

**EXPLANATORY MEMORANDUM TO**  
**THE PUBLIC GAS TRANSPORTER PIPE-LINE WORKS (ENVIRONMENTAL**  
**IMPACT ASSESSMENT) (AMENDMENT) (ENGLAND) REGULATIONS 2014**

**2014 No. 557**

**1.** This explanatory memorandum has been prepared by Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument modifies the application of the Public Gas Transporter Pipe-Line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672) (“the 1999 Regulations”), so that the requirements under those regulations regarding environmental impact assessment do not apply to pipe-line works by a gas transporter which require development consent under the Planning Act 2008. Development consent is required for development to the extent that the development is or forms part of a nationally significant infrastructure project, as defined in the Planning Act 2008 (c. 29). The modification remove a duplication in the requirement for environmental impact assessment applying to a development under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (S.I. 2009/2263) (“the 2009 Regulations”), which apply to all developments where development consent is required.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 This instrument is being made as part of the government’s Red Tape Challenge programme, which involves removing and reforming areas of regulation. For more details, see the Policy Background section below.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 This Order is made as a result of the government's 'Red Tape Challenge' programme which sought the views of businesses and the public on the removal and reform of areas of regulation. DECC holds primary responsibility for the 'Red Tape Challenge Energy Theme' under which these revocations are being delivered.

7.2 Under the 1999 Regulations developers may apply directly to the Secretary of State for an environmental determination (also known as a "screening opinion") as to whether proposed gas transporter pipeline works would require an environmental impact assessment. In relation to development requiring development consent, however, there is a different procedure for obtaining a "screening opinion" under the 2009 Regulations, whereby developers make a request through the Planning Inspectorate, which manages some aspects of development consents on behalf of the Secretary of State. Developers have been at times confused as to which procedure applied. The removal of the duplication between the 1999 Regulations and the 2009 Regulations will save developers the costs of legal advice on the relevant regulations and remove confusion or duplication of requests.

- Consolidation

7.3 This is not a consolidation. Environmental impact assessment is a requirement under the Environmental Impact Assessment Directive 2011/92/EU. Agreement has recently been reached on significant amendments to the Directive, and new legislation to implement the amended Directive will be required, which may also give an opportunity for consolidation.

## **8. Consultation outcome**

8.1 No specific consultation concerning the Regulations was undertaken. As part of the Red Tape Challenge, every few weeks regulations affecting a specific sector or industry (as well as that of general regulations that cuts across sectors) is published by the Cabinet Office online (at this web address: <http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/>) for the public and stakeholders to suggest how they can be 'scrapped' or 'improved'. The principal public gas transporter in the UK proposed the amendment as part of the Energy Theme of the Red Tape Challenge. The department also ran an internal challenge process to identify measures which could be removed or reformed, which identified that these Regulations should be amended. Discussions with other public gas transporters in the UK indicated that the amendment would be welcomed.

## **9. Guidance**

9.1 No guidance is being produced to accompany these Regulations. It is a minor change requested by industry. The existing guidance on the Regulations covers requests to the Secretary of State for an environmental impact assessment screening opinion.

## **10. Impact**

10.1 The impact on business is to remove a minor source of confusion or potential duplication of regulations. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business, as no public gas transporter is a small business.

## **12. Monitoring & review**

12.1 As this is a minor amendment to an existing Order that implements EU legislation applied to public gas transporter pipelines, it is not necessary to monitor this regulation.

## **13. Contact**

Nick Cooper at the Department of Energy and Climate Change Tel: 0300 068 5687 or email: [nick.cooper@decc.gsi.gov.uk](mailto:nick.cooper@decc.gsi.gov.uk) can answer any queries regarding the instrument.