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STATUTORY INSTRUMENTS

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**2008 No. 2093**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008**

*Made* - - - - *30th July 2008*  
*Laid before Parliament* *7th August 2008*  
*Coming into force* - - *1st September 2008*

The Secretary of State, being a designated<sup>(1)</sup> Minister for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the environment, in exercise of the powers conferred by that section and by section 333 of, and paragraph 1 of Schedule 6 to, the Town and Country Planning Act 1990<sup>(3)</sup>, makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008 and shall come into force on 1st September 2008.

(2) These Regulations apply in relation to England only.

**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<sup>(4)</sup> are amended in accordance with regulations 3 to 11.

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(1) The Secretary of State is so designated by [S.I. 2008/301](#).  
(2) [1972 c.68](#). Section 2(2) includes power to make certain provision in relation to the European Economic Area by virtue of section 2(5) of the European Economic Area Act 1993 ([1993 c.51](#)). Council Directive [85/337/EEC](#) was amended by Council Directive [97/11/EC](#) and further amended by Council Directive [2003/35/EC](#).  
(3) [1990 c.8](#); paragraph 1 of Schedule 6 was amended by the Environment Act [1995 \(c.25\)](#), Schedule 22, paragraph 44. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999, [S.I. 1999/672](#): see the entry in Schedule 1 for the Town and Country Planning Act 1990 as substituted by Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 ([S.I. 2000/253](#)). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act [2006 \(c.32\)](#) they were transferred to the Welsh Ministers.  
(4) [S.I. 1999/293](#), amended by [S.I. 2000/2867](#), [S.I. 2006/3295](#) and [S.I. 2008/1556](#).

### Amendments to Part 1 (general)

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

(a) insert at the appropriate place—

““ROMP subsequent application” means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject following determination of a ROMP application; and

(b) must be obtained before all or part of the minerals development permitted by the planning permission may be begun or continued;”;

““ROMP subsequent consent” means consent granted pursuant to a ROMP subsequent application;”;

““subsequent application” means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject; and

(b) must be obtained before all or part of the development permitted by the planning permission may be begun;”;

““subsequent consent” means consent granted pursuant to a subsequent application.”;

(b) for the definition of “EIA application” substitute—

““EIA application” means—

(a) an application for planning permission for EIA development; or

(b) a subsequent application in respect of EIA development;”;

(c) for the definition of “Schedule 1 application and Schedule 2 application” substitute—

““Schedule 1 application” means—

(a) an application for planning permission for Schedule 1 development; or

(b) a subsequent application in respect of Schedule 1 development; and

““Schedule 2 application” means—

(a) an application for planning permission for Schedule 2 development; or

(b) a subsequent application in respect of Schedule 2 development;”.

(2) For regulation 3 (prohibition on granting planning permission without consideration of environmental information) substitute—

**“Prohibition on granting planning permission or subsequent consent without consideration of environmental information**

3.—(1) This regulation applies—

(a) to every application for planning permission for EIA development received by the authority with whom it is lodged on or after the commencement of these Regulations;

(b) to every application for planning permission for EIA development lodged by an authority pursuant to regulation 3 or 4 (applications for planning permission) of the General Regulations on or after that date;

- (c) to every subsequent application in respect of EIA development received by the authority with whom it is lodged on or after the commencement of these Regulations but which was not determined by 1st September 2008; and
- (d) to every subsequent application in respect of EIA development lodged by an authority pursuant to regulation 11 of the General Regulations on or after the commencement of these Regulations but which was not determined by 1st September 2008;

and for the purposes of this paragraph, the date of receipt of an application by an authority shall be determined in accordance with paragraph (3) of article 20 (time periods for decision) of the Order.

(2) The relevant planning authority or the Secretary of State or an inspector shall not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.”.

#### **Amendments to Part 2 (screening)**

4. In regulation 5(2) (requests for screening opinions of the local planning authority) after subparagraph (a) insert—

- “(aa) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;”.

#### **Amendments to Part 3 (procedures concerning applications for planning permission)**

5.—(1) For regulation 7 (application made to a local planning authority without an environmental statement) substitute—

##### **“Application made to a local planning authority without an environmental statement**

7.—(1) Where it appears to the relevant planning authority that—

- (a) an application which is before them for determination is a Schedule 1 application or Schedule 2 application; and
- (b) the development in question—
  - (i) has not been the subject of a screening opinion or screening direction; or
  - (ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

(2) Where an EIA application which is before a local planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the authority shall notify the applicant in writing that the submission of an environmental statement is required.

(3) 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.

(4) An authority shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Secretary of State, after the expiry of that period of three weeks or of any longer period so agreed, makes a screening direction to the effect that the development is EIA development, the authority shall so notify the applicant within seven days beginning with the date the authority received a copy of that screening direction.

(5) An applicant receiving a notification pursuant to paragraph (2) may, within three weeks beginning with the date of the notification, write to the authority stating—

- (a) that he accepts their view and is providing an environmental statement; or
- (b) unless the condition referred to in paragraph (6) is satisfied, that he is writing to the Secretary of State to request a screening direction.

(6) For the purpose of paragraph (5)(b) the condition is—

- (a) if the application referred to in paragraph (2) is an application for planning permission, that the Secretary of State has made a screening direction in respect of the development;
- (b) if the application referred to in paragraph (2) is a subsequent application, that the Secretary of State has made a screening direction subsequent to that application in respect of the development.

(7) If the applicant does not write to the authority in accordance with paragraph (5), the permission or subsequent consent sought shall, unless the condition referred to in paragraph (8) is satisfied, be deemed to be refused at the end of the relevant three week period, and the deemed refusal—

- (a) shall be treated as a decision of the authority for the purposes of paragraph (4)(c) of article 25 (register of applications) of the Order; but
- (b) shall not give rise to an appeal to the Secretary of State by virtue of section 78 (right to appeal against planning decisions and failure to take such decisions).

(8) For the purpose of paragraph (7) the condition is—

- (a) if the application referred to in paragraph (2) is an application for planning permission, that the Secretary of State has made a screening direction to the effect that the development is not EIA development;
- (b) if the application referred to in paragraph (2) is a subsequent application, that the Secretary of State has made a screening direction subsequent to that application, to the effect that the development is not EIA development.

(9) An authority which has given a notification in accordance with paragraph (2) shall, unless the Secretary of State makes a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 14(5).

(10) A person who requests a screening direction pursuant to paragraph (5)(b) shall send to the Secretary of State with his request copies of—

- (a) his application;
- (b) all documents sent to the authority as part of the application;
- (c) all correspondence between the applicant and the authority relating to the proposed development;

- (d) a copy of any planning permission granted for the development; and
  - (e) in the case of a subsequent application, documents or information relating to the planning permission granted for the development that are relevant to the application, and paragraphs (2) to (5) of regulation 6 shall apply to a request under this regulation as they apply to a request made pursuant to regulation 5(6).”.
- (2) In regulation 8 (application referred to the Secretary of State without an environmental statement)—
- (a) in paragraph (1) omit the words “for planning permission”;
  - (b) for paragraph (1)(b) substitute—
    - “(b) the development in question—
    - (i) has not been the subject of a screening opinion or screening direction; or
    - (ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and”;
  - (c) in paragraph (6) after “permission” insert “or subsequent consent”.
- (3) In regulation 9 (appeal to the Secretary of State without an environmental statement)—
- (a) for paragraph (1)(b) substitute—
    - “(b) the development in question—
    - (i) has not been the subject of a screening opinion or screening direction; or
    - (ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and”;
  - (b) in paragraphs (2) and (7) after “permission” insert “or subsequent consent”.

**Amendments to Part 4 (preparation of environmental statements)**

- 6.—(1) In regulation 10 (scoping opinions of the local planning authority)—
- (a) after paragraph (2)(a) insert—
    - “(aa) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;”;
  - (b) in paragraph (9) after “planning permission” insert “or a subsequent application”.
- (2) In regulation 11 (scoping directions of the Secretary of State) in paragraph (6) after “planning permission” insert “or a subsequent application”.
- (3) In regulation 12(3)(b) (procedure to facilitate preparation of environmental statements) for “7(4)(a)” substitute “7(5)(a)”.

**Amendments to Part 5 (publicity and procedures on submission of environmental statements)**

- 7.—(1) In regulation 13 (procedure where an environmental statement is submitted to a local planning authority) after paragraph (3) insert—
- “(3A) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 8 of and Schedule 3 to the Order (publicity for applications for planning permission) shall apply to a subsequent application as they apply to a planning application falling within paragraph 8(2) of the Order except

that for the reference in the notice in Schedule 3 to the Order to “planning permission to” there shall be substituted “subsequent application in respect of”.

(2) In regulation 14 (publicity where an environmental statement is submitted after the planning application)—

- (a) in paragraph (1) after “planning permission” insert “or a subsequent application”;
- (b) in paragraph (2)(a) after “planning permission” insert “or subsequent consent”;
- (c) in paragraph (2)(d) after “statement” insert “and, in the case of a subsequent application, a copy of the planning permission in respect of which that application has been made and supporting documents,”;
- (d) in paragraph (2A) for “7(2A)” substitute “7(3)”;
- (e) in paragraph (6) after “permission” insert “or subsequent consent”.

(3) In regulation 15 (provision of copies of environmental statements and further information for the Secretary of State on referral or appeal) after “planning permission” insert “or subsequent consent”.

(4) In regulation 17 (availability of copies of environmental statements) after “planning permission” insert “or subsequent consent”.

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

- (a) in paragraph (3)(a) after “planning permission” insert “or subsequent consent”;
- (b) after paragraph (3)(b) insert—
  - “(bb) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified.”;
- (c) in paragraph (3)(e) after “any other information” insert “and of any statement referred to as an environmental statement for the purpose of these Regulations which relates to any planning permission or subsequent application”.

#### **Amendments to Part 6 (availability of directions etc. and notifications of decisions)**

8. In regulation 20 (availability of opinions, directions etc. for inspection)—

- (a) in paragraph (1) after “planning application” insert “or of a subsequent application”; and
- (b) in paragraph (2) after “planning permission” insert “or subsequent consent”.

#### **Amendments to Part 7 (special cases)**

9.—(1) In regulation 22 (development by a local planning authority)—

- (a) in paragraph (1)(b) for “(2) to (7)” substitute “(2) to (10)”;
- (b) for paragraph (1)(e)(i) substitute—

“(i) for paragraph (1), there were substituted—

“(1) When a relevant planning authority making an EIA application lodge a statement which they refer to as an environmental statement for the purposes of these Regulations, they shall—

(a) serve a copy of—

- (i) that statement;
- (ii) the relevant application and any plan submitted with it; and
- (iii) in the case of a subsequent application, the planning permission granted for the development in respect of which the subsequent

- application has been made and any documents or information relating to the application,
- on each consultation body;
- (b) inform each consultation body that representations may be made to the relevant planning authority; and
- (c) send to the Secretary of State within 14 days of lodging the statement—
- (i) three copies of the statement;
  - (ii) a copy of the relevant application and of any documents submitted with the application; and
  - (iii) in the case of a subsequent application, the planning permission granted for the development in respect of which the subsequent application has been made and any documents or information relating to the application.”;”;
- (c) in paragraph (2) after “planning application” insert “or a subsequent application”.
- (2) In regulation 25 (unauthorised development)—
- (a) in paragraph (1)—
- (i) after “Secretary of State” insert “or an inspector”;
  - (ii) after “shall not grant planning permission” insert “or subsequent consent”.
- (b) in paragraph (9)—
- (i) omit from “and, in either case” to “that development”;
  - (ii) omit “such”.
- (c) after paragraph (9) insert—
- “(9A) Where an inspector is dealing with an appeal under section 174 and a question arises as to whether the matters which are alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, the inspector shall refer that question to the Secretary of State;
- (9B) Before he receives a screening direction the inspector shall not determine the application which is deemed to have been made by virtue of the appeal under section 174 (“the deemed application”) except to refuse that application;
- (9C) Where a question is referred to the Secretary of State under paragraph (9A) he shall make a screening direction within three weeks beginning with the date on which the question was referred to him or such longer period as he may reasonably require;
- (9D) The Secretary of State shall send a copy of any screening direction made pursuant to paragraph (9C) forthwith to the inspector.”;
- (d) in paragraph (11)(a) omit “(“the deemed application”)”;
- (e) in paragraph (12) after “Where the Secretary of State” insert “or an inspector”;
- (f) in paragraph (14)(a)—
- (i) after “where the Secretary of State” insert “or an inspector”;
  - (ii) after “such period as the Secretary of State” insert “or the inspector”;
  - (iii) after “such longer period as the Secretary of State” insert “or the inspector”.
- (g) in paragraph (16)—
- (i) after sub-paragraph (b) insert—

- “(bb) sufficient information to enable any planning permission for the development to be identified;”;
  - (ii) in sub-paragraph (c) after “any other information” insert “and of any planning permission”;
  - (h) in paragraph (18) after “he” insert “or an inspector”;
  - (i) in paragraph (20) after “Secretary of State” insert “or an inspector”.
- (3) In regulation 26A (ROMP applications) for paragraphs (1) to (21) of regulation 26A (ROMP applications) substitute—

*“General application of the Regulations to ROMP applications*

- (1) These Regulations shall apply to—
- (a) a ROMP application as they apply to an application for planning permission;
  - (b) a ROMP subsequent application as they apply to a subsequent application;
  - (c) ROMP development as they apply to development in respect of which an application for planning permission is, has been, or is to be made;
  - (d) a relevant mineral planning authority as they apply to a relevant planning authority;
  - (e) a person making a ROMP application as they apply to an applicant for planning permission;
  - (f) a person making a ROMP subsequent application as they apply to a person making a subsequent application;
  - (g) the determination of a ROMP application as they apply to the granting of a planning permission; and
  - (h) the granting of ROMP subsequent consent as they apply to the granting of subsequent consent,

subject to the modifications and additions set out below.

*Modification of provisions on prohibition of granting planning permission or subsequent consent*

- (2) In regulation 3(1) (prohibition on granting planning permission or subsequent consent without consideration of environmental information)—
- (a) in sub-paragraphs (a),(c) and (d) for the words “of these Regulations” substitute “ of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) (Amendment) Regulations 2000(5)”;
  - (b) in sub-paragraph (b) for the words “3 or 4 (applications for planning permission)” substitute “11 (other consents)”;
  - (c) in the case of a ROMP application, for the words “determined in accordance with paragraph (3) of article 20 (time periods for decision) of the Order”, substitute “ the date on which a ROMP application has been made which complies with the provisions of paragraphs 2(3) to (5) and 4(1) of Schedule 2 to the 1991 Act, 9(2) of Schedule 13 to the 1995 Act, or 6(2) of Schedule 14 to the 1995 Act”;

*Modification of provisions on application to local planning authority without an environmental statement*

- (3) In the case of a ROMP application, in regulation 7(5) (application made to a local planning authority without an environmental statement)—



- (a) for the word “three” substitute “six”; and
- (b) after “the notification” insert “, or within such other period as may be agreed with the authority in writing”.

*Disapplication of Regulations and modifications of provisions on application referred to or appealed to the Secretary of State without an environmental statement*

(4) In the case of a ROMP application, regulations 7(7) and (9), 8(5) and (6), 9(6) and (7), 22 and 32 shall not apply.

(5) In the case of a ROMP application, in regulation 8(4) (application referred to the Secretary of State without an environmental statement) and in regulation 9(5) (appeal to the Secretary of State without an environmental statement)—

- (a) for the word “three” substitute “six”;
- (b) after “the notification” insert “, or within such other period as may be agreed with the Secretary of State in writing,”.

*Substitution of references to section 78 right of appeal and modification of provisions on appeal to the Secretary of State without an environmental statement*

(6) In the case of a ROMP application, in regulations 9(1) and 15(b), for the references to “section 78 (right to appeal against planning decisions and failure to take such decisions)” substitute—

“paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)”.

(7) In the case of a ROMP application, in regulation 9(2) (appeal to the Secretary of State without an environmental statement) omit the words “, except by refusing planning permission or subsequent consent,”.

*Modification of provisions on preparation, publicity and procedures on submission of environmental statements*

(8) In the case of a ROMP application, in regulations 10(9) and 11(6) for the words “an application for planning permission or a subsequent application” substitute “a ROMP application which relates to another planning permission which authorises”.

(9) In the case of a ROMP application, in regulation 13 (procedure where an environmental statement is submitted to a local planning authority) after paragraph (3) insert—

“(3A) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 8 of and Schedule 3 to the Order (publicity for applications for planning permission) shall apply to a ROMP application under paragraph—

- (a) 2(2) of Schedule 2 to the 1991 Act; and
- (b) 6(1) of Schedule 14 to the 1995 Act(6)

as they apply to a planning application falling within paragraph 8(2) of the Order except that for the references in the notice in Schedule 3 to the Order to “planning permission” there shall be substituted “determination of the conditions to which a planning permission is to be subject” and that notice shall refer to the relevant provisions of the 1991 or 1995 Act pursuant to which the application is made.”.

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(6) The provisions of the Order are not applied to applications under paragraph 9(1) of Schedule 13 to the 1995 Act as they are applied by paragraph 9(5) of Schedule 13 to the 1995 Act.

(10) In the case of a ROMP application, in regulation 14 (publicity where an environmental statement is submitted after the planning application)—

- (a) in paragraph (2)(a) for the words “and that he is the applicant for planning permission or subsequent consent” substitute—

“, that he has applied for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 or 1995 Act pursuant to which the application is made”;

- (b) for paragraph (6) substitute—

“(6) Where an applicant indicates that he proposes to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant planning authority, the Secretary of State or the inspector, as the case may be, shall suspend consideration of the application or appeal until the date specified by the authority or the Secretary of State for submission of the environmental statement and compliance with paragraph (5); and shall not determine it during the period of 21 days beginning with the date of receipt of the statement and the other documents mentioned in paragraph (5).”.

(11) In the case of a ROMP application, in regulation 15 (provision of copies of environmental statements and further information for the Secretary of State on referral or appeal), in paragraph (a) for “section 77” substitute “paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act”.

(12) In the case of a ROMP application, in regulation 17 (availability of copies of environmental statements) after “the Order” insert “(as applied by regulation 13(3A) or by paragraph 9(5) of Schedule 13 to the 1995 Act).”.

(13) In the case of a ROMP application, in regulation 19 (further information and evidence respecting environmental statements)—

- (a) in paragraph (3) for the words “applicant for planning permission or subsequent consent or the appellant (as the case may be)” substitute—

“person who has applied for or who has appealed in relation to the determination of the conditions to which the planning permission is to be subject, the relevant provisions of the 1991 or 1995 Act pursuant to which the application is made”;

- (b) in paragraph (7) after the words “application or appeal” insert “until the date specified by them or him for submission of the further information”.

#### *Modification of provisions on application to the High Court and giving of directions*

(14) In the case of a ROMP application, for regulation 30 (application to the High Court) substitute—

#### **“Application to the High Court**

**30.** For the purposes of Part 12 of the Act (validity of certain decisions), the reference in section 288, as applied by paragraph 9(3) of Schedule 2 to the 1991 Act, paragraph 16(4) of Schedule 13 to the 1995 Act or paragraph 9(4) of Schedule 14 to the 1995 Act, to action of the Secretary of State which is not within the powers of the Act shall be taken to extend to the determination of a ROMP application by the Secretary of State in contravention of regulation 3.”.

(15) The direction making power substituted by regulation 35(8) shall apply to ROMP development as it applies to development in respect of which a planning application is made.

#### *Suspension of minerals development*

(16) Where the authority, the Secretary of State or an inspector is dealing with a ROMP application or an appeal arising from a ROMP application and notifies the applicant or appellant, as the case may be, that—

- (a) the submission of an environmental statement is required under regulation 7(2), 8(2) or 9(4) then such notification shall specify the period within which the environmental statement and compliance with regulation 14(5) is required; or
- (b) a statement should contain additional information under regulation 19(1) then such notification shall specify the period within which that information is provided.

(17) Subject to paragraph (18), the planning permission to which the ROMP application relates shall not authorise any minerals development (unless the Secretary of State has made a screening direction to the effect that ROMP development is not EIA development) if the applicant or the appellant does not—

- (a) write to the authority or Secretary of State within the six week or other period agreed pursuant to regulation 7(5), 8(4) or 9(5);
- (b) submit an environmental statement and comply with regulation 14(5) within the period specified by the authority or the Secretary of State in accordance with paragraph (16) or within such extended period as is agreed in writing;
- (c) provide additional information within the period specified by the authority, the Secretary of State or an inspector in accordance with paragraph (16) or within such extended period as is agreed in writing; or
- (d) where a notification under regulation 5(3), 6(3), 10(3) or 11(3) has been received, provide the additional information requested within three weeks beginning with the date of the notification, or within such extended period as may be agreed in writing with the authority or Secretary of State, as the case may be.

(18) Where paragraph (17) applies, the planning permission shall not authorise any minerals development from the end of—

- (a) the relevant six week or other period agreed in writing as referred to in paragraph (17)(a);
- (b) the period specified or agreed in writing as referred to in paragraphs (17)(b) and (c),

(“suspension of minerals development”) until the applicant has complied with all of the provisions referred to in paragraph 17 which are relevant to the application or appeal in question.

(19) Particulars of the suspension of minerals development and the date when that suspension ends must be entered in the appropriate part of the register as soon as reasonably practicable.

(20) Paragraph (17) shall not affect any minerals development carried out under the planning permission before the date of suspension of minerals development.

(21) For the purposes of paragraphs (17) to (20) “minerals development” means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.”.

(4) After regulation 26A insert—

**“ROMP applications: duty to make a prohibition order after two years suspension of permission**

**26B.—**(1) This regulation applies if, in relation to a minerals development—

- (a) a period of two years beginning with the suspension date has expired, and
- (b) the steps specified in regulation 26(A)(17) have yet to be taken.

(2) The “suspension date” is the date on which the suspension of minerals development (within the meaning of regulation 26A(18)) begins.

(3) Paragraph 3 of Schedule 9 to the Act has effect in relation to any part of a site as it has effect in relation to the whole site.

(4) Sub-paragraph (1) of that paragraph has effect as if for the words from “the mineral planning authority may by order” to the end there were substituted—

“the mineral planning authority—

(i) must by order prohibit the resumption of the winning and working or the depositing; and

(ii) may in the order impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).”.

(5) In sub-paragraphs (2)(a) and (b) of that paragraph, references to winning and working or depositing are to be read as references to winning and working or depositing for which permission is not suspended by virtue of regulation 26A(18).

(6) Paragraph 4(7) of Schedule 9 to the Act has effect as if for “have effect” there were substituted “authorise that development”.

#### **Amendments to Part 8 (development with significant transboundary effects)**

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

(a) after paragraph (3)(a) insert—

“(aa) a copy of any planning permission relating to the development;”;

(b) in paragraph (3)(b) for “a copy of the” substitute “a copy of any”.

#### **Amendments to Part 9 (miscellaneous)**

**11.** In regulation 30 (application to the High Court) after “planning permission” insert “or subsequent consent”.

#### **Amendment of the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997**

**12.** In regulation 4 (classes of appeal reserved for determination by the Secretary of State) of the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997(7), omit paragraph (c).

#### **Revocation of regulations 3 and 4 of the Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008**

**13.** Regulations 3 and 4 of the Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008(8) are revoked.

(7) S.I. 1997/420. Relevant amendments were made by S.I. 2006/2227 and S.I. 2008/595.

(8) S.I. 2008/1556.

Signed by authority of the Secretary of State

30th July 2008

*Caroline Flint*  
Minister of State  
Department for Communities and Local  
Government

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ([S.I.1999/293](#)) (“the 1999 regulations”) implemented, in England and Wales, Council Directive [85/337/EEC](#) (“the EIA Directive”) on the assessment of the effects of certain public and private projects on the environment (O.J. No. L175, 5.7.1985, p.40) as amended by Council Directive [97/11/EC](#) (O.J. No. L73, 14.3.1997, p.5). The EIA Directive was also amended by Council Directive [2003/35/EC](#) (O.J. No. L156, 25.6.2003, p.17). The Town and Country Planning (Environmental Impact Assessment)(England and Wales)(Amendment) Regulations 2000 ([S.I. 2000/2867](#)) (“the 2000 Regulations”) implemented the Directives in respect of ROMP applications (applications made to mineral planning authorities to determine the conditions to which a mineral planning permission is subject under Schedule 2 to the Planning and Compensation Act 1991 ([c.34](#)) and Schedules 13 and 14 to the Environment Act 1995 ([c.25](#)) made after the commencement of the 2000 Regulations (15 November 2000). The Town and Country Planning (Environmental Impact Assessment) (Minerals Permissions and Amendment)(England) Regulations 2008 ([S.I. 2008/1556](#)) (“the 2008 Regulations”) applied the 1999 Regulations, with modifications, to ROMP applications made before 15 November 2000 which were undetermined on 22 July 2008 and contained provisions applying to all ROMP applications.

These Regulations amend the 1999 Regulations to implement the Directives in respect of applications for approval of reserved matters and applications for approval of conditions attached to the grant of planning permissions (“subsequent applications”) and applications for approval of conditions attached to the grant of minerals permissions (“ROMP subsequent applications”).

Regulations 2 to 11 amend the 1999 Regulations so that their provisions apply to subsequent applications.

Regulation 7 applies to subsequent consents article 8 of, and Schedule 3 to, the Town and Country Planning (General Development Procedure) Order 1995 ([S.I. 1995/419](#), amended by [S.I. 1999.293](#) and [2006/1062](#)), which provide for publicity procedures to be followed by local planning authorities in the case of planning permissions that are subject to environmental impact assessment.

Regulation 9 substitutes paragraphs (1) to (21) of Regulation 26A (inserted by the 2000 Regulations) which deals with ROMP applications. The new paragraphs apply the 1999 Regulations, with modifications, to ROMP applications and to ROMP subsequent applications.

Regulation 12 amends the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, which prescribe the classes of appeal which are to be determined by persons appointed by the Secretary of State in accordance with the provisions of Schedule 6 to the Town and Country Planning Act 1990 instead of being determined by the Secretary of State. It excludes from the reserved classes of appeal, enforcement appeals relating to unauthorised development to which the EIA Directive applies.

Regulation 13 revokes regulations 3 and 4 of the 2008 Regulations, as the provisions of regulation 3 are incorporated in the substituted regulation 26A(17)(d) of the 1999 Regulations and regulation 4 is re-enacted as new regulation 26B of the 1999 Regulations.

An impact assessment has been prepared in relation to these Regulations. It has been placed in the Library of each House of Parliament and is available on the internet at [www.communities.gov.uk](http://www.communities.gov.uk). Copies can be obtained by post from the Planning Central Casework Division, Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU.

