

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT
ASSESSMENT) (AMENDMENT) REGULATIONS 2015

2015 No. 660

1. This Explanatory Memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 Proposals for development which exceed certain thresholds must be screened by local planning authorities or the Secretary of State for likely significant environmental effects to determine whether an environmental impact assessment is required. These Regulations raise the size thresholds for screening urban development and industrial estate projects.

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

3.1 None

4. **Legislative Context**

4.1 These regulations amend the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the ‘2011 Regulations’) which implement the European Directive on the assessment of the effects of certain public and private projects on the environment¹ (which is usually referred to as the “Environmental Impact Assessment Directive”) in so far as it applies to the planning system in England. The Directive requires that before granting development consent (such as planning permission), projects which are likely to have significant effects on the environment must be subject to a procedure known as an environmental impact assessment.

5. **Territorial Extent and Application**

5.1 This instrument makes changes to the 2011 Regulations which apply to England only.

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.

¹ Directive 2011/92/EU, OJ L26/1 28.1.2012

7. Policy background

- What is being done and why

7.1 A European Union Directive, the Environmental Impact Assessment Directive requires that before granting development consent (such as planning permission), projects which are likely to have significant effects on the environment must be subject to a procedure known as an environmental impact assessment. The procedure goes beyond that normally required for a planning application under England's planning system. For certain types of project, including those that are subject to these Regulations, the Directive allows national Governments to set thresholds or criteria and/or to have case by case screening for determining whether projects are likely to have significant environmental effects. Since 1999, the approach used in England (and the rest of the United Kingdom) has been to set in regulations thresholds above which relevant projects have to be subject to case by case screening by local planning authorities, and also in some cases by the Secretary of State, for likely significant effects.

7.2 For some project types, such as urban development projects and in particular housing, the thresholds were set at a level which means that many projects which are not likely to give rise to significant effects are subject to screening and in some cases an environmental impact assessment. This increases the workload of developers, local planning authorities and the consultation bodies, adding cost and creating delays. This is an unnecessary burden on local planning authorities and developers and can delay without need the planning application process for these projects.

7.3 These Regulations raise the screening thresholds for certain types of development. In the case of dwelling house developments, the effect of the changes is that screening will be required where the development exceeds 5 hectares; includes more than 150 dwellings; or includes more than 1 hectare of urban development which is not dwelling house development. For other urban development (i.e. which does not involve dwelling houses) screening will be required where the area of the development exceeds 1 hectare. In the case of industrial estate development screening will be required where the area of the development exceeds 5 hectares. The aim of raising the thresholds is to remove gold-plating, reduce costs and provide more certainty for all interested parties. It is estimated that this will almost halve the number of screening decisions adopted by local planning authorities.

7.4 The Government assessed whether there were approaches other than through changes to legislation which would address the problem of projects being screened unnecessarily. However, as local planning authorities are required to screen projects above the regulatory thresholds, the only means of reducing the number of projects which are screened is to change the Regulations.

- Consolidation

7.5 This is not a consolidation. The 2011 Regulations were consolidated in 2011 and will be replaced by 16 May 2017 to implement a revised Directive on environmental impact assessment.²

8. Consultation outcome

8.1 The proposals were one of a series of measures which were included in a technical consultation on planning which ran from 31 July until 26 September 2014. There were 327 responses to the section dealing with environmental impact assessment, of which 60% were from public authorities and in particular from local planning authorities. A majority of respondents (69%) agreed that the existing thresholds for urban development and industrial estate development which are outside of sensitive areas are unnecessarily low. A report on the consultation was published at this web address: <https://www.gov.uk/government/consultations/technical-consultation-on-planning>.

8.2 In light of consultation responses, the initial proposal for the threshold for dwellinghouse development (i.e. where the area exceeds 5 hectares) was extended to include projects which include more than 150 dwellings. This is to take account of particularly high density housing schemes such as those involving high rise developments including tower blocks.

9. Guidance

9.1 Guidance on environmental impact assessment forms part of the Planning Practice Guidance issued by the Department for Communities and Local Government³. The guidance will be updated to take account of these regulations.

10. Impact

10.1 There will be cost and time saving to business. There are no impacts on charities or voluntary bodies.

10.2 The impact on the public sector is to reduce the number of projects that local planning authorities are required to screen.

10.3 A Validation Impact Assessment will be published alongside the Explanatory Memorandum on the legislation.gov website.

11. Regulating small business

² Directive 2014/52/EU

³ <http://planningguidance.planningportal.gov.uk/blog/guidance/environmental-impact-assessment/>

11.1 The legislation applies to small business and in relevant cases will bring cost savings and reduce the time taken to make a planning application.

12. Monitoring & review

12.1 There is a legislative requirement to review the 2011 Regulations within 5 years of the date on which those regulations came into force. The impact of the 2011 Regulations, including with the amendments now being made, will be subject to review and the results will be taken into account when the 2011 Regulations are replaced to implement the amended Environmental Impact Assessment Directive.

13. Contact

13.1 Tom Simpson at the Department for Communities and Local Government Tel: 0303 444 1704 or email: tom.simpson@communities.gsi.gov.uk can answer any queries regarding the instrument.