

2006 No. 3106

FORESTRY, ENGLAND AND WALES

The Environmental Impact Assessment (Forestry) (England and Wales) (Amendment) Regulations 2006

<i>Made</i>	- - - -	<i>22nd November 2006</i>
<i>Laid before Parliament</i>		<i>27th November 2006</i>
<i>Coming into force</i>	- -	<i>31st December 2006</i>

The Secretary of State has been designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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.

He makes the following Regulations under the powers conferred by that section.

Title and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Forestry) (England and Wales) (Amendment) Regulations 2006 and come into force on 31st December 2006.

Amendments to the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999

2.—(1) The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999(c) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “countryside bodies”, at the end of sub-paragraph (c) add “and any other body designated by statutory provision as having specific environmental responsibilities”; and
- (b) at the end of the definition of “the Directive” add “and Directive 2003/35/EC of the European Parliament and of the Council(d)”.

(3) In regulation 4 (restriction on relevant projects) after paragraph (4) add—

“(5) Where a direction is made under paragraph (2), the Commissioners shall—

- (a) consider whether another form of assessment would be appropriate; and
- (b) where they do, take such steps as they consider appropriate to bring the information obtained under it to the attention of the public concerned.”.

(a) SI 1988/785.

(b) 1972 c.68. The enabling powers conferred by section 2(2) were extended by virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51).

(c) SI 1999/2228, as amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c.37).

(d) OJ No. L156, 25.6.2003, p.21.

(4) In regulation 12 (assistance in preparation of environmental statements) for paragraph (2) substitute—

“(2) Paragraph (1) shall not require the Commissioners, countryside bodies or local authorities to disclose information which they—

- (a) may refuse to disclose under regulation 12(1) of the Environmental Information Regulations 2004(a); or
- (b) are prevented from disclosing by regulation 13(1) of those Regulations.”.

(5) In regulation 13 (publicity)—

- (a) in paragraph (1) for “under regulation 11 shall publish” substitute “in relation to that application, whether under regulation 11 or otherwise, shall publish”;
- (b) in paragraph (1)(a) for “the information provided under regulation 11” substitute “the further information”;
- (c) in paragraph (2), for sub-paragraphs (c) and (d) substitute—
 - “(c) specify an address at which copies of the application or the further information may be obtained from the applicant and if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying) of the charge;
 - (d) state that any person wishing to make representations regarding the application or the further information should make them in writing to the Commissioners, at an address nominated by them and specified in the notice, within 28 days beginning with the date of publication of the notice; and
 - (e) state, in relation to an application, that the Commissioners may decide either—
 - (i) to grant consent either subject only to the conditions required by regulation 18 or also subject to such further conditions as they see fit; or
 - (ii) to refuse consent.”; and
- (d) in paragraph (3) omit “under regulation 11”.

(6) In regulation 14 (information for another EEA State)—

- (a) in paragraph (5)(a) after “of this regulation” insert “and any further information provided by the applicant in relation to the application for consent”; and
- (b) at the end of paragraph (5)(b) add “under sub-paragraph (a)”.

(7) In regulation 24 (registers of opinions, directions, determinations etc. for public inspection), in paragraph 1(c) after “regulation 7(7)” insert “or (8)(a)”.

22nd November 2006

Barry Gardiner
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) SI 2004/3391.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (SI 1999/2228) (“the existing Regulations”).

The Regulations implement amendments made to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ No. L175, 5.7.85, p.40) (as amended by Council Directive 97/11/EC (OJ No. L73, 14.3.97, p.5)) (“the EIA Directive”) by Council Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ No. L257, 10.10.96, p.26) (OJ No. L156, 25.6.2003, p.21) insofar as those amendments affect the environmental assessment of forestry projects.

The Regulations also include amendments to implement certain existing provisions of the EIA Directive which had not been fully transposed and to reflect a change in the legislation relating to disclosure of environmental information in England and Wales.

The definition of “countryside bodies” in regulation 2(1) of the existing Regulations is amended to include any other body designated by statute as having specific environmental responsibilities (regulation 2(1)).

Regulation 4 of the existing Regulations is amended to require the Forestry Commissioners, in exercising their power to direct that a particular project is exempt from the environmental assessment requirements, to consider whether another form of assessment would be appropriate and to provide information obtained under that assessment to the public (regulation 2(3)).

Regulation 12 of the existing Regulations is amended to substitute for the reference to the Environmental Information Regulations 1992 (SI 1992/3240, amended by SI 1998/1447), which are now revoked, a reference to provisions in the Environmental Information Regulations 2004 (SI 2004/3391) (regulation 2(4)).

Regulations 13 and 14 of the existing Regulations currently require further information supplied by the applicant for consent pursuant to a notice served under regulation 11 to be made available to the public and, where appropriate, to another EEA State. These regulations are amended to apply the requirement to all further information supplied by the applicant (regulation 2(5) and (6)).

Regulation 13 is also amended to require the applicant to notify the public of the nature of the decision the Forestry Commissioners may take in relation to the application for consent (regulation 2(5)(c)).

Regulation 24 of the existing Regulations is amended to require the Forestry Commissioners to include in a public register kept pursuant to regulation 24(1) directions received from the appropriate Authority under regulation 7(8)(a) (directions made by the appropriate Authority of its own motion as to whether particular projects require consent) (regulation 2(7)).

A transposition note and a regulatory impact assessment have been prepared and placed in the library of each House of Parliament. Copies of each can be obtained from the Forestry Commission, Grants and Licences, 231 Corstorphine Road, Edinburgh EH12 7AT.

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£3.00

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E1461 11/2006 161461T 19585