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STATUTORY INSTRUMENTS

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**2015 No. 627**

**The Planning (Hazardous Substances) Regulations 2015**

**PART 3**

**Hazardous substances consent procedures**

**Consultation before the grant of hazardous substances consent**

**10.**—(1) Except where the body or person concerned has notified the hazardous substances authority that they do not wish to be consulted, the authority must, before determining an application for hazardous substances consent, consult—

- (a) the COMAH competent authority;
- (b) the district or London borough council or county council concerned, where that council is not also the hazardous substances authority;
- (c) the parish council concerned;
- (d) the fire and civil defence authority concerned, where that authority is not also the hazardous substances authority;
- (e) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters)(**1**);
- (f) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc)(**2**);
- (g) where the land to which the application relates is within 2 kilometres of a royal palace, park or residence, the Secretary of State;
- (h) where the land to which the application relates is in an area designated as a new town, the development corporation for the new town;
- (i) where the land to which the application relates is situated within 2 kilometres of—
  - (i) an adjacent county, county borough, district or London borough, the council for that county, county borough, district or London borough;
  - (ii) the area of an adjacent fire authority and civil defence authority, that authority; or
  - (iii) an adjacent new town, the development corporation for the new town;
  - (iv) the area of a Scottish local authority, that authority;
- (j) where it appears to the hazardous substances authority dealing with the application that land in the area of any other hazardous substances authority may be affected, that authority;

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(1) 1986 c. 44; section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and subsection (2) was amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Part 1 of Schedule 6 to, the Utilities Act 2000 and by S.I. 2011/2704.

(2) 1989 c. 29; section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27), subsection (1)(b) was substituted by section 136(1) of the Energy Act 2004 (c. 20) and subsection (1)(c) was amended by section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004.

- (k) where the application relates to land in an area to which section 28(1) of the Wildlife and Countryside Act 1981(3) applies (sites of special scientific interest) or where it appears to the hazardous substances authority dealing with the application that an area of particular natural sensitivity or interest may be affected, in England, Natural England, or in Wales, the Natural Resources Body for Wales;
- (l) where the application relates to land in an area of coal working notified to the hazardous substances authority by the Coal Authority, the Coal Authority; and
- (m) where the application relates to land which is used for disposal or storage of controlled waste, the waste disposal authority concerned, where that authority is not also the hazardous substances authority.

(2) The hazardous substances authority must also, before determining an application for hazardous substances consent, consult any other persons, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the application, and who in the authority's opinion are unlikely to become aware of the application through the notices under regulation 6.

(3) When consulting under paragraph (1) or (2) of this regulation, the hazardous substance authority must within seven days of receiving an application—

- (a) notify in writing the body or person concerned that they have received an application for hazardous substances consent and inform them of the following matters:
  - (i) a description of the proposal and the address or location of the land to which the application relates;
  - (ii) where applicable, the fact that the proposal is, or is part of, a project that is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 14(3) of the Directive;
  - (iii) that the hazardous substances authority (from which relevant information can be obtained) will decide whether or not to grant consent, and if to grant, will decide on what conditions to grant;
  - (iv) that representations (including comments or questions) may be made to the hazardous substances authority;
  - (v) details of how such representations should be made and the time period for making representations, which must not be less than 28 days beginning with the day after the day on which the person or body is notified that a valid application has been received by the hazardous substances authority;
  - (vi) an indication of the times and places where, or means by which, relevant information will be made available; and
- (b) ensure that a copy of the application is available for inspection at the offices of the hazardous substances authority during the period or periods allowed for making representations.

(4) Where a hazardous substances authority is required to consult a body under—

- (a) paragraph (1)(a), or
- (b) paragraph (1)(k), where it appears to the authority that an area of particular natural sensitivity or interest may be affected,

the exception in paragraph (1) does not apply.

(5) In this regulation—

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(3) 1981 c. 69. Section 28 was substituted by paragraph 1 of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37) and amended by section 105(1) of, and paragraph 79 of Part 1 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16) and paragraph 2 of Part 2 of Schedule 13 to the Marine and Coastal Access Act 2009 (c. 23).

“area of particular natural sensitivity or interest” has the same meaning as it has for the purposes of the Directive;

“controlled waste” has the meaning given to that expression by section 75(4) of the Environmental Protection Act 1990<sup>(4)</sup> and “waste disposal authority” is to be construed in accordance with section 30(2)<sup>(5)</sup> of that Act;

“county”, “county borough” and “district” have the same meanings as in the Local Government Act 1972; and

“Scottish local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(6)</sup>.

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(4) 1990 c. 43. Section 75(1) was amended by S.I. 2006/937. Section 75(2) was amended by S.I. 2011/988.

(5) There are amendments to this section, none of which are relevant to these Regulations.

(6) 1994 c.39. Section 2 was amended by paragraph 232(1) of Schedule 22 to the Environment Act 1995 (c. 25).