
STATUTORY INSTRUMENTS

2018 No. 695

**The Town and Country Planning and
Infrastructure Planning (Environmental Impact
Assessment) (Amendment) Regulations 2018**

**Amendments to the Town and Country Planning (Environmental Impact Assessment)
Regulations 2017**

2.—(1) The Town and Country Planning (Environmental Impact Assessment) Regulations 2017⁽¹⁾ are amended in accordance with paragraphs (2) to (11).

- (2) In regulation 12(2) after “regulation 6(2)” insert “or (3) as appropriate”.
- (3) In regulation 25(1) for “regulation 18(2) and (3)” substitute “regulation 18(3) and (4)”.
- (4) In regulation 32—
 - (a) in paragraph (3)(d) for “(11)” substitute “(12)”; and
 - (b) in paragraph (6)(d)(iv) before “request” insert “scoping direction”.
- (5) In regulation 33(5)—
 - (a) in sub-paragraph (e)(iii) omit “(8)”; and
 - (b) in sub-paragraph (e)(iv) omit “(8)”; and
 - (c) in sub-paragraph (g)(v) after “qualifying body”, but before the quotation marks, insert “if the qualifying body”;
 - (d) in sub-paragraph (q)(i) for “regulation 18(2) and (3)” substitute “regulation 18(3) and (4)”; and
 - (e) in sub-paragraph (q)(v) before “planning permission”, but after the quotation marks, insert “application for”;
 - (f) in sub-paragraph (r)(ii)(aa) after “consent for EIA”, but before the quotation marks, insert “development”; and
 - (g) in sub-paragraph (r)(ii)(bb) omit “or” in the first place it occurs.
- (6) In Part 7, after regulation 33, insert—

“Other orders made by a local planning authority

33A.—(1) This regulation applies where, in relation to Schedule 1 or Schedule 2 development, a local planning authority proposes to grant or modify a planning permission by making an order under section 97 or 102 of, or paragraph 1 of Schedule 9 to, the Act (“an EIA order”).

(2) In a case to which this regulation applies regulation 32 shall apply with the following modifications—

- (a) references to a local development order were references to an EIA order; and

- (b) references to grant planning permission include the modification of planning permission.

Miscellaneous orders and notices made by the Secretary of State

33B.—(1) This regulation applies where, in relation to Schedule 1 or Schedule 2 development, the Secretary of State proposes to grant or modify a planning permission—

- (a) under section 98(6), 103(2) or 141(2) of the Act; or
 (b) by making an order under section 100(1) or 104(1) of the Act,

(“an EIA permission”).

(2) Where this regulation applies the Secretary of State must not make an EIA permission unless the local planning authority in whose area the development will be situated has prepared the information referred to in regulation 6(2) in accordance with regulation 6(4) and adopted a screening opinion, or the Secretary of State has made a screening direction; and regulation 5 shall apply in relation to that screening with the modifications provided for in regulation 32(3).

(3) Paragraphs (4) and (5) apply where—

- (a) the local planning authority adopts a screening opinion; or
 (b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the development is EIA development.

(4) The Secretary of State must not make an EIA permission unless—

- (a) an environmental statement has been prepared in relation to that development; and
 (b) the EIA has been carried out in respect of that development.

(5) In a case to which this regulation applies these Regulations apply subject to the following modifications—

(a) in regulation 2(1)—

(i) after the definition of “EIA order proposal” insert—

““EIA permission” has the meaning given in regulation 33B(1);”;

(ii) in the definition of “any other information” for “applicant or the appellant as the case may be” substitute “local planning authority”;

(b) regulations 3, 6(10) and (11), 8 to 14, 16, 17, 21, 22 and 25 shall not apply;

(c) in regulation 7(1) the words “pursuant to regulation 6(10)” were omitted;

(d) in regulation 15—

(i) for paragraph (1) substitute—

“(1) Where a proposed EIA permission is EIA development, the Secretary of State may state in writing his opinion as to the scope and level of detail of the information to be provided in the environmental statement (“a scoping direction”) and the Secretary of State must not adopt a scoping direction before he has consulted the consultation bodies.”;

(ii) omit paragraphs (2) to (5) and sub-paragraph (a) of paragraph (6);

(iii) for paragraph (7) substitute—

“(7) A local planning authority may ask the Secretary of State to make a scoping direction as to the information to be provided in the environmental statement.”;

(iv) omit paragraphs (8) and (9);

- (e) in regulation 18—
 - (i) omit paragraphs (1) and (2); and
 - (ii) in paragraphs (3)(d) and (5)(a) and (b) for “the developer” substitute “the Secretary of State”;
- (f) for regulation 19 substitute the modified version of regulation 19 provided in regulation 32(6)(f) with the following modifications—
 - (i) for references to local planning authority substitute the Secretary of State;
 - (ii) for references to a local development order substitute an EIA permission; and
 - (iii) for references to grant planning permission include modify planning permission.
- (g) for regulation 23 substitute—

“Availability of copies of environmental statements

- 23.** The Secretary of State must ensure that—
 - (a) a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for the EIA permission are available at his principal office during normal office hours; and
 - (b) the environmental statement can be accessed at the website referred to in the notice required under regulation 20(2)(f).”;
- (h) in regulation 26(1) for “an application or appeal” substitute “whether to make an EIA permission”;
- (i) in regulation 28—
 - (i) in paragraph (1) for “Where particulars of an application for planning permission or of a subsequent application are placed on Part 1 of the register, the relevant planning authority” substitute “Each local planning authority must keep a record on the appropriate part of the register of any EIA permission relating to land in their area, and the authority”;
 - (ii) for paragraph (2) substitute—

“(2) Where the local planning authority adopts a screening opinion or scoping opinion, or receives a request under regulation 15(1), a copy of a screening direction, scoping direction, or direction under regulation 63 before an EIA permission is made, the authority must take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept, and copies of those documents must remain so available for a period of 2 years.”.
- (j) in regulation 29 for paragraph (1) substitute—

“(1) Where the Secretary of State makes an EIA permission he must prepare a statement setting out the information specified in paragraph (2).”;
- (k) for regulation 30 substitute—

“Duty to inform the public of final decisions

- 30.** Where the Secretary of State makes an EIA permission he must—

- (a) notify the local planning authority;
 - (b) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and
 - (c) make available for public inspection, at his principal office during normal office hours, a statement containing—
 - (i) the content of the decision and any conditions attached to it;
 - (ii) the main reasons and considerations on which the decision is based;
 - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development permitted; and
 - (iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.
- (1) in regulation 58—
- (i) in paragraph (1), for sub-paragraph (a) substitute—
 - “(a) it comes to the attention of the Secretary of State that EIA development proposed to be carried out in England for which an EIA permission is proposed to be granted is likely to have significant effects on the environment in another EEA state; or”; and
 - (ii) in paragraphs (3) and (6) for “application” substitute “proposed EIA permission”.”
- (7) In regulation 40—
- (a) in paragraph (4)(a)(ii) for “the appellant submits the information required under regulation 38(a)” substitute “the question was referred”;
 - (b) in paragraph (5) for “paragraphs (4)(a)(iii)” substitute “paragraphs (4)(a)(ii) and (iii)”;
 - (c) in paragraph (8) for “by whom the regulation 37 notice was served” substitute “by whom or on whose behalf the enforcement notice was issued”.
- (8) In regulation 52—
- (a) in paragraph (2)—
 - (i) for “paragraph (4)” substitute “paragraph (5)”;
 - (ii) the paragraph as substituted is renumbered as paragraph (5); and
 - (iii) for “article 15(2)” substitute “article 15(1A)”;
 - (b) for paragraph (3)(a) substitute—
 - “(a) in paragraph (2)(a)—
 - (i) omit “for planning permission or subsequent consent”; and
 - (ii) after “to the relevant planning authority or the Secretary of State” insert “for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made”;
 - (c) in paragraph (5) for “regulation 19(4)” substitute “regulation 19(5)”.
- (9) In regulation 55(6)(a) for “paragraph 6(b)” substitute “paragraph 2(6)(b)”.
- (10) In regulation 58(4) for “development consent” substitute “planning permission”.

(11) In the table in Schedule 2, in the entry numbered 10(a) (industrial estate development projects), in column 2 (applicable thresholds and criteria) for “0.5 hectare” substitute “5 hectares”.