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STATUTORY INSTRUMENTS

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**2017 No. 403**

**The Town and Country Planning (Brownfield  
Land Register) Regulations 2017**

**Exemptions for certain types of land**

**14.**—(1) A local planning authority must not enter land in Part 2, where residential development of that land could be Schedule 1 development.

(2) A local planning authority must not enter land in Part 2, where residential development of that land could be Schedule 2 development, unless—

- (a) the local planning authority—
  - (i) have the information listed in paragraphs (2)(a) and (b) of regulation 5 of the EIA Regulations 2011,
  - (ii) have specified the maximum net number of dwellings which in their opinion the land is capable of supporting,
  - (iii) are of the view that the information and specified number referred to in paragraphs (i) and (ii) respectively, together with any such other information they may have about residential development of the land, are sufficient for them to adopt a screening opinion under regulation 5 of the EIA Regulations 2011, and
  - (iv) adopt a screening opinion under regulation 5 of the EIA Regulations 2011 that potential residential development up to and including the number of dwellings referred to in paragraph (ii) will not be EIA development;
- (b) the Secretary of State has made a screening direction under paragraph (3) of regulation 4 or paragraph (4) of regulation 6 of the EIA Regulations 2011 that the development is not EIA development; or
- (c) the Secretary of State has made a direction under paragraph (4) of regulation 4 of the EIA Regulations 2011 that the development is exempted from the application of those Regulations.

(3) For the purposes of paragraph (2)(a), regulation 5 (requests for screening opinions of the local planning authority) of the EIA Regulations 2011 applies with the following modifications—

- (a) as if a person had requested the local planning authority to adopt a screening opinion and had provided them with the information referred to in paragraph (2) of that regulation;
- (b) as if the potential residential development of the land, for the maximum net number of dwellings, were an application for planning permission;
- (c) paragraph (5) were omitted and replaced by—

“(5) An authority may adopt a screening opinion.”; and
- (d) paragraphs (3) to (4) and (6) to (8) were omitted.

(4) A local planning authority must not enter land in Part 2 where residential development of that land could be habitats development, unless—

- (a) they have specified the maximum net number of dwellings which in their opinion the land is capable of supporting; and

- (b) they are satisfied that development up to and including that number would not be habitats development.

(5) In this regulation—

“EIA development” has the same meaning as in paragraph (1) of regulation 2 of the EIA Regulations 2011;

“the EIA Regulations 2011” means the Town and Country Planning (Environmental Impact Assessment) Regulations 2011<sup>(1)</sup>;

“habitats development” means development which—

- (a) is likely to have a significant effect on a qualifying European site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site;

“qualifying European site” means—

- (a) a European offshore marine site within the meaning of regulation 15 of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007<sup>(2)</sup>; or
- (b) a European site within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010<sup>(3)</sup>; and

“Schedule 1 development” and “Schedule 2 development” have the same meaning as in paragraph (1) of regulation 2 of the EIA Regulations 2011.

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<sup>(1)</sup> 2011/1824, amended by S.I.s 2012/637, 2013/2140 and 2013/2879.

<sup>(2)</sup> S.I. 2007/1842, regulation 15 was amended by S.I. 2012/1928.

<sup>(3)</sup> S.I. 2010/490, regulation 8 was amended by S.I. 2012/1927.