
STATUTORY INSTRUMENTS

1995 No. 417

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**

**The Town and Country Planning (Environmental
Assessment and Permitted Development) Regulations 1995**

Made - - - - 22nd February 1995
Laid before Parliament 6th March 1995
Coming into force - - 3rd June 1995

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, being designated⁽¹⁾ Ministers for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on them by the said section 2, hereby make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Environmental Assessment and Permitted Development) Regulations 1995 and shall come into force on 3rd June 1995.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“prospective developer” means a person, other than a relevant planning authority or a person who intends to undertake development with such an authority (whether or not with any other person), who is minded to undertake development which appears to him to be relevant development;

“relevant development” means development of any description specified in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995⁽³⁾ other than development of any description specified in article 3(12) of that Order;

(1) S.I. 1988/785.
(2) 1972 c. 68.
(3) S.I. 1995/418.

“relevant planning authority” means the body by whom, assuming no direction were given under section 77 of the Town and Country Planning Act 1990(4), an application for planning permission in respect of the development concerned would be determined;

“Schedule 1” means Schedule 1 to the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988(5); and

“Schedule 2” means Schedule 2 to those Regulations.

Opinion as to need for environmental statement

3.—(1) A prospective developer may apply to the relevant planning authority for their opinion as to whether the relevant development specified in the application is within a description mentioned in Schedule 1 or Schedule 2, and, if so, within which description, and if within a description mentioned in Schedule 2, whether it would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

(2) An application under paragraph (1) shall be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development and of its possible effects on the environment;
- (c) such other information or representations as the prospective developer may wish to provide or make.

(3) An authority which receives an application under paragraph (1) shall, if they consider that they have not been provided with sufficient information to give an opinion on the questions raised, notify the prospective developer of the particular points on which they require further information; and the information so requested shall be provided within such reasonable period as may be specified in the notice or such longer period as may be agreed in writing between the authority and the prospective developer.

(4) The authority shall give to the prospective developer written notice of their opinion within the period of 3 weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the prospective developer; and if it is their opinion that the relevant development is—

- (a) within a description mentioned in Schedule 1, or
- (b) within a description mentioned in Schedule 2 and likely to have significant effects on the environment,

they shall provide with the opinion a written statement of their reasons for being of that opinion.

Directions by the Secretary of State

4.—(1) Where an authority—

- (a) give an opinion in the terms mentioned in regulation 3(4)(a) or (b); or
- (b) fail to give an opinion within the period specified or agreed (as the case may be) for the purposes of regulation 3(4),

the prospective developer may apply to the Secretary of State, in accordance with the following provisions of this regulation, for his direction on the matter.

(2) An application under this regulation shall be accompanied by—

(4) 1990 c. 8. Section 77 was amended by the Planning and Compensation Act 1991 (c. 34), Schedule 7, paragraph 18.

(5) S.I. 1988/1199; S.I. 1990/367 and 1994/677 are relevant amending instruments.

- (a) a copy of the application under regulation 3(1) and of the documents which accompanied it;
- (b) a copy of the notice (if any) given by the authority under regulation 3(3) and of the information (if any) supplied in response to that notice;
- (c) a copy of the authority's opinion (if any) and of the statement of reasons which accompanied it; and
- (d) such additional information or representations as the prospective developer may wish to provide or make.

(3) The prospective developer shall send to the relevant planning authority, at such time as he applies to the Secretary of State, a copy of the application under this regulation and of any additional information or representations made in accordance with paragraph (2)(d).

(4) If the Secretary of State considers that the information provided in accordance with paragraph (2) is insufficient to enable him to give a direction, he shall notify the prospective developer and the relevant planning authority of the matters in respect of which he requires further information; and the information so requested shall be provided by the prospective developer within such reasonable period as may be specified in the notice or such longer period as may be agreed in writing between the prospective developer and the Secretary of State.

(5) The Secretary of State shall issue a direction within the period of three weeks beginning with the date of receipt of the application or such longer period as he may reasonably require.

(6) The Secretary of State shall send a copy of his direction to the prospective developer and to the relevant planning authority; and where he concludes that the development is—

- (a) within a description mentioned in Schedule 1; or
- (b) within a description mentioned in Schedule 2 and likely to have significant environmental effects,

he shall send with the copy of the direction a written statement of the reasons for his conclusion.

Proposed development in which a relevant planning authority has an interest

5.—(1) For the purposes of this regulation, “developer” means—

- (a) a relevant planning authority who are minded to undertake development (whether alone or with another or others) which appears to them to be relevant development; or
- (b) a person who is minded to undertake development with a relevant planning authority (whether or not with any other person) which appears to him to be relevant development.

(2) A developer may apply in writing to the Secretary of State for an opinion as to whether the development is within a description mentioned in Schedule 1 or Schedule 2, and, if so, within which description, and if within a description mentioned in Schedule 2, whether it would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

(3) An application under paragraph (2) shall be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the relevant development and of its possible effects on the environment;
- (c) such other information or representations as the developer may wish to provide or make.

(4) If the Secretary of State considers that the information provided in accordance with paragraph (3) is insufficient to enable him to give an opinion, he shall notify the developer and, where that person is not the relevant planning authority, that authority, of the matters in respect of which he requires further information; and the information so requested shall be provided by the

developer within such reasonable period as may be specified in the notice or such longer period as may be agreed in writing between the developer and the Secretary of State.

(5) The Secretary of State shall give to the developer written notice of his opinion within the period of 3 weeks beginning with the date of receipt of the application or such longer period as he may reasonably require; and if it is his opinion that the relevant development is—

- (a) within a description mentioned in Schedule 1, or
- (b) within a description mentioned in Schedule 2 and likely to have significant effects on the environment,

he shall provide with the opinion a written statement of his reasons for being of that opinion.

(6) Where the developer is not the relevant planning authority, the Secretary of State shall send to that authority a copy of the opinion and of the statement of reasons (if any) given in accordance with paragraph (5).

Public inspection of opinions and directions

6.—(1) The relevant planning authority shall make available for public inspection at all reasonable hours at the place where the appropriate register (or relevant section of that register) is kept a copy of—

- (a) every opinion given by the authority under regulation 3;
- (b) the accompanying statement of reasons (if any);
- (c) the application to which the opinion relates;
- (d) the documents which accompanied the application;
- (e) every direction or opinion received by the authority under regulation 4 or 5; and
- (f) the statement of reasons (if any) accompanying each such direction or opinion,

and those copies shall remain so available for a period of two years or until particulars of the opinion or direction are entered in Part I of the register in accordance with paragraph (2), whichever is the sooner.

(2) Where particulars of an application for planning permission are entered in Part I of the appropriate register, the local planning authority shall take steps to secure that that Part also contains such particulars of—

- (a) any opinion given under regulation 3; and
- (b) any direction or opinion given under regulation 4 or 5,

as are relevant to the development which is the subject of the application.

(3) In this regulation, “appropriate register” means the register kept pursuant to section 69 of the Town and Country Planning Act 1990(6) on which particulars of an application for planning permission for the development concerned are required to be entered.

21st February 1995

John Selwyn Gummer
Secretary of State for the Environment

(6) Section 69 was amended by the Planning and Compensation Act 1991 (c. 34), Schedule 7, paragraph 13.

22nd February 1995

John Redwood
Secretary of State for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are concerned with the further implementation in England and Wales of Council Directive [85/337/EEC](#) (OJNo. L175, 5.7.85, p 40).

Article 3(10) of the Town and Country Planning (General Permitted Development) Order 1995 (S.I.1995/418) excludes certain descriptions of development (which, if they were the subject of an application for planning permission, would require environmental assessment, in accordance with the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 (“the Environmental Assessment Regulations”), before permission could be granted) from the descriptions of development for which planning permission would otherwise be granted by article 3(1).

Regulation 3 of these Regulations enables a person (other than a relevant planning authority or a person who proposes to undertake development jointly with such an authority) who is minded to undertake what appears to him to be development for which planning permission might, but for article 3(10) of the Order, be granted by article 3(1) to seek an opinion from the authority as to whether an application for the proposed development would be a Schedule 1 application or a Schedule 2 application within the meaning of the Environmental Assessment Regulations.

Regulation 4 enables a person who has obtained an opinion under regulation 3 that an application for the development concerned would be a Schedule 1 application or a Schedule 2 application to refer the matter to the Secretary of State for his direction.

Where the prospective developer is the relevant planning authority or a person who proposes to undertake development jointly with that authority, regulation 5 enables the authority or that person to seek an opinion from the Secretary of State as to whether an application for the proposed development would be a Schedule 1 application or a Schedule 2 application within the meaning of the Environmental Assessment Regulations.

Regulation 6 requires authorities to make available for public inspection copies of opinions, directions and statements of reasons given for the purposes of the Regulations.

A Compliance Cost Assessment has been prepared in connection with these Regulations and article 3(10) of the Town and Country Planning (General Permitted Development) Order 1995. It has been placed in the Libraries of the Houses of Parliament. Copies may be obtained from PD5A Division, Room C15/03, Department of the Environment, 2 Marsham Street, London SW1P 3EB (Telephone 0171-276 3865) or from the Planning Division, Welsh Office, Cathays Park, Cardiff, CF1 3NQ (Telephone 01222 823882).