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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are concerned with the implementation in England and Wales of Council Directive [85/337/EEC](#) (OJNo. L175, 5.7.85, p.40).

Section 177 of the Town and Country Planning Act 1990 enables the Secretary of State when determining an appeal against an enforcement notice issued under section 172 of that Act to grant planning permission in respect of any matter stated in the notice as constituting a breach of planning control. Where an application for planning permission for the development to which an enforcement notice relates would have required environmental assessment in accordance with the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 (“the Environmental Assessment Regulations”), regulation 3 of these Regulations precludes the Secretary of State from granting planning permission on the determination of the enforcement notice appeal without first considering an environmental statement relating to the development.

Regulation 4 requires a local planning authority to inform the recipient of an enforcement notice, the Secretary of State and the persons who would have been consulted if an application for planning permission had been made, if it is the authority’s opinion that the matters to which the enforcement notice relates constitute development to which the Environmental Assessment Regulations would have applied, and that any appeal to the Secretary of State must be accompanied by an environmental statement unless the Secretary of State otherwise directs.

Regulation 5 enables a person on whom notice has been served under regulation 4 to seek a direction from the Secretary of State, and regulation 6 enables him to obtain from the local planning authority and others information relevant to the preparation of his environmental statement.

Regulation 7 enables the Secretary of State to require an appellant who has not provided an environmental statement with his appeal documents to do so, unless he has provided such a statement in connection with a parallel appeal against the refusal of planning permission for the same development as that to which the enforcement appeal relates. If the appellant fails to submit an environmental statement within the period allowed, his deemed application for planning permission and, if he appealed on the ground that planning permission should be granted, his appeal on that ground, lapse at the end of that period.

Regulation 8 requires the Secretary of State to give specified persons the opportunity of making representations in relation to environmental statements.

Regulation 9 enables the Secretary of State to require an appellant to provide further information and evidence and requires the Secretary of State to give specified persons the opportunity of making representations in relation to any further information provided. If the appellant fails to submit the further information within the period allowed, his deemed application for planning permission and, if he appealed on the ground that planning permission should be granted, his appeal on that ground, lapse at the end of that period.

Regulation 10 requires the local planning authority to advertise the receipt by them of an environmental statement and to indicate the procedure for making representations to the Secretary of State.

Regulation 11 makes provision for public inspection of documents issued and received by local planning authorities under the Regulations.

Regulation 12 provides for service of documents, and regulation 13 allows for an appeal to the High Court in respect of any grant of planning permission in contravention of regulation 3.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

A compliance cost assessment of the effect that this instrument would have on the cost of business is available from Planning Division 4, Department of the Environment, Tollgate House, Houlton Street, Bristol BS2 9DJ (telephone 0117 987 8605) or from the Planning Division, Welsh Office, Cathays Park, Cardiff CF1 3NQ (telephone 01222 8233882).