
STATUTORY INSTRUMENTS

1990 No. 442

The Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990 and shall come into force on 31st March 1990.

(2) These Regulations apply in the case of—

- (a) any application under section 36 of the Electricity Act 1989⁽¹⁾ for consent to construct, extend or operate a generating station;
- (b) any application under section 37 of the Electricity Act 1989 for consent to instal or keep installed an electric line above ground;
- (c) any application under section 1 of the Pipe-lines Act 1962⁽²⁾ for a pipe-line construction authorisation in respect of a pipe-line which is intended to convey oil or gas; or
- (d) any application under section 3 of the Pipe-lines Act 1962 for a pipe-line diversion authorisation in respect of a pipe-line which is or has been used to convey oil or gas,

which is received by the Secretary of State on or after the date on which these Regulations come into force.

(3) These Regulations—

- (a) so far as they apply in relation to applications of the kind referred to in sub-paragraphs (a) and (b) of paragraph (2), extend throughout England and Wales;
- (b) so far as they apply in relation to applications of the kind referred to in sub-paragraphs (c) and (d) of paragraph (2), extend throughout Great Britain.

Interpretation

2.—(1) In these Regulations, unless the contrary intention appears—

“the 1962 Act” means the Pipe-lines Act 1962;

“the 1989 Act” means the Electricity Act 1989;

“development” means the carrying out of building, engineering or other operations in, on, over or under land in pursuance of any application to which these Regulations apply;

“electric line” has the same meaning as in section 64 of the 1989 Act;

“environmental information” means the environmental statement prepared by the applicant, any representations made by any body required by these regulations to be consulted, and any representations duly made by any other person about the likely environmental effects of a proposed development;

“environmental statement” means such a statement as is described in the Schedule to these Regulations;

(1) 1989 c. 29.

(2) 1962 c. 58.

“generating station” has the same meaning as in section 64 of the 1989 Act;

“local planning authority”—

- (a) in relation to an application for a section 36 consent or a section 37 consent, has the same meaning as is assigned to “relevant planning authority” by paragraph 2(6)(a) of Schedule 8 to the 1989 Act;
- (b) in relation to an application for a pipe-line authorisation, has the meaning assigned to that term by paragraph 8 of Schedule 1 to the 1962 Act;

“pipe-line authorisation” means a pipe-line construction authorisation under section 1 of the 1962 Act in respect of a pipe-line which is intended to convey oil or gas or a pipe-line diversion authorisation under section 3 of the 1962 Act in respect of a pipe-line which is or has been used to convey oil or gas;

“principal council” has the meaning assigned to that term by section 270(1) of the Local Government Act 1972(3);

“section 36 consent” means a consent under section 36 of the 1989 Act to construct, extend or operate a generating station;

“section 37 consent” means a consent under section 37 of the 1989 Act to instal or keep installed an electric line above ground.

(2) Except where the context otherwise requires, in these Regulations any reference to a numbered regulation is a reference to a regulation in these Regulations and any reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

Prohibition of grant of consent or authorisation without consideration of environmental information

3.—(1) Subject to paragraph (2), the Secretary of State shall not grant—

- (a) a section 36 consent;
- (b) a section 37 consent; or
- (c) a pipe-line authorisation,

unless the Secretary of State shall first have taken the environmental information into consideration.

(2) In relation to—

- (a) an application for consent falling within paragraph (1)(a) to construct a non-nuclear generating station with a heat output of less than 300 megawatts, or to extend a non-nuclear generating station which, after completion of the works of extension, will have a heat output of less than 300 megawatts; or
- (b) an application for consent or authorisation falling within paragraph (1)(b) or (1)(c),

an environmental statement shall be required only where, in relation to the application, the Secretary of State determines that in his opinion the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

Opinion of Secretary of State in advance of application

4.—(1) A person who is minded to apply—

- (a) for a section 36 consent falling within sub-paragraph (a) of regulation 3(2);
- (b) for a section 37 consent; or
- (c) for a pipe-line authorisation,

may make a written request to the Secretary of State for a determination whether, in relation to the application, he is of the opinion referred to in regulation 3(2) and would wish to take an environmental statement into account.

- (2) A request made pursuant to paragraph (1) shall be accompanied by—
- (a) a plan sufficient to identify the land the subject of the proposed application;
 - (b) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment;
 - (c) such further information or representations as the person making the request may wish to provide or make.

(3) The Secretary of State, on receiving a request under paragraph (1) shall, if he considers that he has not been provided with sufficient information to make a determination, notify the person making the request of the particular points on which he requires further information.

(4) When the Secretary of State considers that he has sufficient information he shall consult the local planning authority within whose area the land the subject of the proposed application is situated, unless the person making the request under paragraph (1) has already conveyed that authority's written views to the Secretary of State.

(5) A local planning authority shall give its views to the Secretary of State within three weeks of the date on which it was consulted under paragraph (4).

(6) The Secretary of State shall respond to a request under paragraph (1) within three weeks of whichever is the latest of—

- (a) the date of receipt of the request by the Secretary of State;
 - (b) the date of receipt by him of further information pursuant to a notice under paragraph (3);
 - (c) the date of receipt by him of the views of the local planning authority under paragraph (4),
- or within such longer period as may be agreed in writing with the person making the request.

(7) Where the Secretary of State determines that an environmental statement is required, he shall provide with the determination a written statement giving full reasons for his conclusion.

Application made without environmental statement

- 5.—(1) Where an application is made to the Secretary of State—
- (a) for any section 36 consent not falling within sub-paragraph (a) of regulation 3(2); or
 - (b) for any section 36 consent falling within the said sub-paragraph (a), or for any section 37 consent, in a case where the Secretary of State determines that consideration of an environmental statement is required,

but the application is not accompanied by an environmental statement, the Secretary of State shall, within three weeks beginning with the date of receipt of the application, or within such longer period as the Secretary of State may agree with the applicant in writing, notify the applicant in writing that the submission of an environmental statement is required, giving full reasons for his conclusion.

- (2) Where an application is made to the Secretary of State for a pipe-line authorisation, and—
- (a) the application is not accompanied by an environmental statement;
 - (b) the Secretary of State determines that consideration of an environmental statement is required; and
 - (c) the Secretary of State gives notice to the applicant under paragraph 2 of Schedule 1 to the 1962 Act that the application is to be allowed to proceed,

the Secretary of State shall also notify the applicant in writing that the submission of an environmental statement is required, giving his full reasons for his conclusion.

(3) The applicant may within three weeks beginning with the date of notification mentioned in paragraph (1) or paragraph (2) write to the Secretary of State to inform him that he proposes to provide an environmental statement.

(4) If the applicant takes no action in accordance with paragraph (3) the consent or authorisation sought shall be deemed to be refused at the end of the three week period referred to in that paragraph.

Procedure to facilitate preparation of environmental statements

6.—(1) A prospective applicant may give the Secretary of State notice in writing that he intends to make an application for consent falling within regulation 3(1) and to submit an environmental statement with his application.

(2) A notice under paragraph (1) shall include the information necessary to identify, or be accompanied by documents identifying, the land and the nature and purpose of the proposed development, and shall indicate the main environmental consequences to which the prospective applicant proposes to refer in his environmental statement.

(3) Where the Secretary of State receives such a notice as is mentioned in paragraph (1) in relation to a proposed application for consent falling within regulation 3(1), he shall—

- (a) notify the bodies mentioned in paragraph (4) in writing of the name and address of the prospective applicant and of the duty imposed upon them by regulation 11 to make information available to the prospective applicant;
- (b) inform the prospective applicant in writing of the names and addresses of the bodies so notified.

(4) The bodies referred to in paragraph (3) are—

- (a) any principal council for the area where the land is situated, if not the local planning authority;
- (b) the Countryside Commission;
- (c) the Nature Conservancy Council;
- (d) where the prospective applicant intends to make an application for a section 36 consent, Her Majesty's Inspectorate of Pollution.

(5) Where an application for consent falling within regulation 3(1) has been made without an environmental statement, and—

- (a) the Secretary of State has given notice to the applicant to the effect that the consideration of an environmental statement is required; or
- (b) the applicant has informed the Secretary of State that he proposes to submit an environmental statement,

the Secretary of State shall take the action specified in sub-paragraphs (a) and (b) of paragraph (3) as if references to the prospective applicant were references to the applicant.

Publicity where an application is accompanied by an environmental statement

7.—(1) In any case where an applicant for—

- (a) a section 36 consent; or
- (b) a section 37 consent,

has provided the Secretary of State with an environmental statement, the applicant shall publish in two successive weeks in one or more newspapers circulating in the locality in which the land to which the application relates is situated a notice containing the information specified in paragraph (3).

(2) In any case where—

- (a) an applicant for a pipe-line authorisation has provided the Secretary of State with an environmental statement; and
- (b) the Secretary of State has notified the applicant that the application is to be allowed to proceed,

the applicant shall include in the notices which he is required to publish and serve under paragraph 3 of Schedule 1 to the 1962 Act the information specified in paragraph (3).

- (3) A notice to which paragraph (1) or (2) applies—
 - (a) shall describe the application in question and state that it is accompanied by an environmental statement;
 - (b) shall give an address in the locality in which the land to which the application relates is situated at which copies of the environmental statement may be obtained, shall state that a copy may be obtained there while stocks last and, if a charge is to be made for a copy of the environmental statement, shall specify the amount of the charge.

(4) A notice under paragraph (1) may be combined with any other notice which the applicant may be required to publish in respect of his application.

(5) In a case to which this regulation applies, the applicant shall ensure that a reasonable number of copies of the statement is available at the address specified pursuant to paragraph (3)(b) as the address at which such copies may be obtained.

Procedure where the Secretary of State receives an environmental statement

8.—(1) Where an applicant submits to the Secretary of State an environmental statement relating to an application for consent falling within regulation 3(1) and also serves a copy of the statement or of a part of it on any other body, he shall—

- (a) serve with it a copy of the application and any plan submitted with it (unless he has already served those documents on the body in question);
- (b) inform the body that representations may be made to the Secretary of State;
- (c) inform the Secretary of State of the name of every body whom he has so served, of the date of service and, where he has not served a copy of the whole of the statement, of the part of which a copy was served.

(2) When the Secretary of State receives an environmental statement in connection with an application for consent falling within regulation 3(1) he shall—

- (a) advise any body mentioned in regulation 6(4) on whom the applicant has not served a copy of the statement or a part of it, that a statement will be taken into consideration in determining the application, elicit whether it wishes to receive a copy of the statement or any part of it and inform it that it may make representations;
- (b) inform the applicant of the copies required by those bodies and of the names and addresses of the bodies concerned.

(3) The applicant shall serve copies of the environmental statement or a part of it on any body specified in and in accordance with any information given pursuant to paragraph 2(b) and shall inform the Secretary of State of the date or dates on which he does so.

(4) The Secretary of State shall not determine the application until the expiry of 14 days from the last date on which a copy of the environmental statement or a part of it was served in accordance with this regulation.

Charges

9. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of an environmental statement made available in accordance with regulation 7.

Further information and evidence respecting environmental statements

10.—(1) The Secretary of State, when dealing with an application in relation to which an environmental statement has been provided, may in writing require the applicant to provide such further information as may be specified concerning any matter which is required to be, or may be, dealt with in the environmental statement.

(2) The Secretary of State may in writing require an applicant to produce such evidence as he may reasonably call for to verify any information in the applicant's environmental statement.

Provision of information

11.—(1) Subject to paragraph (2), the local planning authority and any body notified in accordance with these regulations that a person has made or is proposing to make an application for consent falling within regulation 3(1) shall, if requested by the applicant (or prospective applicant), or may without such a request, enter into consultation with the applicant to determine whether they have in their possession any information which they or the applicant consider relevant to the preparation of an environmental statement and, if they have any such information, they shall make it available to the applicant.

(2) Paragraph (1) shall not require the disclosure by a local planning authority or a body of confidential information.

Service of notices

12. Any notice or other document to be sent, served or given under these Regulations may be sent, served or given either—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that address; or
- (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

Revocation, transitional and savings

13.—(1) Subject to the following paragraph, the Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1989(4) (“the 1989 Regulations”) are hereby revoked.

(2) The 1989 Regulations shall continue to apply to any application for a section 2 consent, a section 10(b) consent or a pipe-line authorisation within the meaning of the 1989 Regulations which was received before the date on which these regulations come into force.

2nd March 1990

John Wakeham
Secretary of State for Energy