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## STATUTORY INSTRUMENTS

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# 2017 No. 571

## The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

### PART 1

#### General

#### Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and come into force on 16th May 2017.

(2) Subject to paragraph (3), these Regulations apply in relation to England only.

(3) Regulations 60, 61 and 62 apply in relation to Scotland, Wales and Northern Ireland respectively <sup>M1</sup>.

#### Marginal Citations

**M1** Regulations 60 to 62 relate to the Secretary of State's power to direct that the Regulations shall not apply to development that constitutes or forms part of a project having national defence as its sole purpose. The decision as to whether a direction should be made in respect of projects situated in the devolved administrations will be taken by the Secretary of State.

#### Interpretation

2.—(1) In these Regulations—

“the 1991 Act” means the Planning and Compensation Act 1991 <sup>M2</sup>;

“the 1995 Act” means the Environment Act 1995 <sup>M3</sup>;

“the Act” means the Town and Country Planning Act 1990 <sup>M4</sup>;

“appropriate register” means the register on which particulars of an application for planning permission for the relevant development or an application for subsequent consent have been placed or would fall to be placed if such an application were made;

“the consultation bodies” means—

(a) any body which the relevant planning authority is required to consult, or would, if an application for planning permission for the development in question were before them, be required to consult by virtue of article 18 (consultations before the grant of permission) of the Order or of any direction under that article;

(b) the Marine Management Organisation <sup>M5</sup>, in any case where the proposed development would affect, or would be likely to affect, any of the following areas—

(i) waters in or adjacent to England up to the seaward limits of the territorial sea;

- (ii) an exclusive economic zone <sup>M6</sup>, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
  - (iii) a Renewable Energy Zone <sup>M7</sup>, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
  - (iv) an area designated under section 1(7) of the Continental Shelf Act 1964 <sup>M8</sup>, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions; and
- (c) the following bodies if not referred to in paragraph (a) or (b)—
- (i) any principal council for the area where the land is situated, if not the relevant planning authority;
  - (ii) Natural England <sup>M9</sup>;
  - (iii) the Environment Agency <sup>M10</sup>;
  - (iv) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Secretary of State, as the case may be, considers are likely to have an interest in the application;

[<sup>F1</sup>“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);]

“the Directive” means Council Directive 2011/92/EU [<sup>F2</sup>as it had effect immediately before exit day];

“EIA” has the meaning given by regulation 4;

“EIA application” means—

- (a) an application for planning permission for EIA development; or
- (b) a subsequent application in respect of EIA development;

“EIA development” means development which is either—

- (a) Schedule 1 development; or
- (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“EIA order proposal” means an order proposal which relates to EIA development;

“environmental information” means the environmental statement, including any further information and any other information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development;

“environmental statement” has the meaning given by regulation 18;

“European site” means a site within the meaning of regulation 8 of [<sup>F3</sup>the Conservation of Habitats and Species Regulations 2017];

[<sup>F4</sup>“EU environmental assessment” means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented the Directive;]

“exempt development” means development in respect of which the Secretary of State has made a direction under regulation 63;

“further information” has the meaning given in regulation 25;

“inspector” means a person appointed by the Secretary of State pursuant to paragraph 1 of Schedule 6 <sup>M11</sup> to the Act to determine an appeal;

“the land” means the land on which the development would be carried out or, in relation to development already carried out, has been carried out;

“by local advertisement”, in relation to a notice, means—

- (a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application or appeal relates is situated; and
- (b) publication of the notice on a website maintained by or on behalf of the authority;

“local development order” means a local development order made pursuant to section 61A<sup>M12</sup> (Local development orders) of the Act;

“monitoring measure” means a provision requiring the monitoring of any significant adverse effects on the environment of proposed development including any measures contained in—

- (a) a condition imposed on the grant of planning permission; or
- (b) a planning obligation;

“neighbourhood development order” means a neighbourhood development order made pursuant to section 61E<sup>M13</sup> (Neighbourhood development orders) of the Act;

“the Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2015<sup>M14</sup>;

“order proposal” means a proposal for the making of a neighbourhood development order by a qualifying body under paragraph 1 of Schedule 4B<sup>M15</sup> to the Act;

“any other information” means any other substantive information relating to the environmental statement and provided by the applicant or the appellant as the case may be;

“any particular person” includes any non-governmental organisation promoting environmental protection;

“principal council” has the meaning given by section 270(1) (general provisions as to interpretation) of the Local Government Act 1972<sup>M16</sup>;

“qualifying body” has the meaning given by section 61E(6) (Neighbourhood development Orders) of the Act;

“register” means a register kept pursuant to article 40 of the Order (register of applications) and references to a “Part” of the register are to be taken as references to the Parts of the register as described in article 40 of the Order;

“relevant mineral planning authority” means the body to whom it falls, fell, or would, but for a direction under—

- (a) paragraph 7 of Schedule 2 (registration of old mining permissions) to the 1991 Act;
- (b) paragraph 13 of Schedule 13 (review of old mineral planning permissions) to the 1995 Act; or
- (c) paragraph 8 of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act,

fall to determine the ROMP application in question;

“relevant planning authority” means the body to whom it falls, fell, or would, but for an application made directly to the Secretary of State under section 62A<sup>M17</sup> of the Act (applications made directly to the Secretary of State) or a direction under section 77<sup>M18</sup> of the Act (reference of applications to Secretary of State), fall to determine an application for planning permission for the development in question;

“ROMP application” means an application to a relevant mineral planning authority to determine the conditions to which a planning permission is to be subject under—

- (a) paragraph 2(2) of Schedule 2 (registration of old mining permissions) to the 1991 Act;
- (b) paragraph 9(1) of Schedule 13 (review of old mineral planning permissions) to the 1995 Act <sup>M19</sup>; or
- (c) paragraph 6(1) of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act <sup>M20</sup>;

“ROMP development” means development which has yet to be carried out and which is authorised by a planning permission in respect of which a ROMP application has been or is to be made;

“ROMP subsequent application” means an application for approval of a matter where the approval—

- (a) is required by or under a condition to which a planning permission is subject following determination of a ROMP application; and
- (b) must be obtained before all or part of the minerals development permitted by the planning permission may be begun or continued;

“ROMP subsequent consent” means consent granted pursuant to a ROMP subsequent application;

“Schedule 1 application” and “Schedule 2 application” mean an application for planning permission for Schedule 1 development and Schedule 2 development respectively;

“Schedule 1 development” means development, other than exempt development, of a description mentioned in Schedule 1;

“Schedule 2 development” means development, other than exempt development, of a description mentioned in column 1 of the table in Schedule 2 where—

- (a) any part of that development is to be carried out in a sensitive area; or
- (b) any applicable threshold or criterion in the corresponding part of column 2 of that table is respectively exceeded or met in relation to that development;

“scoping direction” and “scoping opinion” have the meanings given in regulation 15;

“screening direction” means a direction made by the Secretary of State as to whether development is EIA development;

“screening opinion” means a written statement of the opinion of the relevant planning authority as to whether development is EIA development;

“sensitive area” means any of the following—

- (a) land notified under section 28(1) (sites of special scientific interest) of the Wildlife and Countryside Act 1981 <sup>M21</sup>;
- (b) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949 <sup>M22</sup>;
- (c) the Broads <sup>M23</sup>;
- (d) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage <sup>M24</sup>;
- (e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 <sup>M25</sup>;
- (f) an area of outstanding natural beauty designated as such by an order made by Natural England under section 82(1) (areas of outstanding natural beauty) of the Countryside and Rights of Way Act 2000 <sup>M26</sup> as confirmed by the Secretary of State;

(g) a European site;

“subsequent application” means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject; and

(b) must be obtained before all or part of the development permitted by the planning permission may be begun;

“subsequent consent” means consent granted pursuant to a subsequent application;

“UK environmental assessment” means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment.

(2) Subject to paragraph (3), expressions used both in these Regulations and in the Act have the same meaning for the purposes of these Regulations as they have for the purposes of the Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations references to the Secretary of State must not be construed as references to an inspector.

#### Textual Amendments

- F1** Words in reg. 2(1) inserted (temp.) (24.12.2020) by [The Town and Country Planning \(Local Planning, Development Management Procedure, Listed Buildings etc.\) \(England\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/1398\)](#), regs. 1(2), 7 (with regs. 13, 15, 17-20)
- F2** Words in reg. 2(1) added (31.12.2020) by [The Environmental Assessments and Miscellaneous Planning \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1232\)](#), regs. 1(2), **6(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 2(1) substituted (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), reg. 1(2), **Sch. 6 para. 79(2)**
- F4** Words in reg. 2(1) substituted (31.12.2020) by [The Environmental Assessments and Miscellaneous Planning \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1232\)](#), regs. 1(2), **6(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M2** 1991 c. 34.
- M3** 1995 c. 25.
- M4** 1990 c. 8.
- M5** Established under section 1 of the [Marine and Coastal Access Act 2009 \(c. 23\)](#).
- M6** See section 41 of the [Marine and Coastal Access Act 2009](#).
- M7** See section 84(4) of the [Energy Act 2004 \(c. 20\)](#), substituted by the [Marine and Coastal Access Act 2009](#).
- M8** 1964 c. 29. Section 1(7) was amended by section 37 of, and paragraph 1 of Schedule 3 to, the [Oil and Gas \(Enterprise\) Act 1982 \(c. 23\)](#) and section 103 of the [Energy Act 2011 \(c. 16\)](#).
- M9** Established under section 1 of the [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#).
- M10** Established under section 1 of the [Environment Act 1995 \(c. 25\)](#).
- M11** Schedule 6 was amended by sections 32 and 84 of, paragraph 54 of Schedules 7, and Part I of Schedule 19 to the 1991 Act; paragraph 44 of Schedule 22 to the 1995 Act; sections 196 and 198 of, and paragraphs 1 and 14 of Schedule 10 to, the [Planning Act 2008 \(c. 29\)](#); sections 2 and 7 of, and paragraphs 1 and 9 of Schedule 2 to, the [Growth and Infrastructure Act 2013 \(c. 27\)](#); and section 51 of and paragraphs 8 and 16 of Schedule 5 to the [Planning \(Wales\) Act 2015 \(anwa. 4\)](#).

- M12** Section 61A of the Act was inserted by section 40 of the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#) and amended by sections 188 and 238 of, and Schedule 13 to, the [Planning Act 2008 \(c. 29\)](#).
- M13** Section 61E of the Act was inserted by section 116(1) of, and paragraphs 1 and 2 of Schedule 9 to, the [Localism Act 2011 \(c. 20\)](#) and amended by section 140 of the [Housing and Planning Act 2016 \(c. 22\)](#).
- M14** [S.I. 2015/595](#).
- M15** Schedule 4B to the Act was inserted by section 116 of, and Schedule 10 to, the [Localism Act 2011](#) and amended by sections 140 and 141 of the [Housing and Planning Act 2016](#).
- M16** [1972 c. 70](#).
- M17** Section 62A of the Act was inserted by section 1 of the [Growth and Infrastructure Act 2013](#) and amended by section 153 of the [Housing and Planning Act 2016](#).
- M18** Section 77 of the Act was amended by section 32 of, and paragraph 18 of Schedule 7 to, the [1991 Act](#); section 112 of, and paragraphs 1 and 10 of Schedule 12 to, the [Localism Act 2011](#); section 190 of the [Planning Act 2008](#); section 30 of, and paragraphs 2 and 11 of Part 2 of Schedule 4 to, the [Infrastructure Act 2015 \(c. 7\)](#); and section 150 of, and paragraphs 1 and 20 of Schedule 12 to, the [Housing and Planning Act 2016](#).
- M19** Paragraph 9 of Schedule 13 to the [1995 Act](#) was amended by [S.I. 2003/956](#).
- M20** Paragraph 6 of Schedule 14 to the [1995 Act](#) was amended by [S.I. 2003/956](#).
- M21** [1981 c. 69](#). Section 28 was substituted by section 75(1) of, and paragraph 1 of Schedule 9 to, the [Countryside and Rights of Way Act 2001 \(c. 37\)](#) and amended by section 105(1) of, and paragraph 79 of Part 1 of Schedule 11 to, the [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#); and section 148 of, and paragraph 2 of Part 2 of Schedule 13 to, the [Marine and Coastal Access Act 2009 \(c. 23\)](#).
- M22** [1948 c. 97](#). See section 5(3).
- M23** See the [Norfolk and Suffolk Broads Act 1988 \(c. 4\)](#).
- M24** See Command Paper 9424.
- M25** [1979 c. 46](#). See the definition in section 1(11).
- M26** [2000 c. 37](#). Section 82 was amended by section 105 of, and paragraph 163 of Part I of Schedule 11 to, the [Natural Environment and Rural Communities Act 2006](#); and [S.I. 2013/755](#).

### **Prohibition on granting planning permission or subsequent consent for EIA development**

3. The relevant planning authority, the Secretary of State or an inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development.

### **Environmental impact assessment process**

4.—(1) The environmental impact assessment (“EIA”) is a process consisting of—

- (a) the preparation of an environmental statement;
- (b) any consultation, publication and notification required by, or by virtue of, these Regulations or any other enactment in respect of EIA development; and
- (c) the steps required under regulation 26.

(2) The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under [<sup>F5</sup>any law that implemented] Directive [92/43/EEC](#)<sup>M27</sup> and Directive [2009/147/EC](#)<sup>M28</sup>;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape;

(e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

(3) The effects referred to in paragraph (2) on the factors set out in that paragraph must include the operational effects of the proposed development, where the proposed development will have operational effects.

(4) The significant effects to be identified, described and assessed under paragraph (2) include the expected significant effects arising from the vulnerability of the proposed development to major accidents or disasters that are relevant to that development.

(5) The relevant planning authority or the Secretary of State must ensure that they have, or have access as necessary to, sufficient expertise to examine the environmental statement.

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**Textual Amendments**

**F5** Words in [reg. 4\(2\)\(b\)](#) inserted (31.12.2020) by [The Environmental Assessments and Miscellaneous Planning \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1232\)](#), [regs. 1\(2\)](#), [6\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

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**Marginal Citations**

**M27** OJ No. L 206, 22.7.1992, p. 7.

**M28** OJ No. L 20, 26.1.2010, p. 7.

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, PART 1.