
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, 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. L175, 5.7.1985, p.40), as amended by Council Directive [97/11/EC](#) (O.J. No. L73, 14.3.1997, p.5) (“the Directives”), in relation to applications to mineral planning authorities to determine the conditions to which a planning permission is subject under—

- (a) Schedule 2 to the Planning and Compensation Act 1991 (“the 1991 Act”);
- (b) Schedules 13 and 14 to the Environment Act 1995 (“the 1995 Act”), (“ROMP applications”). The Regulations make other provisions described in the third paragraph of this note.

These Regulations amend the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ([S.I. 1999/293](#)) (“the 1999 Regulations”) which implemented the Directives in relation to town and country planning in England and Wales. The 1999 Regulations impose procedural requirements in relation to the consideration of applications for planning permission under the Town and Country Planning Act 1990.

The main amendment to the 1999 Regulations is the insertion of a new regulation 26A (ROMP applications) by regulation 2(5) of these Regulations. Regulation 2(5) applies the provisions of the 1999 Regulations to ROMP applications as they apply to applications for planning permission, subject to the modifications and additions set out in regulation 2(5). Regulation 2(3) makes minor technical amendments to regulation 12 of the 1999 Regulations. Regulation 2(4) makes minor amendments to regulations 26-28 of the 1999 Regulations to reflect the application of Directive [97/11/EC](#) to the European Economic Area by Decision No. 20/1999 of the European Economic Area Joint Committee.

1. The main differences in the application of the 1999 Regulations to ROMP applications as opposed to planning applications are:

- (a) the time period for writing to the mineral planning authority or the Secretary of State on receipt of a notice that an environmental statement is required is six weeks or such other period as may be agreed instead of three weeks (inserted regulation 26A(3) and (5));
- (b) a notice that an environmental statement or additional information is required must specify a period within which these are required and by which the applicant or appellant must have complied with the publicity provisions in regulation 14(5) of the 1999 Regulations. The period may be extended by agreement in writing (see inserted regulation 26A(16) and (17));
- (c) if the applicant or appellant does not comply with the time periods in (a) or (b), then minerals development shall be suspended until these provisions are complied with (see inserted regulation 26A(17) and (18)). The provisions in the 1999 Regulations providing for refusal of permission or that there is no duty to deal with the application on a failure by the applicant or appellant to comply with specified time periods do not apply to ROMP applications (see inserted regulation 26A(4));

2. Regulation 2(5) also applies the mineral planning provisions in the 1991 and 1995 Acts with certain amendments (see inserted regulations 26A(22)-(27)). In particular—

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

- (a) where a ROMP application is in respect of a mineral planning permission which authorises development which falls within Schedule 1 or Schedule 2 to the 1999 Regulations then the deemed consent provisions in the 1991 or 1995 Acts shall not operate to treat the authority as having determined the ROMP application unless a screening direction or screening opinion has been adopted or made to the effect that the development is not development falling within Schedule 1 to the 1999 Regulations or is not development falling within Schedule 2 to the 1999 Regulations which is likely to have significant effects on the environment (“EIA development”) (see inserted regulation 26A(22));
- (b) where a mineral planning authority have to determine a ROMP application which relates to a planning permission authorising EIA development which has yet to be carried out, they must give notice of their decision within 16 weeks or such extended period as is agreed (see inserted regulation 26A(24));
- (c) where paragraph 2(a) applies, the 1991 and 1995 Acts apply as if there were a right of appeal to the Secretary of State on the mineral planning authority failing to give their decision within 16 weeks or such extended period as it agreed (see inserted regulation 26A(26)).

The 1999 Regulations apply to ROMP applications by mineral planning authorities as they apply to ROMP applications referred to the Secretary of State, with the further modifications set out in inserted regulations 26A(28)-(31). These modifications are mainly to delete references to the relevant mineral planning authority.

Regulation 2(2) inserts definitions relating to ROMP applications into the 1999 Regulations. Regulation 2(2)(e) provides for references to the Secretary of State to be substituted for a reference to the National Assembly for Wales in the application of the 1999 Regulations to Wales.

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 PD2B Division, Department of the Environment, Transport and the Regions, Eland House, Bressenden Place, London SW1E 5DU (Telephone 020 7944 3883) or Planning Division, National Assembly for Wales, Cathays Park, Cardiff CF1 3NQ (Tel 029 2082 3888).