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STATUTORY INSTRUMENTS

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**1999 No. 293**

**The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999**

**PART IX**

**MISCELLANEOUS**

**Service of notices etc.**

**29.** Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 329 (service of notices).

**Application to the High Court**

**30.** For the purposes of Part XII of the Act (validity of certain decisions), the reference in section 288 to action of the Secretary of State which is not within the powers of the Act shall be taken to extend to a grant of planning permission by the Secretary of State in contravention of regulations 3 or 25(1).

**Hazardous waste and material change of use**

**31.** A change in the use of land or buildings to a use for a purpose mentioned in paragraph 9 of Schedule 1 involves a material change in the use of that land or those buildings for the purposes of paragraph (1) of section 55 (meaning of “development” and “new development”).

**Extension of the period for an authority’s decision on a planning application**

**32.—(1)** In determining for the purposes of section 78 (right to appeal against planning decisions and failure to take such decisions) the time which has elapsed without the relevant planning authority giving notice to the applicant of their decision in a case where—

- (a) the authority have notified an applicant in accordance with regulation 7(2) that the submission of an environmental statement is required; and
- (b) the Secretary of State has given a screening direction in relation to the development in question,

no account shall be taken of any period before the issue of the direction.

(2) Where it falls to an authority to determine an EIA application, article 20 (time periods for decision) of the Order shall have effect as if—

- (a) for the reference in paragraph (2)(a) of that article to a period of 8 weeks there were substituted a reference to a period of 16 weeks;
- (b) after paragraph (3)(b) of that article there were inserted—

“(ba) the environmental statement required to be submitted in respect of the application has been submitted, together with the documents required to accompany that statement; and.”

### **Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with**

**33.** The provisions enabling the Secretary of State to give directions which may be included in a development order by virtue of section 60 (permission granted by development order) shall include provisions enabling him to direct that development which is both of a description mentioned in Column 1 of the table in Schedule 2, and of a class described in the direction is EIA development for the purposes of these Regulations.

### **Revocation of Statutory Instruments and transitional provisions**

**34.—(1)** The instruments in Schedule 5 are hereby revoked to the extent shown in that Schedule.

(2) Nothing in paragraph (1) shall affect the continued application of the Instruments revoked by that paragraph to any application lodged or received by an authority before the commencement of these Regulations, to any appeal in relation to such an application, or to any matter in relation to which a local planning authority has before that date issued an enforcement notice under section 172; and these Regulations shall not apply to any such application, appeal, or matter.

### **Miscellaneous and consequential amendments**

**35.—(1)** In section 55(2)(b) of the Act after the words “improvement of the road” there are inserted the words “but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment”.

(2) In Article 3(6) (Use Classes) of the Town and Country Planning (Use Classes) Order 1987(1), after sub-paragraph (i) there are inserted the words:

“(j) as a waste disposal installation for the incineration, chemical treatment (as defined in Annex IIA to Directive 75/442/EEC(2) under heading D9), or landfill of waste to which Directive 91/689/EEC(3) applies.”

(3) For paragraphs (10) and (11) of article 3 (permitted development) of the Town and Country Planning (General Permitted Development) Order 1995(4) there is substituted—

“(10) Subject to paragraph (12), Schedule 1 development or Schedule 2 development within the meaning of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (“the EIA Regulations”) is not permitted by this Order unless:

- (a) the local planning authority has adopted a screening opinion under regulation 5 of those Regulations that the development is not EIA development;
- (b) the Secretary of State has made a screening direction under regulation 4(7) or 6(4) of those Regulations that the development is not EIA development; or
- (c) the Secretary of State has given a direction under regulation 4(4) of those Regulations that the development is exempted from the application of those Regulations.

(1) [S.I. 1987/764](#). Relevant amending instruments are [S.I. 1991/1567](#), [S.I. 1992/610](#), and [S.I. 1994/724](#).

(2) O.J. No. L 194, 25.7.1975, p. 39. Council Directive [75/442/EEC](#) was amended by Council Directive [91/156/EEC](#) (O.J. No. L 78, 26.3.1991, p. 32), and by Commission Decision [94/3/EC](#) (O.J. No. L5, 7.1.1994, p.15).

(3) O.J. No. L 337, 31.12.1991, p. 20. Council Directive [91/689/EEC](#) was amended by Council Directive [94/31/EC](#) (O.J. No. L 168, 2.7.1994, p. 28).

(4) [S.I. 1995/418](#), to which there are amendments not relevant to these Regulations.

(11) Where:

(a) the local planning authority has adopted a screening opinion pursuant to regulation 5 of the EIA Regulations that development is EIA development and the Secretary of State has in relation to that development neither made a screening direction to the contrary under regulation 4(7) or 6(4) of those Regulations nor directed under regulation 4(4) of those Regulations that the development is exempted from the application of those Regulations; or

(b) the Secretary of State has directed that development is EIA development, that development shall be treated, for the purposes of paragraph (10), as development which is not permitted by this Order.”

(4) For the words “3rd June 1995” in articles 3(12)(e) and 3(12)(f) of the Town and Country Planning (General Permitted Development) Order 1995 there are substituted the words “14th March 1999”.

(5) For Class A of Part 13 in Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 there is substituted—

“A. The carrying out by a local highway authority—

(a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2)(b) of the Act; or

(b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.”

(6) In sub-paragraph (a) of article 8(2) of the Order for the words “the subject of an E.A. Schedule 1 or E.A. Schedule 2 application” there are substituted the words “an EIA application”.

(7) In article 8(7) of the Order for the definitions of “E.A. Schedule 1 application” and “E.A. Schedule 2 application” there is substituted—

““EIA application” has the meaning given in regulation 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and “environmental statement” means a statement which the applicant refers to as an environmental statement for the purposes of those Regulations.”

(8) For article 14(2) of the Order there is substituted—

“(2) The Secretary of State may give directions that development which is both of a description set out in Column 1 of the table in Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and of a class described in the direction is EIA development for the purposes of those Regulations.”