

**2015 No. 760**

**INFRASTRUCTURE PLANNING**

**The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) (Amendment) Regulations 2015**

<i>Made</i> - - - -	<i>18th March 2015</i>
<i>Laid before Parliament</i>	<i>23rd March 2015</i>
<i>Coming into force</i> - -	<i>14th July 2015</i>

The Secretary of State, in exercise of the powers conferred by section 4 of, and paragraphs 2(5), (8) and (8A), and 4(1), (4), and (5A) of Schedule 6 to, the Planning Act 2008(a), makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) (Amendment) Regulations 2015 and come into force on 14th July 2015.

(2) In these Regulations, “the 2011 Regulations” means the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011(b).

**Amendments to the 2011 Regulations relating to applications for a change, which is not material, to a development consent order**

2. Part 1 of the 2011 Regulations (application for a change, which is not material, to a development consent order) is amended in accordance with regulation 3.

3.—(1) In regulation 4—

(a) before paragraph (2)(g), insert—

“(ff) the consultation and publicity statement referred to in regulation 7A;”;

(b) in paragraph (3), omit “(not smaller than 1:2500)”; and

(c) after paragraph (4), insert—

“(4A) Subject to paragraph (4B), unless the Secretary of State specifies otherwise any plans, drawings or sections required to be provided under paragraph (2) shall be provided at a scale not smaller than 1:2500.

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(a) 2008 c.29. Section 4 was amended by section 128 of, and paragraph 3 of Schedule 13 to, the Localism Act 2011 (c. 20). Paragraph 2 of Schedule 6 to the Planning Act was amended by section 128 of, and paragraph 72 of Schedule 13 to, the Localism Act 2011 and by section 237 of, and paragraph 1 of Schedule 25 to, that Act. Paragraph 2(8A) was inserted by section 28 of the Infrastructure Act 2015 (c.7). Paragraph 4 of Schedule 6 was amended by section 128 of, and paragraph 72 of Schedule 13 to, the Localism Act 2011 and by section 237 of, and paragraph 1 of Schedule 25 to, that Act. Paragraph 4(5A) was inserted by section 28 of the Infrastructure Act (c.7).

(b) S.I. 2011/2055. Amendments were made to S.I. 2011.2055 by S.I. 2012/635.

(4B) Paragraph (4A) does not apply to a plan or to a sheet of a plan where the matters shown or identified on the plan or sheet are entirely in the UK marine area.

(4C) In paragraph (4B), “UK marine area” has the same meaning as in section 42 of the Marine and Coastal Access Act 2009(a).”

(2) For regulation 5, substitute—

**“Fee for application**

**5.**—(1) The Secretary of State must charge the applicant a fee of £6,891 in respect of an application.

(2) The fee must be paid at the same time that the application is made.

(3) If the applicant fails to pay the fee the Secretary of State need not consider the application until payment is received by the Secretary of State.”

(3) In regulation 6—

(a) in paragraph (1), for “Secretary of State” substitute “applicant”;

(b) for paragraph (1)(b) substitute—

“(b) in any other publication necessary in order to ensure that notice of the application is given in the vicinity of the land.”;

(c) for paragraph (2)(b), substitute “a statement that the applicant is seeking, by way of an application to the Secretary of State, a change to be made to a development consent order which is not material”; and

(d) for paragraph (2)(d) substitute—

“(d) a statement that any documents, plans and maps showing the nature and location of the land, and accompanying the application, are available for inspection on a website and also, free of charge, at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice;”.

(4) In regulation 7—

(a) in paragraph (1) for “Secretary of State” substitute “applicant”;

(b) for paragraph (2)(c) substitute—

“(c) any other person who may be directly affected by the changes proposed in the application.”; and

(c) for paragraph (3) substitute—

“(3) The applicant need not consult a person or authority specified above if they have obtained the written consent of the Secretary of State.”

(5) After regulation 7, insert—

**“Consultation and publicity statement**

**7A.**—(1) The applicant must provide the Secretary of State with—

(a) a copy of the notice referred to in regulation 6; and

(b) a statement setting out details of the steps the applicant has taken to comply with the requirements of regulations 6 and 7.

(2) If the applicant fails to provide the Secretary of State with the items referred to in paragraph (1), the Secretary of State need not consider the application until those items have been received by the Secretary of State.”

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(a) 2009 c.23.

**Amendments relating to applications to change, or revoke, an order granting development consent under paragraphs 3(1), 3(4), and 3(5) of Schedule 6 to the Planning Act 2008**

4. Part 2 of the 2011 Regulations (“changes to, and revocation of, orders granting development consent under paragraphs 3(1), 3(4), and 3(5) of Schedule 6 to the Act”) is amended in accordance with regulation 5.

5.—(1) In regulation 10—

(a) for paragraph (1)(a), substitute—

“(a) each person who may be directly affected by the changes proposed in the application;”; and

(b) for paragraph (2) substitute—

“(2) The applicant need not consult a person or authority listed above if they have obtained the written consent of the Secretary of State.”

(2) Omit regulation 13.

(3) In regulation 14—

(a) omit paragraph (1)(b);

(b) for paragraph (4), substitute—

“(4) Where the change in the proposed application consists of, or includes, works with a route or alignment exceeding 5 kilometres in length the notice, which must include the matters specified in paragraph (2) of this regulation, must be—

(a) displayed at intervals of not more than 5 kilometres along the whole proposed route or alignment of the works described in the application, except where this is impracticable due to the land in question being covered in water; and

(b) be published for at least 2 successive weeks in one or more local newspapers circulating in the vicinity of the land along the route or alignment of the works described in the application.”; and

(c) for paragraph (5) substitute—

“(5) The applicant need not publish, or arrange for, a notice of a proposed application in the manner specified in paragraph (4), if they have obtained the written consent of the Secretary of State.”

(4) In regulation 15—

(a) at the end of paragraph (3)(a), after the semi-colon, insert “or”; and

(b) omit paragraph (3)(b).

(5) In regulation 16—

(a) in paragraph (2)(n), omit “(not smaller than 1:2500)”;

(b) after paragraph (2), insert—

“(2A) Subject to paragraph (2B), unless the Secretary of State specifies otherwise any plans, drawings or sections required to be provided under paragraph (2) shall be provided at a scale not smaller than 1:2500.

(2B) Paragraph (2A) does not apply to a plan or to a sheet of a plan where the matters shown or identified on the plan or sheet are entirely in the UK marine area.”; and

(c) in paragraph (4)—

(i) at the end of the definition of “consultation report”, after the semi-colon, omit “and”;

(ii) at the end of the definition of “relevant response”, omit the full-stop and insert “; and”;

(iii) after the definition of “relevant response” insert—

““UK marine area” has the same meaning as in section 42 of the Marine and Coastal Access Act 2009.”

(6) In regulation 19, for paragraph (3) substitute—

“(3) The applicant need not give notice of an application to a person or authority listed above if they have obtained the written consent of the Secretary of State.”

(7) After regulation 21, insert—

**“Cases where the Secretary of State is of the view that examination is not necessary**

**21A.**—(1) Where the Secretary of State is of the view, in light of relevant representations received in pursuance of regulations 19 and 20, that it is not necessary for an Examining body to examine the application the Secretary of State must—

- (a) give notice of that fact to—
  - (i) the applicant; and
  - (ii) each person who has made a relevant representation under regulation 19 or 20; and
- (b) publicise on a website maintained for the purpose any relevant representation made under regulations 19 and 20.

(2) A notice given under paragraph (1)(a) must include—

- (a) a statement to the effect that the Secretary of State is of the view that it is not necessary for an Examining body to examine the application;
- (b) a statement setting out the Secretary of State’s reasons as to why the Secretary of State considers that this is not necessary;
- (c) a statement that any representations made under regulations 19 and 20 have been publicised on a website;
- (d) details of how to make further representations about the application; and
- (e) a deadline for receipt by the Secretary of State of those representations being not less than 28 days following the date of the notice.

**Deciding an application without examination**

**21B.**—(1) The Secretary of State may decide an application without examination by an Examining body if the Secretary of State is satisfied that this is not necessary in light of relevant representations received—

- (a) under regulations 19 and 20; and
- (b) in response to the notice served in accordance with regulation 21A(1)(a).

(2) Where the Secretary of State decides that it is not necessary for an Examining body to examine the application, the Secretary of State must—

- (a) issue a notice of the decision not to examine the application to—
  - (i) the applicant;
  - (ii) all those who in accordance with regulation 19 have been notified about the application; and
  - (iii) any other person who has made a relevant representation about the application;
- (b) publish the reasons for the decision on a website maintained for the purpose; and
- (c) publicise on a website maintained for the purpose any representations made in respect of the application.

(3) In cases where an application is not examined by an Examining body in accordance with regulation 21B(1), regulations 22 to 45, 46, 47(10)(b), and 52(2)(h) do not apply.”

(8) In regulation 22, before paragraph (2) insert—

“(1A) This regulation applies where the Secretary of State decides that it is necessary for an Examining body to examine the application.”

(9) In regulation 36 for paragraph (6)(d), substitute—

“(d) where the proposed application relates to development which consists of, or includes, works with a route or alignment exceeding 5 kilometres in length the notice of the hearing must be—

- (i) displayed at intervals of not more than 5 kilometres along the whole proposed route or alignment of the works described in the application, except where this is impracticable due to the land in question being covered by water; and
- (ii) be published for at least two successive weeks in one or more local newspapers circulating in the vicinity of the land along the route or alignment of the works described in the application.”

(10) In regulation 42, in paragraph (2) for “6 months” substitute “4 months”.

(11) In regulation 43, in paragraph (2) for “3 months” substitute “2 months”.

(12) In regulation 49—

(a) before paragraph (2) insert—

“(1A) Where the Secretary of State has served a notice under regulation 21B(2)(a) in respect of an application, the Secretary of State must decide the application by the end of the period of 2 months beginning with the date of that notice.”; and

(b) in paragraph (2)—

- (i) for “The Secretary of State” substitute “In other cases, the Secretary of State”; and
- (ii) for “3 months” substitute “2 months”.

#### **Amendments to Schedule 2 (fees) of the 2011 Regulations**

6. Schedule 2 to the 2011 Regulations is amended in accordance with regulation 7.

7.—(1) In paragraph 3(1) for “The Secretary of State” substitute “In cases where the Secretary of State decides that it is necessary to appoint an Examining body, the Secretary of State”.

(2) In paragraph 4(1) for “The Secretary of State” substitute “Where applicable, the Secretary of State”.

#### **Transitional provision**

8. The amendments made by these Regulations do not apply in respect of applications under paragraphs 2(1) or 3(1) of Schedule 6 to the Planning Act 2008 made to the Secretary of State before 14th July 2015.

Signed by authority of the Secretary of State for Communities and Local Government

*Brandon Lewis*  
Minister of State

18th March 2015

Department for Communities and Local Government

#### **EXPLANATORY NOTE**

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

These Regulations amend the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (“the 2011 Regulations”). The 2011 Regulations set out procedural provisions in respect of applications under Schedule 6 of the Planning Act 2008 to change, or revoke, an order granting development consent (“development consent orders”) for a nationally significant infrastructure project.

The main changes to the 2011 Regulations in respect of applications for a change, which is not material, to a development consent order are:

- the minimum scale requirement for plans that show offshore matters is removed; and
- the obligation to publicise, and consult on, an application is placed on an applicant rather than on the Secretary of State.

The main changes to the 2011 Regulations in respect of applications for a change to, or revocation of a development consent order are:

- the requirement, in respect of a proposed application, to consult every person that was consulted about the original application for a development consent order is replaced with a required to consult each person who may be directly affected by the changes proposed;
- the requirement to prepare a statement of community consultation and to consult the local community in accordance with that statement is removed;
- the minimum scale requirement for plans that show offshore matters is removed;
- the Secretary of State is given the power to decide not to hold an examination in respect of an application, and procedural provisions in respect of how such a decision is to be taken are set out; and
- prescribed time limits in respect of procedural stages of an application are reduced. The Examining body has 3 months to complete its examination of an application (where one takes place), and 2 months to make a written report to the Secretary of State. The Secretary of State has 2 months within which to make a decision on an application.

An impact assessment has been prepared in respect of these regulations and is available alongside the instrument on the website [www.legislation.gov.uk](http://www.legislation.gov.uk). Copies of the assessment have been placed in the Library of each House of Parliament, and copies may be obtained from the Department for Communities and Local Government, Planning: Infrastructure and Environment Division, Fry Building, 2 Marsham Street, London, SW1P 4DF.

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