
STATUTORY INSTRUMENTS

2006 No. 3295

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (Environmental
Impact Assessment) (Amendment) Regulations 2006**

Made - - - - 11th December 2006
Laid before Parliament 18th December 2006
Coming into force - - 15th January 2007

The Secretary of State is a designated ^{M1} Minister for the purposes of section 2(2) of the European Communities Act 1972 ^{M2} in relation to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment. The Secretary of State accordingly makes the following Regulations, in exercise of the powers conferred by that section.

Marginal Citations

M1 [S.I. 1988/785](#).

M2 [1972 c.68](#). The enabling powers of section 2(2) were extended by virtue of the amendment of section 1(2) by section 1 of the [European Economic Area Act 1993 \(c.51\)](#).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Environmental Impact Assessment)(Amendment) Regulations 2006 and shall come into force on 15th January 2007.

(2) These Regulations apply in relation to England only except for regulation 22 which inserts provisions that apply in relation to Scotland, Wales and Northern Ireland.

(3) These Regulations shall apply in relation to applications lodged or received by an authority, and any enforcement notice issued under section 172 of the Town and Country Planning Act 1990 ^{M3}, on or after the date these Regulations come into force.

Marginal Citations

M3 [1990 c.8](#).

Status: Point in time view as at 15/01/2007.

Changes to legislation: There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2006. (See end of Document for details)

Amendment of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999

2. The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999^{M4} are amended as set out in regulations 3 to 24.

Marginal Citations

M4 [S.I. 1999/293](#), amended by [S.I. 2000/2867](#).

Application of the Regulations

3. In regulation 1 (citation, commencement and application)—

- (a) in paragraph (2) for “paragraph (3)” substitute “ paragraphs (3) and (4) ”; and
- (b) after paragraph (3) add—

“(4) Regulations 36 to 38 shall apply in relation to Scotland, Wales and Northern Ireland respectively.”

^{M5}

Marginal Citations

M5 [Regulations 36 to 38](#) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 relate to the Secretary of State's power to direct that the Regulations shall not apply to development that constitutes or forms part of a project serving national defence purposes. The decision as to whether a direction should be made in respect of projects situated in the devolved administrations will be taken by the Secretary of State as national defence is a reserved matter. *See* [Paragraph 9](#) of Part I of Schedule 5 to the Scotland Act 1998.

Amendment of regulation 2

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

- (a) after the definition of “the 1995 Act” insert—

““any other information” means any other substantive information relating to the environmental statement and provided by the applicant or the appellant as the case may be;

“any particular person” includes any non-governmental organisation promoting environmental protection;”;

- (b) in the definition of “the consultation bodies” at the end of sub-paragraph (b) add—

“(v) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Secretary of State, as the case may be, considers are likely to have an interest in the application;”;

- (c) in the definition of “environmental information” after “further information” insert “ and any other information ”;

- (d) in the definition of “exempt development” omit “which comprises or forms part of a project serving national defence purposes or”; and

- (e) after the definition of “the land” insert—

““by local advertisement”, in relation to a notice, means—

- (a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application or appeal relates is situated; and
- (b) where the relevant planning authority maintains a website for the purpose of advertisement of applications, by publication of the notice on the website;

“local development order” means a local development order made pursuant to section 61A of the Act ^{M6}; and

“LDO” means a local development order.”

- (2) In regulation 2(6) after “these Regulations” insert “ except regulation 37 ”.

Marginal Citations

M6 Section 61A of the Town and Country Planning Act 1990 was inserted by section 40 of the [Planning and Compulsory Purchase Act 2004 \(c.5\)](#).

Amendment of regulation 4

- 5. In regulation 4 (general provisions relating to screening) for paragraph (4) substitute—

- (a) “(4) The Secretary of State may direct that these Regulations shall not apply to a particular proposed development specified in the direction either—
 - (i) in accordance with Article 2(3) of the Directive (but without prejudice to Article 7 of the Directive), or
 - (ii) if the development comprises or forms part of a project serving national defence purposes and in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on those purposes.
- (b) Where a direction is given under paragraph (4)(a) the Secretary of State must send a copy of any such direction to the relevant planning authority.
- (4A) Where a direction is given under paragraph (4)(a)(i) the Secretary of State must—
 - (a) make available to the public the information considered in making the direction and the reasons for making the direction;
 - (b) consider whether another form of assessment would be appropriate; and
 - (c) take such steps as are considered appropriate to bring the information obtained under the other form of assessment to the attention of the public.”.

Amendment of regulation 7

- 6. In regulation 7 (application made to a local planning authority without an environmental statement), after paragraph (2) insert—

“(2A) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the relevant planning authority shall notify the applicant of any such person.”.

Amendment of regulation 8

- 7. In regulation 8 (application referred to the Secretary of State without an environmental statement), after paragraph (3) insert—

“(3A) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State shall notify the applicant of any such person.”.

Amendment of regulation 9

8. In regulation 9 (appeal to the Secretary of State without an environmental statement), after paragraph (4) insert—

“(4A) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State shall notify the appellant of any such person.”.

Amendment of regulation 13

9. In regulation 13 (procedure where an environmental statement is submitted to a local planning authority)—

(a) in paragraphs (1) and (2)(a) for “three” substitute “ two ”; and

(b) after paragraph (2), at the end, add—

“(d) where the relevant planning authority is aware of any particular person who is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, send a notice to such person containing the details set out in regulation 14(2)(b) to (j) and the name and address of the relevant planning authority.”.

Amendment of regulation 14

10. In regulation 14 (publicity where an environmental statement is submitted after the planning application), after paragraph (2) insert—

“(2A) Where the applicant has been notified under regulation 7(2A), 8(3A) or 9(4A) of such a person as mentioned in any of those paragraphs, he shall serve a notice on every person of whom he has been so notified; and the notice shall contain the information specified in paragraph (2), except that the date specified as the latest date on which the documents will be available for inspection shall not be less than 21 days later than the date on which the notice is first served.”.

Amendment of regulation 15

11. In regulation 15 (provision of copies of environmental statements and further information for the Secretary of State on referral or appeal), for “three” substitute “ two ”.

Amendment of regulation 16

12. In regulation 16(2) (procedure where an environmental statement is submitted to the Secretary of State) for “four” substitute “ three ”.

Amendment of regulation 19

13. In regulation 19 (further information and evidence respecting environmental statements)—

(a) for paragraph (2) substitute—

“Paragraphs (3) to (9) shall apply in relation to further information and any other information except in so far as the further information and any other information is provided for the purposes of an inquiry or hearing held under the Act and the request for the further information made pursuant to paragraph (1) stated that it was to be provided for such purposes;”;

- (b) in paragraph (3) after “pursuant to paragraph (1)” insert “ or any other information ”;
- (c) in paragraph (3)(d) to (g) and (j) and in paragraphs (4), (5) and (6) after “further information” insert “ or any other information ”;
- (d) in paragraph (5) for “three” substitute “ two ”;
- (e) in paragraph (7)—
 - (i) after “under paragraph (1)” insert “ or any other information is provided ”;
 - (ii) after “further information” insert “ or any other information ”; and
- (f) in paragraphs (8) and (9) after “further information” insert “ or any other information, ”.

Amendment of regulation 20

14. In regulation 20 (availability of opinions, directions etc. for inspection), in paragraph (1)(g) after “further information” insert “ and any other information ”.

Amendment of regulation 21

15. In regulation 21 (duties to inform the public and the Secretary of State of final decisions)—
- (a) in paragraph (1)(b) for “publishing a notice in a newspaper circulating in the locality in which the land is situated” substitute “ local advertisement ”;
 - (b) in paragraph (1)(c)(ii) after “on which the decision is based” insert “ including, if relevant, information about the participation of the public ”; and
 - (c) at the end of paragraph (1)(c)(iii) add—
 - “(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”

Amendment of regulation 22

16. In regulation 22 (development by a local planning authority), in paragraph (c) of regulation 13(1) as modified by paragraph (1)(e), for “three” substitute “ two ”.

Planning permission granted by local development order

17. After regulation 24 insert new regulation 24A—

“Restriction of grant of planning permission by local development order

24A.—(1) This regulation applies to Schedule 2 development for which a local planning authority propose to grant planning permission by local development order.

(2) Where this regulation applies, the local planning authority shall not make a LDO unless they have adopted a screening opinion or the Secretary of State has made a screening direction.

(3) Paragraphs (4) to (6) apply where—

- (a) the local planning authority adopt a screening opinion; or

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- (b) the Secretary of State makes a screening direction under these Regulations, to the effect that the development is EIA development.
- (4) The local planning authority shall not make a local development order which would grant planning permission for EIA development unless—
- (a) an environmental statement has been prepared in relation to that development; and
 - (b) the authority has first taken the environmental information into consideration, and they state in their decision that they have done so.
- (5) In a case to which this regulation shall have effect these Regulations shall apply subject to the following modifications—
- (a) regulations 3, 5 to 9, 12, 15 and 16 shall not apply;
 - (b) in regulation 4—
 - (i) paragraph (2)(a) shall not apply;
 - (ii) in paragraph (2)(b) for “relevant” substitute “ local ”;
 - (iii) in paragraph (4) for “relevant” substitute “ local ”;
 - (iv) in paragraph (6) omit sub-paragraph (ii); and
 - (v) in paragraph (9) for “relevant” substitute “ local ”;
 - (c) for regulation 10(1) substitute—“Where a proposed LDO is EIA development, the local planning authority, upon receiving a request, may state in writing its opinion as to the information to be provided in the environmental statement (“a scoping opinion”).”;
 - (d) in regulation 11 in paragraphs (1)(a) and (3) for “relevant” substitute “ local ”;
 - (e) for regulation 13 substitute—

“Procedure where an environmental statement is prepared in relation to a local development order

13.—(1) Where a statement referred to as the environmental statement has been prepared in relation to EIA development for which a local planning authority proposes to grant planning permission by a local development order, the local planning authority shall—

- (a) send to the Secretary of State two copies of the statement;
 - (b) send a copy of the statement to the consultation bodies and inform them that they may make representations; and
 - (c) notify any particular person of whom the authority is aware, who is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent.
- (2) The local planning authority shall not make the local development order until the expiry of 14 days from the last date on which a copy of the statement was served in accordance with this regulation.”;
- (f) in regulation 14—
- (i) omit paragraph (1);
 - (ii) for paragraph (2) substitute—

“The local planning authority shall publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

- (a) the name and address of the local planning authority;
- (b) the address or location and the nature of the development referred to in the proposed LDO;
- (c) that a copy of the draft LDO and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
- (d) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);
- (e) an address (whether or not the same as that given under sub-paragraph (d)) in the locality in which the land is situated at which copies of the statement may be obtained;
- (f) that copies may be obtained there so long as stocks last;
- (g) if a charge is to be made for a copy, the amount of the charge; and
- (h) that any person wishing to make representations about the LDO should make them in writing, before the date specified in accordance with sub-paragraph (d), to the local planning authority.”;

(iii) in paragraph (3)—

(aa) omit “The applicant” and substitute “ The local planning authority ” and

(bb) omit “he” and “him” and substitute “ the authority ”; and

(iv) omit paragraphs (5) to (8);

(g) For regulation 17 substitute—

“Availability of copies of environmental statements

17. The local planning authority shall ensure that a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for which the authority proposes to grant planning permission by a local development order are available at—

- (a) their principal office during normal office hours; and
- (b) at such other places within their area as they consider appropriate.”;

(h) in regulation 19—

(i) for paragraph (1) substitute—

“(1) Where a statement referred to as an environmental statement for the purposes of these Regulations has been submitted and the local planning authority is of the opinion that the statement should contain additional information in order to be an environmental statement, the local planning authority shall ensure that additional information is provided and such information provided is referred to in these Regulations as “further information””;

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- (ii) for paragraph (3) substitute—
 - “(3) The local planning authority shall publish in a local newspaper circulating in the locality in which the land is situated a notice stating—
 - (a) the name and address of the local planning authority;
 - (b) the address or location and the nature of the development referred to in the proposed LDO;
 - (c) that further information is available in relation to an environmental statement which has already been provided;
 - (d) that a copy of the further information may be inspected by members of the public at all reasonable hours;
 - (e) an address in the locality in which the land is situated at which the further information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);
 - (f) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the further information may be obtained;
 - (g) that copies may be obtained there so long as stocks last;
 - (h) if a charge is to be made for a copy, the amount of the charge;
 - (i) that any person wishing to make representations about the further information should make them in writing, before the date specified in accordance with sub-paragraph (e), to the local planning authority;
 - (j) the address to which representations should be sent.”;
- (iii) for paragraph (4) substitute—
 - “The local planning authority shall send a copy of the further information to each person to whom, in accordance with the Regulations, the statement to which it relates was sent and to the Secretary of State.”;
- (iv) omit paragraphs (5) and (6);
- (v) for paragraph (7) substitute—
 - “Where information is provided under paragraph (1) the local planning authority shall not make the LDO before the expiry of 14 days after the date on which the further information was sent to all persons to whom the statement which it relates was sent or the expiry of 21 days after the date that notice of it was published in a local newspaper, whichever is the later.”;
- (vi) in paragraph (8)—
 - (aa) omit “The applicant or appellant who provides further information in accordance with paragraph (1)” and substitute “ The local planning authority ”; and
 - (bb) after “number of copies of the” insert “ further ”;
- (vii) for paragraph (10) substitute—
 - “The local planning authority may in writing require such evidence to be provided as it may reasonably call for to verify any information in the environmental statement.”;
- (i) in regulation 20—

(i) for paragraph (1) substitute—

“(1) Where particulars of a draft local development order are placed on Part III of the register, the local planning authority shall take steps to secure that there is also placed on that Part a copy of any relevant—

- (a) scoping opinion;
- (b) screening opinion;
- (c) screening direction;
- (d) direction under regulation 4(4);
- (e) the statement referred to as the environmental statement including any further information;
- (f) statement of reasons accompanying any of the above.”;

(ii) omit paragraph (2);

(j) in regulation 21—

(i) in paragraph (1) for “Where an EIA application is determined by a local planning authority” substitute “ Where a local planning authority make a local development order which is EIA development ”; and

(ii) omit paragraphs (2) and (3); and

(k) in regulation 27—

(i) in paragraph (1) for sub-paragraph (a) substitute—

“(a) it comes to the attention of the Secretary of State that EIA development proposed to be carried out in England for which a local planning authority propose to grant planning permission by a local development order is likely to have significant effects on the environment in another EEA state; or”; and

(ii) in paragraphs (3) and (6) for “application” substitute “ proposed local development order ”.

(6) In paragraphs (6)(b)(i), and (c)(i) and paragraph (12) of article 2B of the Order ^{M7} after “local development order” insert “ the environmental statement ” in each place where the words occur.”

Marginal Citations

M7 [Article 2B](#) of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) was inserted by article 5(2) of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006 (SI 2006/1062).

Amendment of regulation 25

18. In regulation 25 (unauthorised development)—

(a) in paragraph (4) after subparagraph (b) add—

“and

(c) any particular person of whom the authority is aware, who is likely to be affected by, or has an interest in, the regulation 25 notice.”;

(b) in paragraph (12)(b), after “any further information,” insert “ any other information ”;

(c) in paragraph (15), after “paragraph 14” insert “ and any other information ”;

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Changes to legislation: There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2006. (See end of Document for details)

- (d) in paragraph (16)—
 - (i) after “paragraph (13)(a)” insert “ or any other information ”;
 - (ii) for “in a local newspaper circulating in the locality in which the land is situated” substitute “ by local advertisement ”; and
 - (iii) in sub-paragraphs (c), (d) and (e) after “further information” insert “ or any other information ”; and
- (e) in paragraph (17), for “in a named newspaper” substitute “ by local advertisement ”.

Amendment of regulation 27

19. In regulation 27 (development in England and Wales likely to have significant effects in another EEA State)—

- (a) in paragraph (4)(a) after “in paragraphs (2) and (3)” insert “ and any further information and any other information ”;
- (b) in paragraph (6)(b) after “on which the decision is based” insert “ including, if relevant, information about the participation of the public ”.

Amendment of regulation 28

20. In regulation 28 (projects in another EEA State likely to have significant transboundary effects)—

- (a) in paragraph (1) after “Article” insert “ 7(1) or ”;
- (b) at the end of paragraph (2)(a) omit “and”; and
- (c) at the end of paragraph (2)(b), add—
 - “and
 - (c) so far as he has received such information, notify those authorities and the public concerned of the content of any decision of the competent authority of the relevant EEA State; and in particular—
 - (i) any conditions attached to it;
 - (ii) the main reasons and considerations on which the decision was based including, if relevant, information about the participation of the public; and
 - (iii) a description of the main measures to avoid, reduce and, if possible, offset any major adverse effects that have been identified.”.

Consequential Amendment

21. In regulation 32(2) (extension of the period for an authority's decision on a planning application), for sub-paragraph (a) substitute—

- “(a) for each of the references in paragraph (2)(a) and (b) of that article to a period of 13 and 8 weeks respectively there were substituted a reference to a period of 16 weeks;”

Projects serving national defence projects in Scotland, Wales and Northern Ireland

22. After Regulation 35 add—

“Projects serving national defence purposes in Scotland

36.—(1) If a development comprises or forms part of a project serving national defence purposes and in the opinion of the Secretary of State compliance with the Environmental

Impact Assessment (Scotland) Regulations 1999^{M8} would have an adverse effect on those purposes the Secretary of State may direct that those Regulations shall not apply to a project specified in the direction.

(2) The Secretary of State shall notify the Scottish Ministers prior to making a direction.

(3) The Secretary of State shall send a copy of the direction to the Scottish Ministers and the relevant planning authority.

Projects serving national defence purposes in Wales

37.—(1) If a development comprises or forms part of a project serving national defence purposes and in the opinion of the Secretary of State compliance with these Regulations as amended for Wales^{M9} would have an adverse effect on those purposes the Secretary of State may direct that these Regulations as amended for Wales shall not apply to a project specified in the direction.

(2) The Secretary of State shall notify the National Assembly for Wales prior to making a direction.

(3) The Secretary of State shall send a copy of the direction to the National Assembly for Wales and the relevant planning authority.

Projects serving national defence purposes in Northern Ireland

38.—(1) If a development comprises or forms part of a project serving national defence purposes and in the opinion of the Secretary of State compliance with the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999^{M10} would have an adverse effect on those purposes the Secretary of State may direct that those Regulations shall not apply to a project specified in the direction.

(2) The Secretary of State shall notify the Department of the Environment prior to making a direction.

(3) The Secretary of State shall send a copy of the direction to the relevant planning authority.”

Marginal Citations

M8 S.S.I. 1999/1.

M9 S.I. 1999/293 amended by S.I.2006/3009 for Wales.

M10 SR No 73.

Amendment of Schedule 1

23. In Schedule 1, after paragraph 20, add—

“21. Any change to or extension of development listed in this Schedule where such a change or extension itself meets the thresholds, if any, or description of development set out in this Schedule.”.

Amendment of Schedule 2

24. In Schedule 2, in paragraph 13(a) in column 1 (description of development), after “in Schedule 1” insert “(other than a change or extension falling within paragraph 21 of that Schedule)”.

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Changes to legislation: There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2006. (See end of Document for details)

Signed by authority of the Secretary of State

Department for Communities and Local
Government
11th December 2006

Kay Andrews
Parliamentary Under Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 in respect of England only, though regulation 22 inserts provisions that also apply in relation to Scotland, Wales and Northern Ireland.

The Regulations give effect to Article 3 of Directive [2003/35/EC](#) of the European Parliament of the Council of 26 May 2003 (OJ L 156, 25.6.2003, p17) (“the Directive”) in so far as it affects public participation in the decision making process for applications and appeals relating to development for which environmental impact assessment is required. The Directive provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amends with regard to public participation and access to justice Council Directives [85/337/EEC](#) (OJ L 175, 5.7.1985, p.40) as amended by Directive [97/11/EC](#) (OJ L 73, 14.3.1997, p.5) and [96/61/EC](#) (OJ L 257, 10.10.1996).

The Regulations also apply the requirements of Council Directive [85/337/EEC](#), which requires the assessment of the likely environmental effects of major new development, to local development orders. Local development orders made under section 61A of the Town and Country Planning Act 1990 grant planning permission for development specified in the order or for development of any class specified.

Regulation 3 amends regulation 1 to provide that regulations 36 to 38, inserted by these Regulations, shall apply to Scotland, Wales and Northern Ireland respectively.

Regulation 4 makes amendments to the definitions of “consultation bodies”, “environmental information”, “exempt development”. It inserts new definitions of “by local advertisement” which provides another means of publicity using electronic means; “any other information”, to apply to information other than that contained in the environmental statement and further information; “any particular person”, which includes non-governmental organisations that promote environmental protection; “local development order” and “LDO”.

Regulation 5 amends the Secretary of State's ability to direct that a particular proposed development is exempted from the application of these Regulations. The Secretary of State may also direct that these Regulations will not apply to an application for development serving national defence purposes, where compliance is likely to have an adverse effect on such purposes. The regulation has been amended as a consequence of the removal of the exemption for national defence projects by Article 3(2) of the Directive.

Regulations 6 to 10 insert provision for persons and environmental organisations likely to be affected by or having an interest in an application to be notified.

Regulations 9, 11, 12, 16 and 17 reduce the number of copies of the environmental statement or further information to be sent to the Secretary of State.

Regulations 13, 14, 18 and 19 extend the requirements in relation to further information to any other information provided by the applicant relating to the environmental statement.

Regulation 15 amends regulation 21 (duties to inform the public and the Secretary of State of final decision) and requires more extensive notification of decisions and information to be provided on the right to challenge the decision.

Regulation 17 inserts regulation 24A, which applies the requirements of Council Directive [85/337/EEC](#), the environmental impact assessment directive, to local development orders.

Regulation 21 is a consequential amendment brought about by changes to article 20 of the Town and Country Planning (General Development Procedure) Order 1995 made by SI 2006/1062.

Regulation 22 inserts regulations 36 to 38. The requirements of Directive [85/337/EEC](#) may not apply to projects serving national defence purposes, where otherwise their application might have an adverse effect on those purposes. The decision whether the requirements of the Directive

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should apply to such projects must be taken on a case by case basis. For developments that comprise or form part of a project serving national defence purposes situated in the areas of the devolved administrations, the decision not to apply the requirements of the Directive, as transposed by the relevant devolved administrations, will be taken by the Secretary of State, because national defence is a reserved matter. The Secretary of State may issue a direction that such projects are exempt from the relevant EIA requirements where, in her opinion, compliance with the relevant provisions will have an adverse effect on national defence purposes. Prior to making a direction, the Secretary of State shall notify the relevant devolved administration. Regulations 23 and 24 amend Schedules 1 and 2 in line with the new category introduced into Annex 1 of the Directive. This new category of project is a change to or extension of a Schedule 1 project where the change or extension itself meets the Schedule 1 thresholds for that type of project.

A Regulatory Impact Assessment has been prepared in relation to the Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU.

Status:

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Changes to legislation:

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