

## EXPLANATORY NOTE

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

The Localism Act 2011 provided a new statutory regime for neighbourhood planning. These Regulations make provision in relation to that new regime.

Regulation 2 requires the Secretary of State to review the operation and effect of these Regulations and publish a report before Parliament within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Part 2 of the Regulations makes provision in relation to the procedure for designating a neighbourhood area, including the content of the application and what the local planning authority must do to publicise such an application (regulations 5 and 6).

Part 3 of the Regulations makes provision in relation to the procedure for designating an organisation or body as a neighbourhood forum, which authorises them to act in relation to the related neighbourhood area. In particular, provision is made as to the content of an application, what the local planning authority must do to publicise an application and publicising any designation of a neighbourhood forum (regulations 8 to 12).

Part 4 of the Regulations makes provision in relation to additional prescribed conditions a community organisation must satisfy in order to be a community right to build organisation. Including allowing anyone from the area to be a member of the organisation and ensuring that such members have majority voting rights for the body and prescribing the way profits must be used and assets distributed on a winding up (regulation 13).

Part 5 of the Regulations makes provision in relation to procedure for making neighbourhood development plans. These are plans which the parish council or neighbourhood forum propose and following a referendum, the local planning authority makes. In particular, provision is made as to the consultation and publicity prior to submission of a proposal to a local planning authority, the content of a proposal, what the local planning authority must do to publicise a proposal and their decision on a proposal, and for publicising any neighbourhood development plan which is made. (regulations 14 to 20)

Part 6 of the Regulations makes provision in relation to neighbourhood development orders (and community right to build orders, which are a particular type of neighbourhood development order). These orders grant planning permission in the area, they are proposed by the parish council or neighbourhood forum and following a referendum, made by the local planning authority. In particular, provision is made as to the consultation and publicity prior to submission of a proposal to a local planning authority, the content of a proposal, what the local planning authority must do to publicise a proposal and their decision on a proposal, and for publicising any neighbourhood development order (or community right to build order) which is made. (regulations 21 to 27)

Part 7 of the Regulations makes provision in relation to the exclusion of enfranchisement rights in relation to particular properties or types of properties in an area covered by a community right to build order. Enfranchisement rights may not be exercised by tenants in such areas where the proposal for the community right to build order specified this is to be the case. Landlords of properties in the area to which the exclusion applies are required to endorse the face of the lease or tenancy with a notice as to the exclusion. (regulations 28 and 29)

Part 8 of the Regulations makes provision in relation to the revocation or modification of neighbourhood development orders (including community right to build orders) and neighbourhood development plans. In particular, provision is made for publicising any modifications or revocations made. (regulations 30 and 31)

**Status:** Point in time view as at 06/04/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Neighbourhood Planning (General) Regulations 2012. (See end of Document for details)

Part 9 of the Regulations introduces Schedules 2 and 3, which make provision for compliance with the requirements of the Habitats Directive <sup>M1</sup> and the Environmental Impact Assessment Directive (“the EIA Directive”) <sup>M2</sup>. (regulations 32 and 33)

Schedule 1 sets out the two different lists of consultation bodies, paragraph 1 provides the list of consultees for neighbourhood development plans, and paragraph 2 provides the list of consultees for neighbourhood development orders and community right to build orders.

Schedule 2 makes provision in relation to the Habitats Directive. The Directive requires that any plan or project, likely to have a significant effect on a European site, must be subject to an appropriate assessment. To achieve this, paragraph 1 prescribes a basic condition that the making of a neighbourhood development plan is not likely to have a significant effect on a European site or a European offshore marine site. Paragraphs 2 to 5 of the Schedule amend the Conservation of Habitats and Species Regulations 2010 so as to apply its provisions to neighbourhood development orders and neighbourhood development plans. In particular paragraph 4 inserts new regulation 78A which provides that a neighbourhood development order may not grant planning permission for development which is likely to have a significant effect on a European site or a European offshore marine site.

Schedule 3 makes provision in relation to the EIA Directive. The Directive requires that EIA development must be subject to a development consent process. To enable this, Schedule 3 prescribes a basic condition that applies where development which is the subject of a proposal for a neighbourhood development order is of a type caught by the EIA Directive, and applies the relevant provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 <sup>M3</sup> (“the EIA Regulations”) with appropriate modifications (regulation 33 and paragraphs 1 to 4 and 6 of Schedule 3). Paragraphs 5 and 7 to 13 of Schedule 3 correct errors in the EIA Regulations.

An impact assessment has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and can be found on the Department for Communities and Local Government website ( <http://www.communities.gov.uk> ).

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