
STATUTORY INSTRUMENTS

2004 No. 1633

**The Environmental Assessment of Plans
and Programmes Regulations 2004**

PART 3

ENVIRONMENTAL REPORTS AND CONSULTATION PROCEDURES

Preparation of environmental report

12.—(1) Where an environmental assessment is required by any provision of Part 2 of these Regulations, the responsible authority shall prepare, or secure the preparation of, an environmental report in accordance with paragraphs (2) and (3) of this regulation.

(2) The report shall identify, describe and evaluate the likely significant effects on the environment of—

- (a) implementing the plan or programme; and
- (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.

(3) The report shall include such of the information referred to in Schedule 2 to these Regulations as may reasonably be required, taking account of—

- (a) current knowledge and methods of assessment;
- (b) the contents and level of detail in the plan or programme;
- (c) the stage of the plan or programme in the decision-making process; and
- (d) the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment.

(4) Information referred to in Schedule 2 may be provided by reference to relevant information obtained at other levels of decision-making or through other Community legislation.

(5) When deciding on the scope and level of detail of the information that must be included in the report, the responsible authority shall consult the consultation bodies.

(6) Where a consultation body wishes to respond to a consultation under paragraph (5), it shall do so within the period of 5 weeks beginning with the date on which it receives the responsible authority's invitation to engage in the consultation.

Consultation procedures

13.—(1) Every draft plan or programme for which an environmental report has been prepared in accordance with regulation 12 and its accompanying environmental report (“the relevant documents”) shall be made available for the purposes of consultation in accordance with the following provisions of this regulation.

(2) As soon as reasonably practicable after the preparation of the relevant documents, the responsible authority shall—

- (a) send a copy of those documents to each consultation body;
- (b) take such steps as it considers appropriate to bring the preparation of the relevant documents to the attention of the persons who, in the authority's opinion, are affected or likely to be affected by, or have an interest in the decisions involved in the assessment and adoption of the plan or programme concerned, required under the Environmental Assessment of Plans and Programmes Directive ("the public consultees");
- (c) inform the public consultees of the address (which may include a website) at which a copy of the relevant documents may be viewed, or from which a copy may be obtained; and
- (d) invite the consultation bodies and the public consultees to express their opinion on the relevant documents, specifying the address to which, and the period within which, opinions must be sent.

(3) The period referred to in paragraph (2)(d) must be of such length as will ensure that the consultation bodies and the public consultees are given an effective opportunity to express their opinion on the relevant documents.

(4) The responsible authority shall keep a copy of the relevant documents available at its principal office for inspection by the public at all reasonable times and free of charge.

(5) Nothing in paragraph (2)(c) shall require the responsible authority to provide copies free of charge; but where a charge is made, it shall be of a reasonable amount.

Transboundary consultations

14.—(1) Where a responsible authority, other than the Secretary of State, is of the opinion that a plan or programme for which it is the responsible authority is likely to have significant effects on the environment of another Member State, it shall, as soon as reasonably practicable after forming that opinion—

- (a) notify the Secretary of State of its opinion and of the reasons for it; and
- (b) supply the Secretary of State with a copy of the plan or programme concerned, and of the accompanying environmental report.

(2) Where the Secretary of State has been notified under paragraph (1)(a), the responsible authority shall, within such period as the Secretary of State may specify by notice in writing to the authority, provide the Secretary of State with such other information about the plan or programme or its accompanying environmental report as he may reasonably require.

(3) Where—

- (a) the Secretary of State, whether in consequence of a notice under paragraph (1)(a) or otherwise, considers that the implementation of a plan or programme in any part of the United Kingdom is likely to have significant effects on the environment of another Member State); or
- (b) a Member State that is likely to be significantly affected by the implementation of a plan or programme so requests,

the Secretary of State shall, before the adoption of the plan or programme or its submission to the legislative procedure for adoption, forward a copy of it and of its accompanying environmental report to the Member State concerned.

(4) Where the Secretary of State receives from a Member State an indication that it wishes to enter into consultations before the adoption, or submission to the legislative procedure for adoption, of a plan or programme forwarded to it in accordance with paragraph (3), the Secretary of State shall—

- (a) agree with the Member State—
 - (i) detailed arrangements to ensure that the authorities referred to in paragraph 3 of Article 6 of the Environmental Assessment of Plans and Programmes Directive and

- the public referred to in paragraph 4 of that Article in the Member State likely to be significantly affected are informed and given an opportunity to forward their opinion within a reasonable time; and
- (ii) a reasonable time for the duration of the consultations;
- (b) enter into consultations with the Member State concerning—
- (i) the likely transboundary environmental effects of implementing the plan or programme; and
 - (ii) the measures envisaged to reduce or eliminate such effects; and
- (c) where he is not the responsible authority, direct the responsible authority that it shall not adopt the plan or programme, or submit it to the legislative procedure for adoption, until the consultations with the Member State have been concluded.
- (5) Where consultations take place pursuant to paragraph (4), the Secretary of State shall—
- (a) as soon as reasonably practicable after those consultations begin, notify the consultation bodies of that fact; and
 - (b) notify the consultation bodies and, where he is not the responsible authority, the responsible authority, of the outcome of the consultations.

Plans and programmes of other Member States

15.—(1) This regulation applies where the Secretary of State receives from a Member State (whether or not in response to a request made by the United Kingdom in that behalf under the Environmental Assessment of Plans and Programmes Directive) a copy of a draft plan or programme—

- (a) that is being prepared in relation to any part of that Member State; and
 - (b) whose implementation is likely to have significant effects on the environment of any part of the United Kingdom.
- (2) The Secretary of State shall indicate to the Member State whether, before the adoption of the plan or programme or its submission to the legislative procedure for adoption, the United Kingdom wishes to enter into consultations in respect of that plan or programme concerning—
- (a) the likely transboundary environmental effects of implementing the plan or programme; and
 - (b) the measures envisaged to reduce or eliminate such effects.
- (3) Where the Secretary of State so indicates, he shall agree with the Member State concerned—
- (a) detailed arrangements to ensure that the consultation bodies and the public in the United Kingdom or, as the case may be, the part of the United Kingdom that is likely to be significantly affected by the implementation of the plan or programme, are informed and given an opportunity to forward their opinion within a reasonable time; and
 - (b) a reasonable time for the duration of the consultations.
- (4) Where such consultations take place under this regulation, the Secretary of State shall—
- (a) inform the consultation bodies of the receipt of the draft plan or programme;
 - (b) provide them with a copy of the draft plan or programme and the relevant environmental report provided under Article 7.1 of the Environmental Assessment of Plans and Programmes Directive or specify the address (which may include a website) at which those documents may be inspected;
 - (c) take such steps as he considers appropriate to bring the receipt of the draft plan or programme to the attention of such persons as, in his opinion, are affected or likely to be

affected by, or have an interest in the decisions involved in the assessment and adoption of the plan or programme concerned, required under the Environmental Assessment of Plans and Programmes Directive (“the transboundary consultees”);

- (d) inform the transboundary consultees of the address (which may include a website) at which a copy of the draft plan or programme and the relevant environmental report provided under Article 7.1 of the Environmental Assessment of Plans and Programmes Directive may be inspected, or from which a copy may be obtained; and
- (e) invite the consultation bodies and the transboundary consultees to forward to him their opinions within such period as he may specify.

(5) The period specified under paragraph (4)(e) shall end not later than 28 days before the end of the period that the Secretary of State has agreed with the Member State concerned, pursuant to paragraph (3)(b), as reasonable for the duration of their consultations.

(6) Nothing in paragraph (4)(d) shall require the Secretary of State to provide copies free of charge; but where a charge is made, it shall be of a reasonable amount.