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STATUTORY INSTRUMENTS

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**2006 No. 2522**

The Environmental Impact Assessment  
(Agriculture) (England) (No.2) Regulations 2006

PART 2

Screening

**Requirement for a screening decision**

4.—(1) A person must not begin or carry out an uncultivated land project or a restructuring project of an extent which is equal to or exceeds the threshold applicable to it (calculated in accordance with regulation 5) unless he has first obtained a screening decision permitting the project to proceed.

(2) A person must not begin or carry out any uncultivated land project or restructuring project on land to which a relevant screening notice applies unless he has first obtained a screening decision permitting the project to proceed.

(3) In this regulation, “relevant screening notice” means a screening notice which states that it applies to the type of project which is to be carried out.

**Thresholds**

5.—(1) This regulation provides the method for determining whether the extent of a project is equal to or exceeds the threshold applicable to it.

(2) The threshold for a type of project specified in column 1 of Schedule 1 is set out in column 2 or 3.

(3) Paragraphs (4) and (5) apply where a project consists of only one of the types of project specified in column 1.

(4) Where a project is to be carried out wholly outside a sensitive area, the threshold applicable to it is that specified for that type of project in column 2.

(5) Where a project, or any part of it, is to be carried out in a sensitive area, the threshold applicable to it is that specified for that type of project in column 3.

(6) Where a project is made up of more than one of the types of project specified in column 1—

(a) each relevant part of the project must be assessed so as to determine the threshold applicable to that part, and

(b) if any relevant part of the project equals or exceeds the threshold applicable to that part, then the entire project is to be treated as having an extent equal to or exceeding the threshold applicable to it.

(7) In this regulation, “sensitive area” means—

- (a) an area of outstanding natural beauty designated as such by an Order made by the Countryside Agency<sup>(1)</sup> or Natural England under section 82 of the Countryside and Rights of Way Act 2000<sup>(2)</sup> and duly confirmed by the Secretary of State under section 83(3) of that Act;
- (b) the Broads<sup>(3)</sup>;
- (c) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949<sup>(4)</sup>; or
- (d) a scheduled monument within the meaning of section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979<sup>(5)</sup>.

### Screening notices

**6.—(1)** Natural England may provide that thresholds do not apply to an area of land by serving a notice under this regulation.

(2) Natural England may only serve a screening notice if—

- (a) it reasonably believes that an uncultivated land project or a restructuring project is likely to be carried out on the land;
- (b) the extent of the project would fall below the threshold applicable to it in the area where it would be carried out; and
- (c) it considers, in accordance with the selection criteria in Schedule 2, that the project would be likely to have significant effects on the environment.

(3) A screening notice cannot—

- (a) apply for more than five years from the date it is served; or
- (b) relate to an area of land which is greater than the area on which Natural England reasonably considers the project is likely to be carried out and in any event—
  - (i) in the case of a notice relating to uncultivated land projects, to an area greater than 20 hectares, or
  - (ii) in the case of a notice relating to restructuring projects, to an area greater than 150 hectares.

(4) A screening notice must—

- (a) state whether it applies to—
  - (i) uncultivated land projects,
  - (ii) restructuring projects, or
  - (iii) both such projects;
- (b) contain the reasons why it is being served;

<sup>(1)</sup> See section 1(1) of the National Parks and Access to the Countryside Act 1949 (c. 97) (as substituted by section 130 of, and paragraph 1 of Schedule 8 to, the Environmental Protection Act 1990 (c. 43)) and the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (S.I. 1999/416). See also section 1(4) of the Natural Environment and Rural Communities Act 2006 (c. 16), which provides for the dissolution of the Countryside Agency.

<sup>(2)</sup> 2000 c. 37. Orders designating areas of outstanding natural beauty made before the coming into force of section 82 of the 2000 Act are treated as having been made under section 82 by virtue of paragraph 16 of Schedule 15 to that Act. The Countryside Agency's function of designating areas of outstanding natural beauty is transferred to Natural England by the Natural Environment and Rural Communities Act 2006 (c. 16), Schedule 11, paragraph 163.

<sup>(3)</sup> See section 2(3) of the Norfolk and Suffolk Broads Act 1988 (c. 4).

<sup>(4)</sup> 1949 c. 97. Relevant amendments were made by the Environment Act 1995 (c. 25), Schedule 10, paragraph 2.

<sup>(5)</sup> 1979 c. 46.

- (c) contain details of the land to which it applies and, in the case of a screening notice which applies to both uncultivated land projects and restructuring projects, details of which land is covered by which aspect of the notice;
  - (d) contain the date on which it expires; and
  - (e) explain the procedures for appealing against it.
- (5) A copy of the screening notice must be served on every owner and occupier of the land.
- (6) Section 329 of the Town and Country Planning Act 1990<sup>(6)</sup> (service of notices) applies to the service of copies of screening notices under paragraph (5).

### **Application for a screening decision**

- 7.—(1) An application for a screening decision must—
- (a) be made to Natural England;
  - (b) contain a plan sufficient to identify the relevant land;
  - (c) contain a brief description of the nature, extent and purpose of the project and of its possible effects on the environment;
  - (d) contain any other information or representations as the applicant may wish to provide or make.
- (2) If Natural England considers that it does not have sufficient information to make a screening decision it may ask the applicant to supply any additional information it requires.
- (3) Natural England must notify the applicant of the date on which it received the application for a screening decision.

### **The screening decision**

- 8.—(1) Natural England must, in accordance with paragraph (2) and the selection criteria in Schedule 2, decide whether or not a project is likely to have significant effects on the environment.
- (2) If Natural England decides that a project is likely to have a significant effect on a European site (either alone or in combination with other projects), and the project is not directly connected with or necessary for the management of the site, the project shall be treated as being likely to have significant effects on the environment.
- (3) Before making a screening decision, Natural England may consult any of the consultation bodies.
- (4) After making a screening decision, Natural England must—
- (a) notify the applicant of it, with reasons;
  - (b) enter it in a register, to which the public must have access at all reasonable times; and
  - (c) where it considers that any of the consultation bodies might wish to be informed of the screening decision, notify those bodies of it.
- (5) Natural England must make a screening decision, and notify the applicant of it, within 35 days, or such longer period as may be agreed with the applicant, of either—
- (a) the date referred to in regulation 7(3); or
  - (b) where applicable, the date Natural England receives any additional information it has requested under regulation 7(2),
- whichever is the later.

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<sup>(6)</sup> 1990 c. 8. Section 329 was amended in relation to England by S.I. 2003/956; there are other amending instruments, but none is relevant.

(6) If Natural England has failed to make or notify a screening decision within the period in paragraph (5), the applicant may notify Natural England that he intends to treat that failure as a decision that the project is a significant project.

(7) Where the applicant has so notified Natural England, Natural England is deemed to have decided on the date of that notification that the project is a significant project.

(8) If, after Natural England has made, or is deemed to have made, a decision that the project is a significant project—

- (a) Natural England receives further information or representations; and
- (b) as a result of that further information or those representations Natural England decides that the project is not a significant project,

Natural England must take all the steps in paragraph (4) in respect of that new decision.

(9) If the project to which a screening decision relates is not begun within a period of three years beginning with the date the screening decision—

- (a) is notified to the applicant; or
- (b) is deemed to have been taken under paragraph (7),

the screening decision ceases to have effect.