

EXPLANATORY MEMORANDUM TO
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT)
(ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2007

2007 No. 1977

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (“the 2000 Regulations”) to bring them into line with European legislation by implementing article 3 of Directive 2003/35/EC (usually known as the Public Participation Directive).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (usually known as the Environmental Impact Assessment, or EIA, Directive) applies to projects to construct, extend or operate a generating station or to install or keep installed an electric line above ground requiring consent under sections 36 or 37 of the Electricity Act 1989. The 2000 Regulations implement the EIA Directive (as amended by Council Directive 97/11/EC) in relation to applications in England and Wales for such projects.

4.2 The EIA Directive requires environmental impact assessment to be carried out, before development consent is granted, for projects which are likely to have significant effects on the environment. The environmental impact assessment procedure includes: the preparation of environmental information on a proposed project by the developer, consultation of statutory environmental bodies and the public on this information, and a requirement on the Secretary of State to take the information into account in reaching a decision on consent.

4.3 Article 3 of the Public Participation Directive amends the EIA Directive to align the public participation provisions of the EIA Directive more closely with those of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (usually known as the Aarhus Convention). The Aarhus Convention was signed by the European Commission and the United Kingdom, among others, on 25 June 1998.

4.4 These Regulations amend the 2000 Regulations to bring them into line with amendments made to the EIA Directive by article 3 of the Public Participation Directive. A Transposition Note is attached to this explanatory memorandum at Annex A.

4.5 These Regulations also amend the definition of “the consultative bodies” to meet European Commission concerns that the existing definition might, in specific circumstances, inadvertently exclude organisations with a legitimate interest in a project.

4.6 These Regulations also amend the definition of “EEA State”. The new definition refers to the definition of “EEA State” inserted into the Interpretation Act 1978 by the Legislative and Regulatory Reform Act 2006, which includes all Community member States. That insertion relates only to enactments made on or after 8th January 2007 which is why it is necessary to amend the 2000 Regulations so as to apply the definition in the Interpretation Act.

5. Territorial Extent and Application

5.1 These Regulations apply to England and Wales.

5.2 Separate regulations are being introduced to implement the Public Participation Directive in relation to applications in Scotland for consent under sections 36 or 37 of the Electricity Act 1989.

6. European Convention on Human Rights

6.1 As these Regulations are subject to a negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 These Regulations improve access to information for the public on proposed developments and increase the transparency of the decision making process for electricity infrastructure. Such developments could range from the larger onshore windfarms to nuclear power stations, and linear developments such as major transmission lines. The government is currently consulting on whether energy companies should be allowed to invest in nuclear power stations.

7.2 Article 3 of the Public Participation Directive has as its objective to contribute to the implementation of the obligations arising under the Aarhus Convention by improving the public participation provisions within the EIA Directive and by providing for provisions on access to justice within that directive.

7.3 These Regulations implement the changes made by the Public Participation Directive for the 2000 Regulations. These Regulations improve public participation in applications for development consent under sections 36 and 37 of the Electricity Act 1989 in England and Wales in particular by:

- requiring materially relevant additional information received after submission of the environmental statement to be made available for public inspection;
- requiring supplementary reports and advice submitted by the applicant within 14 days of the environmental statement to be made available for public inspection;

- requiring notices to be published in the London Gazette;
- requiring notice to be published alerting the public to the fact that additional information has started to be received;
- increasing the information about the public participation process to be included in the published notices.

7.4 These Regulations provide for provisions on access to justice by requiring the statement accompanying the Secretary of State's determination of the application to include information about the availability of judicial review procedures, including details of where further information in relation to such procedures can be obtained.

7.5 The Department of Trade and Industry carried out a consultation from 10 October 2006 to 2 January 2007 on the amendments proposed to three regimes covering energy infrastructure, including the Electricity Act regime. The consultation document was sent to key stakeholders such as energy companies, statutory advisers, environmentalist groups and a sample of local authorities, and placed on the Department's website. It was also publicised in the Planning Portal run by the Department for Communities and Local Government.

7.6 Applications for development consent for generating stations and electric lines over ground can be controversial. However, there were only twelve responses to the consultation, largely from industry sources. The responses recognised that some amendment to the existing Regulations were necessary. The main concerns raised were that developers should not be responsible for disseminating additional information received from other parties and the potential for increased delays to the process following receipt of additional information.

7.7 These Regulations address the former concern by making the Secretary of State responsible for forwarding additional information received from third parties to the local planning authority and to the developer. As for increased delay, the Regulations propose no change to the current position as this is information which is already generated in the process and which should be taken into account.

7.8 The full Government response to the consultation will be made available on the Department for Business, Enterprise and Regulatory Reform's website at www.berr.gov.uk.

7.9 The Department intends in due course to revise its public guidance on the 2000 Regulations to take account of the amendments made by these Regulations.

8. Impact

8.1 An Impact Assessment covering the changes to the Electricity Act regime (as well as the pipe-line works and gas transporter pipe-line works regimes) is attached to this memorandum at Annex B.

9. Contact

9.1 Lawrence Cadman at the Department for Business, Enterprise and Regulatory Reform, Tel: 020-7215-2889 or e-mail: lawrence.cadman@dti.gsi.gov.uk can answer any queries regarding these Regulations.

Revised public participation provisions in environmental impact assessment regulations for energy infrastructure

Final Impact Assessment

URN 07/1202

1. Title of proposal

Proposals to improve the ability of the public to participate in the environmental assessment of proposed energy infrastructure.

The proposals relate to three Regulations:

- (i) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2007;
- (ii) The Gas Transporter Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007; and
- (iii) The Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007.

2. Purpose and intended effect

The proposals cover new power stations (including offshore wind farms), overhead lines, gas transporter pipelines and commercial pipelines and have the objective of improving the transparency of existing requirements for energy infrastructure, in line with the requirements of the Public Participation Directive (2003/35/EC).

- Since 1985 the EU has laid down requirements on how the environmental impact of public and private projects is considered, before a decision is made on such developments. The EU updated the requirements in 1997 and current UK regulations reflect that updating. Further updating is now required following the European Community's signature of the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). This led to the Public Participation Directive which amends prevailing requirements and which the UK Government is required to implement. The main amendments are:

- The public should be informed of Environmental Impact Assessment (“EIA”) proposals, supplementary information gathered in the process, and decisions, by both local and national notices. The Directive requires the public to be informed by appropriate means.
 - When an EIA application is made, any supporting documents submitted by the developer with the EIA, should be made available to the public concerned by being lodged with the relevant local planning authority.
 - Additional information gathered in the process, as well as the formal supplements to the EIA currently provided for in the regulations, should be made available to the public concerned by being lodged with the relevant local planning authority. And the public should be informed of the existence of that information by both local and national notices.
 - The public notice and the decision statement will include reference to the public participation process and the concerns and opinions expressed during the public participation process, and will flag up the right to challenge the decision and the procedure for doing so.
 - The regulations also incorporate a change in the definition of “consultative bodies” or “consultation bodies” in the regulations to meet the European Commission’s concerns that the existing definition was too narrow and did not adequately transpose the original requirements.
- *Rationale for government intervention*
To increase the accountability and transparency of the decision-making processes in the regimes for proposed electricity and gas developments. These cover electricity generation and overhead lines, gas transporter pipelines and onshore, cross-country commercial pipelines for gas, oil and chemicals.
 - *Rationale for action now*
The UK is already under Article 226 infraction proceedings for not transposing the Public Participation Directive into national law.

3. Consultation

- Within government

In formulating its proposals the Department had regard to the proposals of the Department for Communities and Local Government (DCLG) to transpose the requirements of the Public Participation Directive into the general planning regime under the Town and Country Planning Act 1990, whilst recognising the need to reflect the fact that the BERR regimes cover national energy infrastructure in which more than local interest is often shown.

- **Public consultation**

Soundings, prior to public consultation, were taken of a representative sample of developers handling power station developments, both large and small, overhead lines, and gas pipelines. The need for changes to the existing regimes to transpose the European Directive was recognised. There was a consensus that the cost implications were likely to be marginal with concern being more about distraction of resources and potential for the process to become more protracted if additional information attracts interest. But against that it was recognised that this was information that would be likely to already exist and which people could already seek to access, albeit that it might be by a somewhat circuitous route.

Public consultation was formally carried out on 10 October 2006 ending on 2 January 2007. Twelve responses were received, not all within time, but all have been considered. The responses were largely from industry sources. Late in the day it emerged that while the consultation had been intended as an England and Wales exercise, the Scottish Executive needed to consult in Scotland on the changes to the gas transporter and commercial pipelines regimes. This they did, contacting key stakeholders, but no responses were received.

4. Options

The three options identified for the consultation were:

- (i) do nothing;
- (ii) implement the Directive through regulations; or
- (iii) seek to implement the requirements by voluntary measures such as guidance and codes of practice.

Option (i) would mean that the UK would not be compliant with EU legislation. However, the UK is already subject to infraction proceedings by the EU Commission for failure to comply with the requirements of the Public Participation Directive and so this option is not a possibility.

Option (ii) would put the UK in the best position to defend any challenge of decisions on developments based on alleged non-compliance with the Directive. While this option does add slightly to the burden on business, it does mean the public can participate in the process, and the credibility of the process in terms of subjecting the environmental impact of a development to open scrutiny, is

reinforced. The proposals do not change the position as regards confidential information set out in the existing EIA Directive at Article 10.

Option (iii), whilst capable of delivering the aims of the Public Participation Directive, would mean the UK had not legislated to implement it. This would not guarantee that the aims of the Directive were fulfilled nor would it comply with the requirement of the Directive that Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive. Option (iii) is therefore also not a realistic possibility.

The consensus from the soundings and the public consultation was a recognition that some regulation was necessary but what mattered was getting the burden on the developer right.

5. Costs and benefits

Sectors and groups affected

The enhanced public participation requirements will impact on the electricity and downstream gas sectors. They will apply to proposals for new power stations (including wind farms), overhead lines, gas transporter pipelines and commercial pipelines. Such proposals are critical to ensuring the continued security and reliability of the energy delivery systems that the public depend on for their electricity and gas supplies. Businesses bringing forward the projects will thus be affected by the requirements. But the local public, and the public more generally who take an interest in energy developments, will also be affected by the requirements.

Summary of costs and benefits

There are no benefits associated with options (i) or (iii) since the UK is already subject to infraction proceedings. A continued failure to legislate to implement the Public Participation Directive could result in fines.

Option (ii) offers the prospect of improved credibility for the processes through improved public participation arrangements, at what looks to be a marginal cost.

The additional compliance costs are in the nature of additional publicity costs and the assemblage of the additional information now to be lodged in the public domain. All the existing regimes lay down public notice requirements, requiring in general local publicity. These are to be enhanced by adding national notice where this is not currently provided for. At the application, supplements to the EIA and decision stages, adding London Gazette advertising can cost in the region of £750 per advert adding in the worst case up to £5k to compliance costs. To this has to be added the publicity costs for the new requirement on additional information which could add a further £5k to compliance costs. Assemblage costs for additional information are unknown as this is a new requirement but it is worth noting that it is recorded information already available rather than the generation of new material, so the costs should be modest.

To put additional compliance costs in context, the main existing cost of complying with the EIA regulations is that of the production of an environmental impact assessment, which remains unaltered, and can cost in the region of £50k upwards, with major cases costing over £100k. The next major existing cost is the supplements to the environmental impact assessment, where that is required. That can vary considerably in production cost depending on whether it is clarifying existing information or providing further, new, information such as ecological studies or further alternative sites/routes analysis.

At the same time all these costs are relatively small in the context of multi-million pound projects. A major power station development will cost in the region of £300m, a 400 kV overhead line can cost between £0.5m - £1.5m per km and a high pressure gas pipeline between £0.8m - £1.5m per km. An onshore windfarm development can cost in the region of £50m.

Making additional information available may also make the process more challenging for business through the potential for additional probing by third parties and drip-feeding of information into the process, with consequential impact on timescales. But the proposal is to corral dissemination of additional information and to impose a deadline for representations on additional information so that timely decisions can still be made.

Option (ii) appears to offer the best prospect of better environmental impact analysis and improved decision taking, at what looks to be a marginal cost. Option (ii) also offers business greater certainty over the requirements and a level playing field across projects.

Views were sought in the consultation on the analysis of costs and benefits and the additional regulatory burden. There was support for the view that key costs and benefits had been captured, and that the additional regulatory burden might be marginal. But this was subject to the proviso the developers should not have to be responsible for handling third party information, and that the analysis does not take into account any costs stemming from increased delay if the process becomes more protracted. On the production costs associated with an environmental impact assessment one respondent considered they were on the low side and expected to see £100k to £200k on average for the production of EIAs.

The Department has accepted the need to avoid an unreasonable burden on the developer and recognises the concerns over more protracted timescales. It has therefore reined back the developer's responsibility with the Secretary of State becoming responsible for the dissemination of third party additional information, and the developer being responsible for an initial public notice alerting the public once additional information starts being received on a proposal. That notice will indicate where the public can inspect such material and who to contact on additional information. Given that much of the additional information will occur early on in the process the Department does not feel that in general it will lead to a more protracted process.

6. Small Firms Impact Test

To gauge the impact on small businesses, meetings were held with two representative companies who develop energy infrastructure and who could be said to be among the smaller firms operating in the sector – one developing windfarms, and one developing power generation and gas facilities before the consultation was launched. Both accepted that the EU would expect implementation by regulation and that the driver in the changes was the EU. They acknowledged that seen against the costs of producing an EIA and the cost of the project itself, the additional costs were not likely to be that great. Their concerns were more if the process became more protracted, and if the arrangements for publishing and advertising additional information led to an unhelpful distraction of scarce resources.

Given that the frequency with which additional information has to be disseminated is likely to be a feature of the project rather than the company doing the project, it is not felt that the changes in themselves convey any disproportionate effect. But it was acknowledged that in handling the dissemination of additional information, a small firm with a core of say 5 people, is likely to face more of a concern over distraction of resources than a major player with project teams.

This is now not likely to be an issue given the Department has reined back the developer's responsibility for the dissemination of third party information.

7. Competition assessment

This RIA covers three Regulations (see section 1 above) which would impact on the energy market, in particular the electricity and downstream gas sectors. For the purposes of a competition assessment it is necessary to distinguish between those aspects which are regulated and those which are not. Thus the aspects of overhead lines and gas transporter pipelines which are implemented by regulated network companies can be discounted from the analysis. This leaves electricity generation and onshore commercial pipelines. The conclusions from looking at those activities are:

Option (ii) will impose some additional costs on those developing new infrastructure in those sectors. But those costs would be faced by any firm wishing to participate in those sectors since they are costs associated with running a proposal through a development control procedure. Such costs will be dependent on the project itself rather than the firm putting the project together. As such the Regulations are not seen as conveying any benefit to existing firms. Nor, given the nature of the additional costs, is it felt that they will impose any disproportionate cost on some firms such as small firms rather than on others. It is therefore concluded that they are unlikely to have an effect on competition.

8. Simplification assessment

In bringing forward its proposals the Department has sought to comply with better regulation practice.

It notes the need for "joined-up Government", and regulating to bring into effect the Public Participation Directive would ensure the BERR regimes were in step with other UK development control regimes, such as the general planning regime of the Town and Country Planning Act, where regulations have already been consulted on, and with the Transport and Works Act regime where regulations are being produced. The BERR regimes would also be in step with other development control regimes in Europe which have to include the requirements of the Public Participation Directive.

The Department also notes that these regulations facilitate public access to more information on energy developments, making the regimes more transparent. At the same time it notes that the additional information, which is envisaged to include supporting information from the developer and information from third parties such as statutory bodies, is information which is already generated in the process. And it is information which currently the public may have to pursue more circuitous routes to obtain, such as through Freedom of Information requests or Environmental Information Regulations requests. The proposed way forward avoids the public having to invoke other procedures and thereby simplifies their access to such information.

The Department has also considered the scope for simplification in the process itself but notes the thrust of the Directive is to increase requirements to benefit the public and their participation in the processes. Thought has therefore been given to compensating simplification. It is not considered fruitful to look for this in the existing requirements laid down in the processes as the regulations have only recently been “proofed” by the Commission and infraction proceedings launched at any that were not considered up to the required standard of transposition. The Department has also considered whether rationalising matters through rationalising development control regimes would achieve simplification but concluded that this raised issues more suitable for handling in a policy review than the modest step change being addressed here.

9. Enforcement, sanctions and monitoring

The existing regulations are enforced by the Department for Business, Enterprise and Regulatory Reform. The fundamental sanction for ensuring compliance is that within the regulations themselves, the Secretary of State is barred from granting consent unless he is satisfied that the applicant has provided the required information and the procedures laid down in the regulations have been complied with.

Option (ii) provides a statutory basis for BERR assessing whether the enhanced public participation requirements have been complied with and for refusing to grant consent if the requirements had not been met. At the same time in order to ensure that the requirements have actually been met there is a need for BERR to make clear in guidance that before granting consent it will check on compliance.

10. Implementation and Delivery Plan

All the amending Regulations will enter into force on 20 August 2007. The Government's response to comments received to the public consultation exercise is being published on the DBERR web site at the same time as the Regulations are laid. In due course revised public guidance on the various EIA processes will be produced by the Department.

11. Post implementation review

As with the previous amending Directive to the EU EIA Directive, the Commission can be expected to verify satisfactory transposition of its Directive. In the meantime the Department will monitor the working of the Regulations to see that they are effective in terms of developers knowing what they have to do and, that they have led to improved access to information for the public.

12. Summary and recommendation

The Department's conclusion is that the existing environmental impact assessment requirements do need to be amended in order to implement the provisions of the EU Public Participation Directive and this can be achieved only by introducing amending Regulations if the UK Government is to avoid continued infraction proceedings from the Commission.

As a result of the consultation the Department has made changes to its approach, and the amending Regulations to be laid reflect that. The Department believes that with the changes to the amending Regulations they now represent a proportionate, balanced way to meet the EU requirements.

13. Declaration and publication

I have read the Impact Assessment and I am satisfied that the benefits justify the costs.

Signed Malcolm Wicks

Date: 9th July 2007

Malcolm Wicks

Minister of State for Energy and Sustainable Development

Department for Business, Enterprise and Regulatory Reform

TRANSPOSITION NOTE

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2007

Transposition note for Directive 2003/35/EC of the European Parliament and of the Council 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 (the “Public Participation Directive”) as it relates to projects in England and Wales requiring consent under sections 36 or 37 of the Electricity Act 1989.

Article 3 of the Public Participation Directive amends Council Directive 85/337/EEC on the effects of certain public and private projects on the environment (“the EIA Directive”). The EIA Directive was transposed (to the extent that it applied to projects in England and Wales requiring consent under sections 36 or 37 of the Electricity Act 1989) by the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (“the 2000 Regulations”). Article 3 of the Public Participation Directive is transposed (for projects in England and Wales requiring consent under sections 36 or 37 of the Electricity Act 1989) by amendment of the 2000 Regulations.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2007 (“the 2007 Regulations”) do what is necessary to implement the (relevant) changes made to the EIA Directive by the Public Participation Directive, including making consequential changes to the 2000 Regulations to ensure its coherence.

Articles of 2003/35/EC	Objective	Implementation	Responsibility
3.1	<p>Adds definitions of “the public” and “the public concerned” to the EIA Directive.</p> <p>The object of the addition is to ensure that the general public are able to be informed of the environmental impact assessment procedure, the fact that an environmental assessment is taking place, the information gathered under it and the Secretary of State’s decision.</p>	<p>It was not considered necessary to distinguish in the 2000 Regulations between the public and the public concerned.</p> <p>The publicity requirements are transposed by requiring notice in the London Gazette, in addition to notices in local newspapers (regulations 9(1A), 10(6), 14(1A) and 14A(3) of the 2000 Regulations as amended by the 2007 Regulations) and by requiring information to be placed on the local planning register and made available for public inspection (regulation 10 of the 2000 Regulations as amended by regulation 8 of the 2007 Regulations).</p>	<p>The developer is responsible for the publication of:</p> <p>(a) notices in relation to submission of the environmental statement;</p> <p>(b) notices of further information relating to that development;</p> <p>(c) notices that additional information has started to be received on that development; and</p> <p>(d) notices of determination of the development consent by the Secretary of State.</p> <p>The local planning authority is responsible for placing information on the local planning register and making it available for public inspection.</p>
3.2	<p>Inserts criteria for disapplication of the EIA Directive to projects serving national defence purposes.</p> <p>There is no longer a provision that projects serving national defence purposes are not covered by the EIA Directive. Instead, member states may provide on a case-by-case basis not</p>	<p>No implementation required. It was not considered necessary to include an exemption in the 2000 Regulations for projects serving national defence purposes.</p>	

	to apply the EIA Directive to projects serving national defence purposes if they deem such application would have an adverse effect.		
3.3	Where a specific project is in exceptional circumstances exempted from the requirements of the EIA Directive, consideration must be given as to whether another form of assessment would be appropriate, and information made available to the public.	No implementation required. It was not considered necessary to include a power in the 2000 Regulations to exempt specific projects in exceptional circumstances in whole or in part from the requirements of the EIA Directive.	
3.4	<p>(1) Requires publication of information as soon as can reasonably be provided concerning a request for development consent, including whether article 7 of the EIA directive applies, the nature of possible decisions and details of the arrangements for public participation.</p> <p>(2) Requires that there be made available to the public concerned (including non-governmental organisations promoting environmental protection):</p> <p>(a) information gathered pursuant to article 5 of the EIA Directive and main reports and advice issued to the Secretary of State at the time of initial publication of information concerning the proposed development; and</p>	<p>(1) Transposed by supplementing requirements relating to the notice to be published after an environmental statement has been submitted (regulation 9 of the 2000 Regulations as amended by regulation 7 of the 2007 Regulations).</p> <p>(2) As regards (a) transposed by:</p> <ul style="list-style-type: none"> • amendment of the definition of “environmental statement” so that it includes supplementary information provided voluntarily by the applicant (regulation 2(1) of the 2000 Regulations as amended by regulation 2 of the 2007 Regulations); • the requirement that initial publication of information concerning the proposed development indicate where a copy of the environmental statement can be obtained (regulation 9(2)(b) of the 2000 Regulations); and • the requirement that the local planning authority place a copy of the environmental statement on the register (regulation 10(2A) of the 2000 Regulations as inserted by regulation 8(2)(b) of the 2007 Regulations). 	<p>(1) The developer is responsible for publishing the notice of submission of the environmental statement.</p> <p>(2) The developer is responsible for providing the environmental statement and for publicising it. The developer is responsible for sending a copy of the environmental statement to the local planning authority and to consultative bodies.</p> <p>The developer is responsible for providing further information required by the Secretary of State and for publicising it. The developer is responsible for sending a copy of the further information to the local planning authority and to the consultative bodies.</p> <p>The Secretary of State is responsible for notifying the developer of additional information and for sending a copy of the additional information to the local planning authority. The developer is responsible for publishing notice that additional information has started to be submitted on his proposal.</p> <p>The local planning authority is responsible for placing the environmental statement, the further information and the</p>

	<p>(b) information which becomes available only after the initial publication of information concerning the proposed development.</p> <p>(3) Requires that the public concerned be given early and effective opportunities to participate in the decision-making process within reasonable time-frames.</p>	<p>As regards (b) transposed by-</p> <ul style="list-style-type: none"> • the insertion of a new definition of “additional information” (regulation 2(1) of the 2000 Regulations as amended by regulation 2 of the 2007 Regulations); • the requirement that the local planning authority place further and additional information on the register (regulation 10(2A) of the 2000 Regulations as inserted by regulation 8(2)(b) of the 2007 Regulations); and • publicity requirements in relation to further and additional information (regulations 14 and 14A of the 2000 Regulations as amended by the 2007 Regulations). <p>(3) Transposed by-</p> <ul style="list-style-type: none"> • provision for initial publication of information concerning the proposed development as soon as is reasonably practicable (regulation 9(1) of the 2000 Regulations as amended by regulation 7(a) of the 2007 Regulations); • by the requirement that notification of the arrangements for public participation are included in the initial publication (regulation 9(2) of the 2000 Regulations as amended by regulation 7 of the 2007 Regulations); and • by a guaranteed minimum period of 4 weeks (specified in relevant publicity) within which representations may be made in relation to the environmental statement, any further information and following notice that additional information has started to be submitted on the proposal (regulations 9(2)(c), 14(2)(c) and 14A(4)(e) of the 2000 Regulations as amended by the 2007 Regulations). 	<p>additional information on the register.</p> <p>(3) The Secretary of State may not consent to development unless satisfied that the publicity requirements have been complied with (regulation 4(2)(c) of the 2000 Regulations as amended by regulation 3 of the 2007 Regulations).</p>
3.5	To set out the	Transposed by regulation 12 of the	Secretary of State

	information that should be provided to another Member State where a proposed project is likely to have significant effects on the environment of the other Member State.	2000 Regulations as amended by regulation 10 of the 2007 Regulations.	
3.6(a)	Requires that the Secretary of State, having examined the concerns and opinions expressed by the public concerned must inform the public of his determination of the application and that specified information is made available to the public.	Transposed by regulation 10(3) to 10(6) of the 2000 Regulations as amended by regulation 8(2) of the 2007 Regulations.	<p>The Secretary of State is required to send a statement containing the specified information to the local planning authority and to the applicant.</p> <p>The local planning authority must make that statement available for public inspection.</p> <p>The applicant is required to publish notices of the determination of the application and availability of the statement by the Secretary of State.</p>
3.6(b)	The Secretary of State must make the same information as outlined in article 3.6(a) available to any other Member State consulted.	Transposed by regulation 10(4) of the 2000 Regulations as amended by regulation 8(2)(d) of the 2007 Regulations.	Secretary of State.
3.7	Requires that there be a review procedure in relation to decisions of the Secretary of State and that the public concerned be made aware of its existence.	<p>The decisions of the Secretary of State may already be challenged by way of judicial review. Non-governmental bodies designated by statutory provision as having specific environmental responsibilities have standing to bring a judicial review where they have an interest in the matter.</p> <p>The publicity requirements are transposed by a requirement that the statement made by the Secretary of State on determination of the application contains information on the availability of judicial review procedures, including details of where further information can be obtained (regulation 10(3A)(e) of the 2000 Regulations as inserted by regulation 8(2)(c) of the 2007 Regulations).</p>	<p>The Secretary of State is required to send a statement containing the specified information to the local planning authority and to the applicant.</p> <p>The local planning authority must make that statement available for public inspection.</p> <p>The applicant is required to publish notices of the availability of that statement.</p>
3.8	Addition to Annex I of the EIA Directive, applying that Directive to changes and extensions to projects listed in the Annex where the alteration would in itself meet the	Transposed by schedule 1, paragraph (3) of the 2000 Regulations as inserted by regulation 14(1) of the 2007 Regulations.	Secretary of State

	thresholds set out in the Annex.		
3.9	Amendment to Annex II of the EIA Directive, excluding from that Annex changes and extensions to projects now falling within Annex I of the EIA Directive.	Transposed by schedule 2 of the 2000 Regulations as amended by regulation 14(2) of the 2007 Regulations.	Secretary of State