and
  - (b) the steps specified in regulation 49(2) have yet to be taken.
- (2) The “suspension date” is the date on which the suspension of minerals development (within the meaning of regulation 49(3)) begins.
- (3) Paragraph 3 of Schedule 9 to the Act(3) (prohibition of resumption of mineral working) has effect in relation to any part of a site as it has effect in relation to the whole site.
- (4) Sub-paragraph (1) of that paragraph has effect as if for the words from “the mineral planning authority may by order” to the end there were substituted—
- “the mineral planning authority—
- (i) must by order prohibit the resumption of the winning and working or the depositing; and
  - (ii) may in the order impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).”
- (5) In sub-paragraphs (2)(a) and (b) of that paragraph, references to winning and working or depositing are to be read as references to winning and working or depositing for which permission is not suspended by virtue of regulation 49(3).
- (6) Paragraph 4(7) of Schedule 9 to the Act has effect as if for “have effect” there were substituted “authorise that development”.

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(3) Paragraph 3 was amended by the Planning and Compensation Act 1991 (c. 34), Schedule 1, paragraph 15(6).

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**Status:** *This is the original version (as it was originally made).*

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