

**2007 No. 1977**

**ELECTRICITY, ENGLAND AND WALES**

**The Electricity Works (Environmental Impact Assessment)  
(England and Wales) (Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>9th July 2007</i>
<i>Laid before Parliament</i>		<i>12th July 2007</i>
<i>Coming into force</i>	- -	<i>20th August 2007</i>

The Secretary of State is a designated(a) Minister for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment. In exercise of the powers conferred on him by that section, the Secretary of State makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2007 and shall come into force on 20th August 2007.

(2) These Regulations shall apply to any application for a section 36 consent or a section 37 consent within the meaning of the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000(c) which is received by the Secretary of State on or after the date these Regulations come into force.

(3) In these Regulations “the 2000 Regulations” means the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000.

**Amendments to regulation 2 of the 2000 Regulations**

2. In regulation 2(1) of the 2000 Regulations (interpretation)—

(a) after the definition of “the Act” insert—

““additional information” means information which—

(a) is made available to the Secretary of State—

(i) after the date of receipt by the Secretary of State of a document referred to by the applicant as an environmental statement; and

(ii) before determination by the Secretary of State of the application for a section 36 consent or a section 37 consent in respect of the development;

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(a) S.I. 1988/785, to which there is an amendment not relevant to these Regulations.

(b) 1972 c.68.

(c) S.I. 2000/1927; the definition of “the consultative bodies” in regulation 2(1) was amended by virtue of section 73(2) of the Countryside and Rights of Way Act 2000 (c.37).

- (b) is of material relevance to the matters referred to in Schedule 4; and
- (c) is not information falling within paragraphs (b) or (c) of the definition of “environmental statement” below;”;
- (b) in the definition of “the consultative bodies”—
  - (i) omit the “and” at the end of paragraph (c); and
  - (ii) after paragraph (d) insert—
    - “and
    - (e) other bodies designated by statutory provision as having specific environmental responsibilities whom the Secretary of State considers are likely to have an interest in the application or proposed application;”;
- (c) for the definition of “EEA State” substitute—
  - ““EEA State” has the meaning given by Schedule 1 to the Interpretation Act 1978(a);”;
- (d) for the definition of “environmental information” substitute—
  - ““environmental information” means—
    - (a) the environmental statement prepared by the applicant;
    - (b) additional information; and
    - (c) any representations duly made by any consultative body or any other person about the likely environmental effects of the proposed development;”;
- (e) for the definition of “environmental statement” substitute—
  - ““environmental statement” means—
    - (a) a statement prepared in respect of development pursuant to regulation 4(1);
    - (b) any information—
      - (i) provided to the Secretary of State by the applicant in order to supplement the statement referred to in paragraph (a); and
      - (ii) made available to the Secretary of State no later than fourteen days after the date of receipt by the Secretary of State of that statement; and
    - (c) any further information submitted by the applicant pursuant to a requirement under regulation 13(1);”;
- (f) in the definition of “scoping opinion” for “given in accordance with regulation 7” substitute “as to the information to be provided in an environmental statement”.

#### **Amendment to regulation 4 of the 2000 Regulations**

3. In regulation 4(2)(c) of the 2000 Regulations (procedure for grant of consent) for “9, 11, 12, 13 and 14” substitute “9, 10(2A), 11, 12, 13, 14 and 14A”.

#### **Amendment to regulation 6 of the 2000 Regulations**

4. In regulation 6(1) of the 2000 Regulations (application made without an environmental statement) omit “pursuant to a notice”.

#### **Amendments to regulation 7 of the 2000 Regulations**

5. In regulation 7 of the 2000 Regulations (procedure for a scoping opinion)—
- (a) in paragraph (1) for the words after “written request for” substitute “a scoping opinion”;
  - (b) after paragraph (4)(a) insert “and”;

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(a) 1978 c.30; The definition of “EEA State” was inserted into Schedule 1 to the Interpretation Act 1978 by section 26(1) of the Legislative and Regulatory Reform Act 2006 (c.51).

- (c) in paragraph (4)(b) for “appropriate consultative bodies; and” substitute “consultative bodies.”; and
- (d) omit paragraph (4)(c).

#### **Amendments to regulation 8 of the 2000 Regulations**

6. In regulation 8(3) of the 2000 Regulations (procedure to facilitate preparation of an environmental statement)—

- (a) in sub-paragraph (a) for “appropriate consultative bodies (and such other persons that are in his opinion likely to be concerned by the proposed development by reason of their specific environmental responsibilities)” substitute “consultative bodies.”; and
- (b) in sub-paragraph (b) omit “and persons”.

#### **Amendments to regulation 9 of the 2000 Regulations**

7. In regulation 9 of the 2000 Regulations (publicity where an application is accompanied by an environmental statement)—

- (a) for paragraph (1) substitute—

“(1) Subject to regulation 12(5), in any case where an applicant for a section 36 consent or a section 37 consent which relates to EIA development has provided the Secretary of State with an environmental statement the applicant shall, as soon after provision of that statement as is reasonably practicable, publish in accordance with paragraph (1A) a notice containing the information specified in paragraph (2).”;
- (b) after paragraph (1) insert—

“(1A) A notice to which paragraph (1) applies shall be published in two successive weeks in—

  - (a) the London Gazette; and
  - (b) one or more newspapers circulating in the locality in which the land to which the application relates is situated (or, in relation to a proposed development in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the proposed development).”;
- (c) for paragraph (2)(a) substitute—

“(a) describe the application in question, state that it is accompanied by an environmental statement and, where relevant, state that it is likely to have significant effects on the environment in another EEA State.”;
- (d) at the end of paragraph (2)(b) omit “and”;
- (e) in paragraph (2)(c) for “paragraph (1)” substitute “paragraph (1A)”;
- (f) in paragraph (2) after sub-paragraph (c) insert—

“(d) describe the procedures under regulations 14 and 14A in accordance with which any person may make representations in relation to—

  - (i) further information provided by the applicant pursuant to a requirement imposed under regulation 13(1); or
  - (ii) additional information;
- (e) describe the circumstances under the Act in which the Secretary of State may cause a public inquiry to be held into the application; and
- (f) set out the nature of possible decisions to be taken in relation to the application.”;
- and
- (g) in paragraph (4) for “regulation 11(1) or 11(3)” substitute “regulation 11(1), 11(3) or 11(3A)”.

## Amendments to regulation 10 of the 2000 Regulations

8.—(1) For the heading to regulation 10 of the 2000 Regulations (publicity of opinions, determinations and decisions) substitute—

“Publicity of determinations and provision of information to the Local Planning Authority”.

(2) In regulation 10 of the 2000 Regulations—

(a) in paragraph (2) omit “(together with a copy of any environmental statement served on the local planning authority pursuant to regulation 11)”;

(b) after paragraph (2) insert—

“(2A) If a local planning authority receives a copy of—

(a) an environmental statement pursuant to regulation 11(3A);

(b) further information pursuant to regulation 14(3);

(c) additional information pursuant to regulation 14A(1)(a); or

(d) a notice pursuant to regulations 14(3) or 14A(5),

the local planning authority shall take steps to ensure that it is placed on Part I of the register.”;

(c) for paragraph (3) substitute—

“(3) Where an application for a section 36 consent or a section 37 consent which relates to EIA development is determined by the Secretary of State, the Secretary of State shall send to—

(a) the local planning authority or authorities to which a copy of the environmental statement pertaining to the application was provided under regulation 11(3A); and

(b) the applicant,

a statement containing the information specified in paragraph (3A), and the local planning authority or authorities referred to in sub-paragraph (a) shall make that statement available for public inspection at all reasonable hours at the place where the register is kept.

(3A) A statement to which paragraph (3) applies shall contain the following information—

(a) the content of the Secretary of State’s determination and any conditions attached to any consent granted;

(b) a summary of the main concerns and opinions expressed by the persons affected, or likely to be affected by, or having an interest in the application;

(c) in the light of the concerns and opinions referred to in sub-paragraph (b), the main reasons and considerations on which the Secretary of State’s determination is based;

(d) a description where necessary of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development; and

(e) the availability of judicial review procedures, including details of where further information in relation to such procedures can be obtained.”;

(d) in paragraph (4) for “information contained in the press or other notice issued pursuant to” substitute “statement provided in accordance with”; and

(e) after paragraph (4) insert—

“(5) Where an applicant receives a statement in accordance with paragraph (3) the applicant shall, as soon as is reasonably practicable, publish a notice in accordance with paragraph (6) specifying that—

(a) the application has been determined;

(b) section 36 or section 37 consent has either been granted or refused; and

(c) the statement containing the information referred to in paragraph (3A) is available for public inspection at the local planning authority or authorities to which a copy

of the environmental statement pertaining to the application was provided under regulation 11(3A).

(6) A notice to which paragraph (5) applies shall be published in two successive weeks in—

- (a) the London Gazette; and
- (b) one or more newspapers circulating in the locality in which the land to which the application relates is situated (or, in relation to a proposed development in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the proposed development).”.

#### **Amendments to regulation 11 of the 2000 Regulations**

**9.** In regulation 11 of the 2000 Regulations (procedure where Secretary of State receives an environmental statement)—

- (a) in paragraph (1) for “on any appropriate consultative body” substitute “on any of the consultative bodies”;
- (b) for paragraph (2)(a) substitute—
  - “(a) give notice to such of the consultative bodies upon whom the applicant has not served a copy of the environmental statement—
    - (i) that an environmental statement will be taken into consideration in determining the application; and
    - (ii) that they may make representations or express their views, and shall elicit whether any such consultative body wishes to receive a copy of the environmental statement; and”;
- (c) in paragraph (2)(b) omit “or persons” in each place where it occurs;
- (d) in paragraph (3) omit “or person”; and
- (e) after paragraph (3) insert—

“(3A) Where an applicant submits an environmental statement to the Secretary of State relating to an application for a section 36 consent or a section 37 consent, the applicant shall serve a copy of the environmental statement on the local planning authority within whose area the land which is the subject of the proposed development is situated (or, in relation to a proposed development in, on, over or under the sea, such local planning authority or authorities as the Secretary of State shall direct) and shall inform the Secretary of State of the date on which he did so.”.

#### **Amendment to regulation 12 of the 2000 Regulations**

**10.** In regulation 12(2)(a) of the 2000 Regulations (projects affecting other EEA States) for “application for consent in respect of the proposed EIA development” substitute “notice published in accordance with regulation 9(1)”.

#### **Amendment to regulation 14 of the 2000 Regulations**

**11.** In regulation 14 of the 2000 Regulations (publicity in relation to further information and timing of determination)—

- (a) for paragraph (1) substitute—
  - “(1) In any case where an applicant for a section 36 consent or a section 37 consent which relates to EIA development is required in accordance with regulation 13(1) to provide further information the applicant shall publish in accordance with paragraph (1A) a notice containing the information specified in paragraph (2).

(1A) A notice to which paragraph (1) applies shall be published in two successive weeks in—

- (a) the London Gazette; and
- (b) one or more newspapers circulating in the locality in which the land to which the application relates is situated (or, in relation to a proposed development in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the proposed development).”;
- (b) in paragraph (2)(a) for “is available supplementing the environmental statement which has already been produced” substitute “has been provided”;
- (c) in paragraph (2)(c) for “paragraph (1)” substitute “paragraph (1A)”; and
- (d) in paragraph (3) for “regulation 11(1) or 11(3)” substitute “regulation 11(1), 11(3) or 11(3A)”.

**Insertion of new regulation 14A of the 2000 Regulations**

12. After regulation 14 of the 2000 Regulations insert—

**“Additional information and timing of determination**

**14A.**—(1) Where additional information is made available to the Secretary of State he shall—

- (a) serve a copy of the additional information on the local planning authority or local planning authorities on whom was served a copy of the environmental statement under regulation 11(3A);
- (b) notify the applicant that additional information has been served on the local planning authority or local planning authorities in accordance with sub-paragraph (a); and
- (c) in any case where the additional information is provided to the Secretary of State by a person other than the applicant, serve a copy of the additional information on the applicant.

(2) On the first occasion on which the applicant is notified of the service of additional information in accordance with paragraph (1)(b), the applicant shall—

- (a) publish in accordance with paragraph (3) a notice containing the information specified in paragraph (4); and
- (b) serve a copy of that notice on the Secretary of State.

(3) A notice to which paragraph (2)(a) applies shall be published in two successive weeks in—

- (a) the London Gazette; and
- (b) one or more newspapers circulating in the locality in which the land to which the application relates is situated (or, in relation to a proposed development in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the proposed development).

(4) A notice to which paragraph (2)(a) applies shall—

- (a) describe the application in question and state that the Secretary of State has received additional information;
- (b) identify the local planning authority or local planning authorities to which the Secretary of State is required to forward a copy of the additional information pursuant to paragraph (1)(a);
- (c) state that the local planning authority or local planning authorities identified in sub-paragraph (b) are required to place the additional information on the register;
- (d) state that requests for copies of the additional information may be sent to the Secretary of State and specify an address for that purpose;

- (e) state a date not less than four weeks after the date on which the notice is to be last published in accordance with paragraph (3) by which any person may make representations to the Secretary of State in relation to the additional information and specify the address to which any such representations are to be sent; and
- (f) state that the details set out in sub-paragraphs (b) to (d) will also apply in respect of any additional information received by the Secretary of State after publication of the notice.

(5) On receipt of a notice pursuant to paragraph (2)(b) the Secretary of State shall serve a copy of that notice on any person on whom was served a copy of the environmental statement under regulation 11(1), 11(3) or 11(3A).

(6) The Secretary of State shall not determine the application until after the later of—

- (a) fourteen days from the last date on which a copy of the notice published pursuant to paragraph (2)(a) was served in accordance with paragraph (5); and
- (b) the date stated in the notice published pursuant to paragraph (2)(a).”.

### **Amendment to regulation 15 of the 2000 Regulations**

13. In regulation 15(1) of the 2000 Regulations (provision of information) omit “(and any other person notified in accordance with regulation 11(2)(a)(ii))”.

### **Amendments to Schedules 1 and 2 to the 2000 Regulations**

14.—(1) In Schedule 1 to the 2000 Regulations (descriptions of development for the purposes of the definition of Schedule 1 development)—

- (a) for “either of the following” substitute “any of the following”;
- (b) at the end of paragraph (1) omit “or”; and
- (c) at the end of paragraph (2) for “consent.” substitute—

“consent; or

(3) any change to or extension of development listed in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.”.

(2) In Schedule 2 to the 2000 Regulations (descriptions of development for the purposes of the definition of Schedule 2 development)—

- (a) omit paragraph (2);
- (b) at the end of paragraph (3) omit “or”; and
- (c) at the end of paragraph (4) for “this Schedule.” substitute—

“this Schedule; or

(5) any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph (3) of that Schedule) or this Schedule where that development is already authorised, executed, or in the process of being executed, and the change or extension may have significant adverse effects on the environment.”.

*Malcolm Wicks*

Minister of State for Energy and Sustainable Development  
Department for Business, Enterprise and Regulatory Reform

9th July 2007

## EXPLANATORY NOTE

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

These Regulations amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (S.I. 2000/1927) (“the 2000 Regulations”), which extend to England and Wales.

The 2000 Regulations implement Council Directive 85/337/EEC(a) of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (as amended by Council Directive 97/11/EC(b) of 3 March 1997) in relation to applications under sections 36 or 37 of the Electricity Act 1989 (c.29) in England and Wales for consent to construct, extend or operate a generating station or for consent to install or keep installed an electric line above ground.

These Regulations implement as regards the 2000 Regulations the amendments to Council Directive 85/337/EEC made by Article 3 of Directive 2003/35/EC(c) of the European Parliament and of the Council of 26 May 2003. Directive 2003/35/EC provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amends, with regard to public participation and access to justice, Council Directives 85/337/EEC and 96/61/EC(d).

Regulation 2 amends regulation 2 of the 2000 Regulations by inserting a definition for “additional information”. It also amends the definitions of “the consultative bodies”, “EEA State”, “environmental information”, “environmental statement” and “scoping opinion”.

Regulation 3 amends regulation 4 of the 2000 Regulations by adding to the list of procedures that must be followed before the Secretary of State may grant a section 36 or a section 37 consent.

Regulation 4 removes unnecessary wording from regulation 6 of the 2000 Regulations.

Regulation 5 amends regulation 7 of the 2000 Regulations as a consequence of the revised definitions of “the consultative bodies” and “scoping opinion” (see regulation 2 of these Regulations).

Regulation 6 amends regulation 8 of the 2000 Regulations as a consequence of the revised definition of “the consultative bodies”.

Regulation 7 amends regulation 9 of the 2000 Regulations. The amendments increase the information to be contained in the notice to be published where an environmental statement is submitted to the Secretary of State. The amendments also impose new requirements as to the timing of the publication of the notice and for publication of the notice in the London Gazette.

Regulation 8 amends regulation 10 of the 2000 Regulations. The amendments widen the range of documents to be placed on the planning register following receipt by the local planning authority. The amendments also increase the information to be included in the statement of the Secretary of State’s determination of the application and impose a new requirement for the applicant to publish notice of the determination in the London Gazette and in one or more local papers.

Regulation 9 amends regulation 11 of the 2000 Regulations. The amendments reflect the revised definition of “the consultative bodies” and require the applicant to serve a copy of the environmental statement on the local planning authority and to inform the Secretary of State when this has been done.

Regulation 10 amends regulation 12 of the 2000 Regulations. It amends the list of documents that the Secretary of State must send to any EEA State likely to be significantly affected by the proposed development.

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(a) OJ L 175, 5.7.1985, p.40  
(b) OJ L 073, 14.3.1997, p.5  
(c) OJ L 156, 25.6.2003, p.17  
(d) OJ L 257, 10.10.1996



Regulation 11 amends regulation 14 of the 2000 Regulations. The amendments impose a new requirement for the notice of further information to be published in the London Gazette and require the applicant to serve a copy of the further information together with a copy of the notice of further information on the local planning authority.

Regulation 12 inserts a new regulation 14A into the 2000 Regulations. The new regulation sets out the procedure which the Secretary of State must follow following receipt of “additional information” and the notice that the applicant must publish relating to “additional information”.

Regulation 13 amends regulation 15 of the 2000 Regulations as a consequence of the revised definition of “the consultative bodies”.

Regulation 14 amends Schedules 1 and 2 to the 2000 Regulations. The amendments concern the descriptions of development in respect of which an environmental statement is required.

An impact assessment covering changes to the 2000 Regulations (as well as the development consent regimes for pipe-line works and gas transporter pipe-line works) has been placed in the library of each House of Parliament. Copies can be obtained from the Energy Development Unit, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London, SW1H 0ET.

A Transposition Note has been prepared in connection with these Regulations and placed in the library of each House of Parliament. Copies can also be obtained from the Energy Development Unit, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London, SW1H 0ET.

The impact assessment and Transposition Note are also annexed to the Explanatory Memorandum, which is available alongside this instrument on the Office of Public Sector Information website: [www.opsi.gov.uk](http://www.opsi.gov.uk).

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STATUTORY INSTRUMENTS

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**ELECTRICITY, ENGLAND AND WALES**

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