

## STATUTORY INSTRUMENTS

# 2015 No. 627

## The Planning (Hazardous Substances) Regulations 2015

### PART 6

#### Policies and public participation

##### Policies

**24.**—(1) In formulating any relevant policy, the Secretary of State must ensure that the following matters are taken into account—

- (a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and
- (b) the matters referred to in Article 13(2) of the Directive [<sup>F1</sup>(with the reference in subparagraph (c) of that paragraph of that Article to Article 5 being read as a reference to regulation 5 of the Control of Major Accident Hazards Regulations 2015)].

(2) In this regulation, “relevant policy” means—

- (a) any national policy statement designated under section 5(1) of the Planning Act 2008 <sup>M1</sup>; and
- (b) any policy falling within section 19(2)(a) of the Planning and Compulsory Purchase Act 2004 <sup>M2</sup> where in the opinion of the Secretary of State that policy concerns matters affecting the risks or consequences of a major accident.

##### Textual Amendments

- F1** Words in [reg. 24\(1\)\(b\)](#) inserted (31.12.2020) by [The Planning \(Hazardous Substances and Miscellaneous Amendments\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1234\)](#), regs. 1, **10**; 2020 c. 1, Sch. 5 para. 1(1)

##### Marginal Citations

- M1** 2008 c. 29.
- M2** 2004 c. 5; [section 19\(1\)](#) was amended by section 5(b) of the [Planning Act 2008 \(c. 29\)](#). There are other amendments to section 19 which are not relevant to these Regulations.

##### Plans and programmes

**25.**—(1) Subject to paragraph (3), this regulation applies where a responsible authority proposes to prepare, modify or review a relevant plan or programme.

(2) Where this regulation applies, the responsible authority must—

- (a) take such measures as it considers appropriate to ensure that public consultees are given early and effective opportunities to participate in the preparation, modification or review of the relevant plan or programme; and

- (b) in doing so, take such measures as it considers appropriate to ensure that—
- (i) public consultees are informed of any proposals to prepare, modify or review a relevant plan or programme;
  - (ii) relevant information about such proposals is made available to public consultees, including information about the right to participate in decision-making and about the authority to which comments or questions may be submitted;
  - (iii) public consultees are entitled to express comments and opinions when all options are open before decisions on the relevant plan or programme are made; and
  - (iv) any periods provided for public participation under this regulation allow public consultees sufficient time to prepare and participate in decision-making in relation to the relevant plan or programme;
- (c) take into account the results of the public participation in making those decisions; and
- (d) take such measures as it considers appropriate to inform the public consultees about the decisions taken and the reasons and considerations on which those decisions are based, including information about the public participation process.
- (3) This regulation does not apply to a relevant plan or programme in relation to which a public participation procedure is carried out under Part 3 of the Environmental Assessment of Plans and Programmes Regulations 2004 <sup>M3</sup>.
- (4) This regulation applies to a relevant plan or programme relating—
- (a) solely to the whole or any part of England; or
  - (b) to England (whether as to the whole or part) and any other part of the United Kingdom.
- (5) Any steps taken before the commencement date in relation to a relevant plan or programme may be treated as steps taken for the purposes of this regulation.
- (6) In this regulation—
- “public consultees” means persons of whom the responsible authority is aware, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the relevant plan or programme in question;
- “relevant plan or programme” means a general plan or programme relating to—
- (a) planning for new establishments pursuant to [<sup>F2</sup>any provision of retained EU law which implemented] Article 13 of the Directive, or
  - (b) new developments around establishments where the siting or developments may increase the risk or consequences of a major accident pursuant [<sup>F2</sup>any provision of retained EU law which implemented] to Article 13 of the Directive; and
- “responsible authority” means—
- (a) the authority by which or on whose behalf a relevant plan or programme is prepared; and
  - (b) where, at any particular time, that authority ceases to be responsible, or solely responsible, for taking steps in relation to the plan or programme, the person who, at that time, is responsible (solely or jointly with the authority) for taking those steps.

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#### Textual Amendments

- F2** Words in [reg. 25\(6\)](#) inserted (31.12.2020) by [The Planning \(Hazardous Substances and Miscellaneous Amendments\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1234\)](#), [regs. 1, 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### Marginal Citations

**M3** S.I. 2004/1633, amended by S.I. 2011/1043; there are other amending instruments but none is relevant.

### Other planning approvals for projects

**26.**—(1) Subject to paragraph (4), this regulation applies where consent, permission or other authorisation for a relevant project is sought from a competent authority.

(2) A competent authority must, before deciding to give any consent, permission or other authorisation for a relevant project, take such measures as it considers appropriate to ensure that—

(a) the public is informed by public notices or other appropriate means, including electronic media where available, of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided—

(i) the subject of the relevant project;

(ii) where applicable, the fact that a project is subject to a national or transboundary environmental impact assessment [<sup>F3</sup>(which have the same meaning as in any provision of retained EU law which implemented the EIA Directive)];

[<sup>F4</sup>(*ia*) where applicable, the fact that the project to which the proposal relates is one in respect of which the Secretary of State is required to consult any state under any provision of retained EU law which implemented the EIA Directive or which is subject to consultations between member States in accordance with Article 14(3) of the Directive;]

(iii) details of the competent authority responsible for taking the decision, from which relevant information can be obtained and to which comments or questions can be submitted;

(iv) an indication of the times and places where, or means by which, the relevant information will be made available;

(v) details of the period for transmitting comments or questions; and

(vi) the nature of possible decisions or, where there is one, the draft decision;

(b) the COMAH competent authority is consulted about the project;

(c) the main reports and advice issued to the competent authority at the time when the public concerned was informed pursuant to paragraph (2)(a) are made available to the public concerned at that time;

(d) the public concerned is entitled to express comments and opinions to the competent authority before a decision is taken; and

(e) the results of the consultations held pursuant to this regulation are taken into account in the taking of a decision.

(3) After deciding whether to give any consent, permission or other authorisation for a relevant project, the competent authority must make available to the public—

(a) the content of the decision and the reasons on which it is based, including any subsequent updates;

(b) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision.

(4) To the extent that the competent authority is already required by any enactment to take any of the actions set out in paragraphs (2) and (3) of this regulation, those paragraphs do not apply.

(5) In this regulation—

“competent authority” means any Minister of the Crown (as defined in section 8(1) of the Ministers of the Crown Act 1975 <sup>M4</sup>), government department, or local authority with responsibility for deciding whether to give a consent, permission or other authorisation referred to in paragraph (1);

“the public concerned” means persons, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the taking of a decision to give the consent, permission or other authorisation referred to in paragraph (1); and

“relevant project” means development falling within paragraphs (e), (f) or (zb) of the Table in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015 <sup>M5</sup>.

- (6) In this regulation, a reference to giving consent, permission or other authorisation means—
- (a) granting planning permission [<sup>F5</sup>or permission in principle] on an application under Part 3 of the principal Act (control over development);
  - (b) granting planning permission [<sup>F6</sup>or permission in principle] on an application under section 293A of that Act (urgent Crown development) <sup>M6</sup>;
  - (c) granting planning permission [<sup>F7</sup>or permission in principle], or upholding a decision of the local planning authority to grant planning permission [<sup>F7</sup>or permission in principle] (whether or not subject to the same conditions and limitations as those imposed by the local planning authority), on determining an appeal under section 78 of that Act (right to appeal against planning decisions) <sup>M7</sup> in respect of such an application;
  - (d) granting planning permission under—
    - (i) section 141(2)(a) of that Act (action in relation to purchase notice); or
    - (ii) section 177(1)(a) of that Act (grant or modification of planning permission on appeals against enforcement notices);
  - (e) directing under the following provisions that planning permission is deemed to be granted—
    - (i) subsection (1), (2) or (2A) of section 90 of that Act (development with government authorisation); or
    - (ii) section 5(1) of the Pipe-lines Act 1962 <sup>M8</sup> (provisions with respect to planning permission concerning pipe-lines);
  - (f) making—
    - (i) a local development order under section 61A of the principal Act <sup>M9</sup>;
    - (ii) a neighbourhood development order under section 61E of that Act <sup>M10</sup>;
    - (iii) a special development zone scheme under section 82 of that Act;
    - (iv) an order designating an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980 <sup>M11</sup>;
    - (v) a development consent order under section 114 of the Planning Act 2008;
    - (vi) an order under section 102 of the principal Act (orders requiring discontinuance of use or alteration or removal of buildings or works) <sup>M12</sup>, including an order made under that section by virtue of section 104 of that Act (powers in relation to section 102 orders) which grants planning permission, or confirming any such order under section 103 of that Act (confirmation of section 102 orders);

- (vii) an order under paragraph 1 of Schedule 9 to that Act (order requiring discontinuance of mineral working) <sup>M13</sup>, including an order made under that paragraph by virtue of paragraph 11 of that Schedule to that Act (powers in relation to orders under Schedule 9), which grants planning permission;
- (viii) an order under section 14(1) or section 16(1) of the Harbours Act 1964 <sup>M14</sup>;
- (g) directing under the following provisions that if an application is made for planning permission it must be granted—
  - (i) section 141(3) of the principal Act (action in relation to purchase notice); or
  - (ii) section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (action in relation to listed building purchase notice) <sup>M15</sup>;
- (h) directing under section 12 of the Act that hazardous substances consent is deemed to be granted;
- (i) granting hazardous substances consent under section 20 of the Act; and
- (j) granting hazardous substances consent under section 177(1)(a) of the principal Act (as applied to hazardous substances contravention notices, and modified, by regulation 15 and Schedule 4).

(7) In relation to any consent, permission or authorisation falling within paragraph (6) which is capable of being varied or modified, the modification or variation is to be treated as if it is a consent, permission or other authorisation for a relevant project for the purposes of this regulation where that modification or variation authorises development falling with paragraph (zb) of the Table in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015.

#### Textual Amendments

- F3** Words in [reg. 26\(2\)\(a\)\(ii\)](#) substituted (31.12.2020) by [The Planning \(Hazardous Substances and Miscellaneous Amendments\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1234\)](#), [regs. 1, 12\(a\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F4** [Reg. 26\(2\)\(a\)\(iia\)](#) inserted (31.12.2020) by [The Planning \(Hazardous Substances and Miscellaneous Amendments\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1234\)](#), [regs. 1, 12\(b\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F5** Words in [reg. 26\(6\)\(a\)](#) inserted (E.) (1.6.2018) by [The Town and Country Planning \(Permission in Principle\) \(Amendment\) Order 2017 \(S.I. 2017/1309\)](#), [art. 1, Sch. 2 para. 9\(2\)](#)
- F6** Words in [reg. 26\(6\)\(b\)](#) inserted (E.) (1.6.2018) by [The Town and Country Planning \(Permission in Principle\) \(Amendment\) Order 2017 \(S.I. 2017/1309\)](#), [art. 1, Sch. 2 para. 9\(2\)](#)
- F7** Words in [reg. 26\(6\)\(c\)](#) inserted (E.) (1.6.2018) by [The Town and Country Planning \(Permission in Principle\) \(Amendment\) Order 2017 \(S.I. 2017/1309\)](#), [art. 1, Sch. 2 para. 9\(2\)](#)

#### Marginal Citations

- M4** 1975 c. 26
- M5** S.I. 2015/595.
- M6** Section 293A was inserted by section 82(1) of the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#).
- M7** Section 78 was amended by section 17(2) of [Planning and Compensation Act 1991 \(c. 34\)](#), [sections 40\(2\)\(e\)](#) and 43(2) of the 2004 Act and paragraphs 1 and 3 of Schedule 10 and paragraphs 1 and 2 of Schedule 11 to the [Planning Act 2008 \(c. 9\)](#).
- M8** 1962 c. 58.
- M9** Section 61A was inserted by section 40(1) of the 2004 Act and has been amended by sections 188 and 238 of, and Schedule 13 to, the [Planning Act 2008](#).
- M10** Section 61E was inserted by inserted by section 116 of, and Schedule 9 to, the [Localism Act 2011 \(c. 20\)](#).

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**Changes to legislation:** There are currently no known outstanding effects for the *The Planning (Hazardous Substances) Regulations 2015, PART 6*. (See end of Document for details)

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**M11** 1980 c. 65.

**M12** Section 102 was amended by paragraph 6 of Schedule 1 and paragraph 21 of Schedule 7 to the [Planning and Compensation Act 1991 \(c. 34\)](#).

**M13** Paragraph 1 of Schedule 9 was amended by paragraph 15 of Schedule 1 to the [Planning and Compensation Act 1991 \(c. 34\)](#).

**M14** 1964 c. 40.

**M15** 1990 c. 9.

### **Interpretation of Part 6**

**27.** Expressions appearing both in this Part and in the Directive have the same meaning for the purposes of this Part as they have for the purposes of the Directive.

**Changes to legislation:**

There are currently no known outstanding effects for the The Planning (Hazardous Substances) Regulations 2015, PART 6.