
STATUTORY INSTRUMENTS

2006 No. 2362

The Environmental Impact Assessment
(Agriculture) (England) Regulations 2006

PART 1

General provisions

Title, application and commencement

2. These Regulations may be cited as the Environmental Impact Assessment (Agriculture) (England) Regulations 2006, apply to England only and come into force on 1st October 2006.

Interpretation

3.—(1) In these Regulations—

“agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947(1);

“additional environmental information” means any additional information required under regulation 14(1);

“consent” means consent granted under regulation 17(1);

“consultation bodies” means—

- (a) the Historic Buildings and Monuments Commission for England (English Heritage)(2);
- (b) the Environment Agency(3);
- (c) any other public authority, statutory body or other organisation which Natural England(4) or the Secretary of State considers has any interest in or holds any information which might be relevant to the project;

“cultivated” means cultivated by physical means (including ploughing and harrowing) or chemical means (including the application of fertilisers);

“EEA State” means a member State, Norway, Iceland or Liechtenstein;

“the EIA Directive” means Council Directive 85/337/EEC(5) on the assessment of the effects of certain public and private projects on the environment, as last amended by Directive 2003/35/EC(6);

“environmental statement” means a statement that includes—

- (d) as much of the information in Part 1 of Schedule 3 as is reasonably required to assess the environmental effects of the project and which the applicant for consent can, having

(1) 1947 c. 48.

(2) See section 32 of the National Heritage Act 1983 (c. 47).

(3) See section 1(1) of the Environment Act 1995 (c. 25).

(4) See section 1 of the Natural Environment and Rural Communities Act 2006 (c. 16).

(5) O.J. No. L175, 5.7.85, p.40.

(6) O.J. No. L156, 25.6.03, p. 17.

regard in particular to current knowledge and methods of assessment, reasonably be required to compile, and

(e) at least the information referred to in Part 2 of Schedule 3;

“European site” means a site mentioned in paragraph (a), (b), (d) or (e) of regulation 10(1) of the Habitats Regulations;

“the Habitats Directive” means Council Directive [92/43/EEC](#)(7) on the conservation of natural habitats and of wild fauna and flora, as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(8);

“the Habitats Regulations” means the Conservation (Natural Habitats, &c) Regulations 1994(9);

“project” means—

(f) the execution of construction works or other installations or schemes; or

(g) other interventions in the natural surroundings and landscape;

“the relevant land” means the land on which the project is to be (or has been) carried out;

“restructuring project” means a project for the restructuring of rural land holdings;

“screening decision” means a decision made by Natural England under regulation [9\(1\)](#) or a decision deemed to be made by Natural England under regulation [9\(7\)](#);

“screening notice” means a notice served under regulation [7\(1\)](#);

“significant project” means an uncultivated land project or a restructuring project which Natural England has decided under regulation [9\(1\)](#), or is deemed to have decided under regulation [9\(7\)](#), is likely to have significant effects on the environment;

“uncultivated land” means land which has not been cultivated in the previous 15 years;

“uncultivated land project” means a project to increase the productivity for agriculture of uncultivated land or a semi-natural area, and includes projects to increase the productivity for agriculture of such land to below the norm.

(2) Other expressions used both in these Regulations and in the EIA Directive or the Habitats Directive have the same meanings in these Regulations as they have in the relevant Directive.

(3) All notifications, applications, notices, representations, requests, approvals and agreements under these Regulations must be made or given in writing.

(4) “Writing” in paragraph (3), except where it applies to notices under regulation [7](#), [26](#) and [28](#), includes an electronic communication within the meaning of the Electronic Communications Act 2000(10), but notifications required to be made by Natural England or by the Secretary of State to any person may only be made by an electronic communication if the intended recipient—

(a) has himself used that form of electronic communication in communicating with Natural England or the Secretary of State (as the case may be) under any provision in these Regulations, or

(b) has otherwise represented that that form of electronic communication is a means by which persons can communicate with him.

(7) O.J. No. L206, 22.7.1992, p. 7.

(8) O.J. No. L 236, 23.9.2003, p. 667–70. See Annex II: List referred to in Article 20 of the Act of Accession, 16. Environment, C. Nature protection.

(9) S.I. [1994/2716](#), amended in relation to England by S.I. [1996/525](#), [1997/3055](#) and [2000/192](#); there are other amending instruments but none is relevant.

(10) [2000 c. 7](#).

(5) Subject to regulation 7(6), notices or documents required or authorised to be served, sent or given under these Regulations may be sent by post.

Application of Regulations

4.—(1) These Regulations apply to any restructuring project or uncultivated land project, unless it is exempt under paragraph (2) or (3).

(2) A restructuring project or an uncultivated land project is exempt if it—

- (a) is a project mentioned in regulation 3(2) of the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999(11);
- (b) constitutes development to which the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(12) apply;
- (c) constitutes the carrying out of improvement works by a drainage body within the meaning of the Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999(13);
- (d) constitutes a relevant project under regulation 3(2) and (3) of the Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003(14);
- (e) constitutes the removal of a hedgerow under regulation 5(1) of the Hedgerows Regulations 1997(15); or
- (f) constitutes the erection of any building or fence, or the construction of any other work, for which consent is required under section 194 of the Law of Property Act 1925(16).

(3) A project is exempt under this paragraph to the extent that the Secretary of State, in accordance with Article 2(3) of the EIA Directive, directs that it is to be exempt from regulations 5 to 37 of these Regulations.

(4) In the case of a project which Natural England decides is likely to have a significant effect on a European site (either alone or in combination with other projects), the power to direct that the project is exempt under paragraph (3) is exercisable only to the extent that compliance with the Habitats Directive is secured in relation to the project.

(5) Where the Secretary of State proposes to give a direction under paragraph (3), he must—

- (a) consider whether any other kind of assessment of the project would be appropriate; and
- (b) take such steps as he considers appropriate to bring to the attention of the public—
 - (i) the information considered in making the direction and the reasons for doing so, and
 - (ii) the information obtained from any assessment of the project under sub-paragraph (a).

(11) S.I. 1999/2228.

(12) S.I. 1999/293, amended by S.I. 2000/2867.

(13) S.I. 1999/1783, amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c. 37) and by S.I. 2005/1399 and 2006/618.

(14) S.I. 2003/164.

(15) S.I. 1997/1160.

(16) 1925 c. 20; section 194 was amended by the Local Government (Wales) Act 1994 (c. 19), section 66(6) and Schedule 16, paragraph 7(2), the Local Government Act 1972 (c. 70), section 272(1) and Schedule 30, the Local Government Act 1985 (c. 51), section 16 and Schedule 8, paragraph 10(5) and the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 3.