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## EXPLANATORY NOTE

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

These Regulations implement, in relation to town and country planning in England and Wales, Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (O.J. No. L 175, 5.7.1985, p. 40), as amended by Council Directive [97/11/EC](#) (O.J. No. L 73, 14.3.1997, p.5).

The Regulations revoke and re-enact, with amendments, the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 (and later instruments amending them) and the Town and Country Planning (Environmental Assessment and Unauthorised Development) Regulations 1995. They revoke the Town and Country Planning (Environmental Assessment and Permitted Development) Regulations 1995 and regulation 22 of the Town and Country Planning (Simplified Planning Zones) Regulations 1992, and enact provisions with similar effect.

The main changes made by Directive [97/11/EC](#), which these Regulations implement, are as follows. The number of categories of project subject to environmental impact assessment (EIA) is increased. An individual determination on whether EIA is required must be made in respect of every project in Annex II to the Directive (Schedule 2 to these Regulations) which exceeds thresholds established by a Member State. Advice on the content of an environmental statement must be given to a developer who requests it before submitting an application. Competent authorities must give reasons for their decision on granting or refusing development consent. The Directive establishes detailed procedures for consulting other Member States on projects which are likely to have significant environmental effects in their territories.

The Regulations impose procedural requirements in relation to the consideration of applications for planning permission under the Town and Country Planning Act 1990 and in relation to enforcement of planning control, and restrict the grant of permission by simplified planning zone schemes, enterprise zones and the Town and Country Planning (General Permitted Development) Order 1995.

All development in Schedule 1 requires EIA. Development in Column 1 of the table in Schedule 2 which is either to be carried out in a sensitive area or satisfies a threshold or criterion in Column 2 of that table (“Schedule 2 development”) requires EIA if it is likely to have significant effects on the environment. Development which requires EIA is referred to in these Regulations as “EIA development”.

Regulation 3 prohibits the grant of planning permission for EIA development unless the local planning authority, the Secretary of State or an inspector have first taken account of the environmental information (defined in regulation 2) which is before them. The prohibition applies where an application is received by or lodged by the local planning authority on or after 14th March 1999.

Regulations 4 to 9 set out procedures for determining whether development is EIA development (“screening”). They require a “screening opinion” of the local planning authority or a “screening direction” of the Secretary of State in relation to all Schedule 2 development. Such an opinion or direction must be made by reference to the criteria in Schedule 3. Where the authority or the Secretary of State determine that development is EIA development, they must notify the applicant (or appellant) that he is required to submit an environmental statement.

Regulations 10 and 11 enable a person to seek an opinion from the local planning authority (“a scoping opinion”) or the Secretary of State (a “scoping direction”) on the information to be included in an environmental statement. The types of information which may be required are set

*Status: This is the original version (as it was originally made).*

out in Schedule 4. The local planning authority or the Secretary of State must consult bodies with environmental responsibilities (“the consultation bodies” defined in regulation 2(1)) before adopting a scoping opinion or scoping direction. Regulation 12 requires consultation bodies, if requested, to assist the preparation of an environmental statement by making information available to the applicant.

Regulation 13 requires the local planning authority to notify the consultation bodies of applications for planning permission which are accompanied by an environmental statement. Regulation 16 contains equivalent provisions where an environmental statement is submitted to the Secretary of State in relation to an appeal or called in application. Regulation 14 provides for publicity for applications for planning permission where an environmental statement is submitted after a planning application. Regulations 15, 17 and 18 are concerned with the provision of copies of an environmental statement.

Regulation 19 contains procedures for the provision by the applicant of information additional to that contained in the environmental statement.

Regulation 20 provides for documents to be placed on the planning register or otherwise made available to the public.

Regulation 21 requires local planning authorities and the Secretary of State to provide information about decisions taken following the consideration of environmental information in accordance with these Regulations.

Regulation 22 modifies the earlier provisions of these Regulations in relation to applications for planning permission by a local planning authority.

Regulations 23 and 24 restrict the grant of planning permission by simplified planning zone schemes or enterprise zone orders.

Regulation 25 establishes procedures for EIA in relation to the enforcement of planning control.

Regulations 26 to 28 implement Article 7 of the Directive by providing for consultation between Member States where development is likely to have significant effects on the environment in another Member State.

Regulation 29 provides for the service of notices under the Regulations. Regulation 30 provides that a grant of permission in contravention of regulation 3 or 25(1) shall be treated, for the purpose of section 288 of the Town and Country Planning Act 1990, as an act which is not within the powers of that Act. Regulation 31 provides that beginning specified operations to dispose of hazardous waste constitutes “development” under section 55 of the 1990 Act. Regulation 32 extends the time allowed to a local planning authority to consider an application for planning permission for EIA development. Regulation 33 extends, in relation to EIA, the statutory power to provide in a development order for the giving of directions.

Regulation 34 and Schedule 5 contain revocations and transitional provisions.

Regulation 35 provides for miscellaneous and consequential amendments. Regulation 35(3) provides for a person who is minded to undertake development which would otherwise be permitted development to seek an opinion from the local planning authority as to whether the development is EIA development.

A regulatory Impact Appraisal has been prepared in relation to these Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from PD5A Division, Department of the Environment, Transport and the Regions, Eland House, Bressenden Place, London SW1E 5DU (Telephone 0171-890 3893) or Planning Division, Welsh Office, Cathays Park, Cardiff CF1 3NQ (Telephone 01222-823882).