

EXPLANATORY MEMORANDUM TO
THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS
AND PROCEDURE) REGULATIONS 2009 No. 2264
THE INFRASTRUCTURE PLANNING (MODEL PROVISIONS) (ENGLAND AND
WALES) ORDER 2009 No. 2265
THE INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT
ASSESSMENT) REGULATIONS 2009 No. 2263
THE CONSERVATION (NATURAL HABITATS &C.) (AMENDMENT) (NO.2)
REGULATIONS 2009¹

1. This explanatory memorandum has been prepared by the Department of Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Explanatory Memorandum deals with a suite of statutory instruments that, together with non-statutory guidance documents, set out the procedures which applicants for consent for nationally significant infrastructure projects will be required to follow before and after submitting an application to the Infrastructure Planning Commission (“IPC”) under the Planning Act 2008 (“the Act”), and the content of such applications.

2.2 Applicants will be expected to carry out thorough and effective pre-application consultation (including on environmental issues) with a wide variety of persons. Specific requirements for this are given in the regulations on applications and procedures and in the regulations transposing the Environmental Impact Assessment Directive and the Habitats Directive (see below). The statutory instruments also specify in detail how an application should be set out, and what information must, or potentially could, be included. The IPC must satisfy itself before accepting an application that the applicant’s pre-application consultation activity and the application contents have met the required standards.

2.3 In particular, the application must include a draft of the order that contains provisions which describe all the development that the applicant is intending to carry out. The Infrastructure Planning (Model Provisions) (England and Wales) Order (“the model provisions Order”) sets out model provisions which may be included in the draft proposed order. These model provisions are designed to assist applicants when they are preparing the draft proposed order but they are not mandatory. The IPC are also required to have regard to these model provisions when making an order granting development consent (section 38(2) of the Act).

¹ This Explanatory Memorandum relates only to Part 2 of the Conservation (Natural Habitats &c.) (Amendment) (No.2) Regulations. That is the Part of the regulations relevant to the application for development consent orders under the Planning Act 2008. Defra has produced another Explanatory Memorandum which covers the whole of those regulations. This and the instrument are due to be laid in early September.

2.4 Regulations are also included in this suite to transpose the requirements of the Environmental Impact Assessment Directive and the Habitats Directive for the new regime for nationally significant infrastructure.

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

3.1 This is the first use of powers under sections 37, 38, 48, 51, 56, 58 and 59 of the Act. These sections are brought into force on 1st October 2009 by the Planning Act 2008 (Commencement No.2) Order 2009 (S.I. 2009/2260). The power to make Orders and Regulations came into force on the day on which the Act was passed – see section 241 of the Act.

4. Legislative Context

4.1 These Regulations are made under the Planning Act 2008 (“the Act”), except for the Conservation (Natural Habitats &c.) (Amendment) (No.2) Regulations (“the Habitat Regulations”) and the Infrastructure Planning (Environmental Impact Assessment) Regulations (“the EIA Regulations”) which are both made under section 2(2) of the European Communities Act 1972, to legislate to create a new system for dealing with development consent for nationally significant infrastructure projects. The Planning Bill was introduced to Parliament on 27 November 2007, and received Royal Assent on 26 November 2008 as the Planning Act 2008. Parts 1 to 8 of the Act provides for the grant of development consent for development consisting of nationally significant infrastructure projects. Where development consent is required under the Act, there is no need for certain other consents to be obtained – such as planning permission, pipeline authorisation or consent under the Electricity Act 1989 or the Gas Act 1965. The Act also provides for the establishment of the IPC who will examine and, where a national policy statement has been designated, determine applications for development consent.

4.2 Part 5 of the Act sets out the procedure to be followed prior to making an application for development consent and how to make an application. Sections 55 to 59 of Part 6 of the Act deal with what the IPC must take into account when accepting an application and notification procedures that must be followed once an application has been accepted.

4.3 The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (regulations 3 and 4) prescribe who, in addition to those bodies and persons set out in the Act, must be consulted as part of the pre-application requirements of the Act. The Act places significant emphasis on wide public consultation before an application is made. The regulations also set out how a notice of consultation must be termed and where it must be placed. In addition the Act requires consultation with the local community in liaison with the local authority who can offer its expertise in reaching the wider community in the best way.

4.4 Section 37 of the Act requires an application for development consent to be made. Regulation 5 provides for a standard form of application, which is in Schedule 2 and sets out all the documents, including a draft of the proposed order that must accompany the application, if relevant to it. Regulation 6 expands on this for specific projects where specialist information might be required.

4.5 Following an application being accepted under section 56, notice must be given of that accepted application and further invitation given for comments and representations. Regulations 8, 9 and 10 set out who must be consulted in addition to those already specified in the Act and how this should be done where details are not on the face of the Act.

4.6 Section 38 of the Act gives the Secretary of State the power to prescribe model provisions for incorporation in the draft proposed order and to which the Commission must have regard when making an order granting development consent. In neither case is it mandatory to use the model provisions.

4.7 Section 51 of the Act gives the Commission power to give advice to applicants and potential applicants. Regulation 11 sets the parameters for giving any advice and the making available of that advice in order to ensure propriety is adhered to while advising any person.

4.8 Regulation 12 sets out transitional matters for applicants who might have already commenced consultation with persons and bodies prior to the regulations coming into force and might not have done so exactly in accordance with the requirements of the Act and the regulations.

4.9 Section 120 of the Act provides that an order granting development consent may impose “requirements” in connection with the development for which consent is granted. The model provisions Order also includes model provisions in respect of these requirements.

4.10 The Environmental Impact Assessment Directive² (“the EIA Directive”) requires that, before granting “development consent” for any project that is likely to have significant effects on the environment, authorities must carry out a procedure known as environmental impact assessment (“EIA”). The EIA Regulations which form part of this package transpose the EIA Directive in relation to those procedures set up for the IPC which lead to the making of orders granting development consent and to the granting of approvals in respect of requirements imposed by such orders, where these are also covered by the EIA Directive.

5. Territorial Extent and Application

5.1 The Infrastructure Planning (Application: Prescribed Forms and Procedure) Regulations and the Infrastructure Planning (Environmental Impact Assessment) Regulations apply to England, Wales and Scotland in accordance with the scope of the Planning Act 2008 (see section 240). The Infrastructure Planning (Model Provisions) (England and Wales) Order applies in relation to England and Wales. They do not apply in relation to Scotland due to the different legislative background. It is proposed that model provisions for Scotland will be provided at a later date. The Conservation (Natural Habitats &c.) (Amendment) (No.2) Regulations apply to England, Wales and Scotland in accordance with the scope of the Planning Act 2008 apart from Regulation 7 which extends to England and Wales only and Regulation 8 which extends to Scotland only.

6. European Convention on Human Rights

² Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC and Article 3 of Council Directive 2003/35/EC.

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Act makes provision for:

- The Government to produce national policy statements (“NPSs”) which would establish the case for nationally significant infrastructure development. These will integrate environmental, social and economic objectives, including climate change commitments, for the delivery of sustainable development. They will set out the national need for infrastructure development and set the policy framework for IPC decisions. They will be a major step towards to the overall goal of speeding up the process of delivering infrastructure.
- A new duty on promoters to ensure that proposals are properly prepared and consulted on before they submit an application for nationally significant infrastructure projects
- A new independent body, the IPC, to take over responsibility for considering and deciding such applications. Decisions will be based primarily on the NPS. The examination process will be streamlined. Questioning at hearings will be led by commissioners rather than being adversarial.
- The Secretary of State to prescribe the persons it must have consulted before designating a statement as an NPS. These persons have been set out in The Infrastructure Planning (National Policy Statement Consultation) Regulations 2009 (S.I. 2009/1302) which came into force on 22 June 2009.

7.2 The Government has published an IPC Implementation “Route Map” which sets out in detail how the IPC regime is being implemented, including the timetable for bringing in the legislation and guidance. (See <http://www.communities.gov.uk/documents/planning>)

Pre-application consultation and application procedures

7.3 The Regulations are made under Parts 5 and 6 of the Planning Act, in order to provide details of the framework of consultation activities which must be undertaken prior to the submission of an application for an order granting development consent. These Regulations also provide for details of how an application should be submitted to the IPC.

7.4 Just as the Planning Act requires applicants to consult widely with a range of bodies and organisations prior to making an application, they are also required to publicise any applications which are accepted by the IPC. These regulations set out how an applicant is required to publicise its development proposals prior to submitting an application to the Commission, and how an applicant must publicise, and also notify prescribed persons, of an application that has been accepted by the Commission. The regulations contain a list of organisations which must be consulted about proposed and submitted applications, and the circumstances in which these organisations should be consulted. These will have the status of statutory consultees for the purpose of nationally significant infrastructure projects and so must, be consulted by the applicant. The Government intends to update this list to include the Marine Management Organisation, subject to the passage of the Marine and Coastal Access Bill. As well as the statutory consultees, it is likely the applicant will also need to consult with other organisations, depending on the proposed development and location in each case.

7.5 The Regulations set out that an application to the Commission must consist of an application form, prescribed documentation and any other information necessary for a particular development proposal. The Regulations include a prescribed application form, which is intended to act as a high-level and non-technical summary with maps clearly showing the location of the proposal and, through the list of accompanying documents, a further indication of the kinds of issues that will need to be considered in order for development consent to be granted. A guidance note will aid the applicant in completing the application form, and provide clarification on the documents that should accompany it.

7.6 These Regulations make transitional provisions relating specifically to applications which are made prior to 1st October 2011, but where the applicant includes in this application details of consultations commenced between 1st October 2007 and 1st October 2009. In these circumstances, the provisions of section 55(3) of the Planning Act are deemed to have been met, subject to certain restrictions. This recognises that some applicants who are planning to submit an application prior to 1st October 2011 may have already engaged in public consultation exercises as regards their proposals. The establishment of new standards for pre-application consultation in October 2009 should not cast doubt on the value of consultation activities undertaken prior to this date.

7.7 There are additional requirements relating to pre-application consultation which flow through from other regulations in this package dealing with EIA. These requirements apply where an application is likely to have environmental effects, where the EIA directive makes consultation on the proposals mandatory. These provisions are discussed below.

Model provisions

7.8 The Order made here sets out model provisions, which are intended to assist the applicant in preparing the draft proposed order, and to enable common issues across all or most applications to be addressed in a consistent manner. This follows the established practice for orders under the Transport and Works Act 1992, where the provision of model clauses (currently in SI 2006/1954) for railways and tramways has proved very useful in terms of ensuring general consistency of approach and helping applicants. It will not be mandatory for applicants to follow model provisions strictly, in order to submit a draft proposed order along with an application for development consent. However, the IPC must take account of the model provisions, when making an order granting development consent.

7.9 The model provisions Order is constructed in such a way that promoters of nationally significant infrastructure projects only need to look to the Schedule which is relevant to the infrastructure type. Schedule 2 sets out a complete set of model provisions to be used in nationally significant infrastructure projects (NSIP) relating to railways, and is based largely on the contents of the existing Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (SI 2006/1954). Schedule 3 sets out a complete set of model provisions to be used in NSIP harbour projects, and is based on provisions stemming either from existing Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (SI 2006/1954) or from one or more Harbour Revision Orders or Harbour Empowerment Orders.

7.10 We have not set out a complete set of model provisions for other NSIP types, since promoters of such projects are likely to need provisions which are bespoke to that project. However, Schedule 1 sets out a series of model provisions which may be relevant to a large number of infrastructure projects, which cover a number of issues common to large

construction projects, such as compulsory acquisition of land and stopping up of streets. In all cases, individual applicants will need to decide if they need to modify the model provisions for the purposes of their own draft development consent orders.

7.11 The model provisions Order also includes (at Schedule 4) a series of model “requirements” (akin to planning conditions under existing regimes). We expect that applicants will include what they consider to be suitable requirements, in the draft proposed order they submit along with their application.

Environmental Impact Assessment (EIA) and Habitats

7.12 The Planning Act 2008 does not directly apply any European Community regulatory provisions – such as the EU Habitats Directive 92/43/EEC (the “Habitats Directive”) or the Environmental Impact Assessment Directive (85/337/EC) – to the new bodies and procedures established under the Planning Act 2008. Instead, the relevant provisions of the Directives, in the case of the EIA Directive are applied by the EIA Regulations that transpose the Directive as respects applications for NSIPs and related matters and in the case of the Habitats Directive by the Habitats Regulations which implement the Habitats Directive in Great Britain.

7.13 In particular these EIA Regulations:

- Inform the IPC as the competent authority responsible for determining whether a proposed development requires an EIA, and what should be covered by that EIA (scoping and screening respectively).
- Set out when an EIA is required, what should be contained within an environmental statement, relevant timescales, consultation and publicity requirements and details of the overall process.
- Ensure that consultation exercises and publicity under s.47 or 48 of the Act make provision for consultation and publicity of preliminary environmental information
- Make provision for publicity requirements for offshore developments.
- Provide that the IPC must not accept an application that does not comply with the EIA requirements, or where that application has already been accepted, provide for the IPC to suspend its examination of the application until the requirements are complied with.
- Make provision for ensuring that any requirements imposed by an order granting development consent are if necessary subject to the appropriate EIA.
- Make provisions covering developments with significant transboundary effects, that is to say they prescribe what the IPC must do when an EIA development is likely to have significant environmental effects on a State that is party to the Agreement on the European Economic Areas.

7.14 In particular, these Habitats Regulations:

- Ensure that where the Secretary of State considers it necessary, NPSs will include text which encourages the management of the features of the landscape which are of major importance for wild fauna and flora. This transposes Article 10 of the Habitats Directive which provides that Member States shall endeavour to encourage the management of landscape features whenever they consider it necessary in land-use planning and development policies (see regulation 5).
- Ensure that the IPC is a competent authority and has the same duties and powers as other competent authorities when deciding applications.

- Ensure that where an application for development consent is likely to have a significant effect on a site protected under the Habitats Directive, that the proposal is subject to appropriate assessment as required by article 6(3) of that Directive (see new regulation 67A).
- Require the decision-maker under the Planning Act 2008 to review any development consent orders which come within the scope of Regulation 50 of the Habitats Regulations and ensure they are undertaken in accordance with the procedures set out in Schedule 6 to the Act (where the decision-maker is the Panel or the Council, the IPC will carry out the review – see new regulation 67B). Regulation 50 of the Habitats Regulations provides that an existing consent must be reviewed where the consent is likely to have significant effect on a protected site, where that site has been designated as a protected site after consent has been granted.
- Ensure that where an NPS is likely to have a significant effect on a protected site, that the NPS is subject to appropriate assessment as required by Article 6(3) of the Directive (see regulation 7 and 8).

8. Consultation outcome

8.1 The Government consulted on draft versions of the Regulations and Order made here, between 30 March and 19 June 2009. The consultation document can be found at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/consultationpreapplication.pdf>

8.2 The Government received 133 responses to this consultation, a brief summary of which are set out below, along with how we have dealt with key issues:

Pre-application consultation and application procedures

8.3 The Infrastructure Planning (Application: Prescribed Forms & Procedure) Regulations contain a list at Schedule 1 of statutory consultees, which the promoter is required to consult about its proposals for a nationally significant infrastructure project, and notify when an application had been received and accepted for consideration by the IPC. A range of opinions were received regarding the proposed list. The majority of responses proposed potential additions to the list. A number of respondents were either content with the list or supportive of the inclusion of particular bodies listed. Some respondents expressed concern that the draft list was too long or that some of the bodies listed were inappropriate for various reasons. There was particular support for the addition of Local Planning Authorities to the final list.

8.4 Some respondents suggested that bodies should be grouped by infrastructure type, or divided into a core list which should be consulted in all cases, and a secondary list of optional consultees which the promoter could consider consulting depending on the nature of the project. However, we are not convinced that such approaches would add greater clarity to these requirements.

8.5 We have carefully considered the suggestions made by respondents, and have thoroughly re-appraised the suitability of each body on the proposed list. As a result, we have removed the Regional Assemblies, the Local Government Association, and Cadw and have added the Joint Nature Conservation Committee, Areas of Outstanding Natural Beauty Conservation Boards and the Royal Commission on Ancient and Historical Monuments of Wales. We have also added some equivalent organisations in respect of Scotland, namely the

equivalent Health Board, the Scottish Environment Agency, the Scottish Human Rights Commission and Scottish Fisheries Protection Agency. The entry for the Office of Rail Regulation has been expanded to include approved operators. The local authorities have not been added, as they are already consultees at section 43 of the Act. In addition to these changes, we have sought to ensure greater accuracy and consistency in describing the circumstances governing when bodies should be consulted.

8.6 Respondents were generally supportive of the provisions relating to publicity of applications. A significant number of respondents expressed concern in relation to the requirements for local newspaper adverts in regulation 4(3)(a) that in some areas two local newspapers may not exist. We agree that this is a significant risk, and accordingly have amended the regulations to require publicity in 'one or more' local newspapers. We have also made other minor changes to improve the clarity and accuracy of the text.

8.7 Respondents were overwhelmingly in agreement that there should be a prescribed application form. Various suggestions were made on how the proposed form could be improved. As far as was appropriate, we have reflected these in the final version of the form, which is at Schedule 2 in the statutory instrument. There was also strong support for a guidance note to accompany the form. Again, various comments were made on the draft, particularly regarding the need for it to give as much assistance to the promoter by more fully explaining why certain information is needed. We have reflected a lot of the suggestions in the final version of this guidance note.

8.8 A main concern raised by respondents was that the Regulation 5 seemed to suggest the promoter was required to potentially submit the same information more than once, for example some of the information normally required for an Environmental Statement was also separately listed elsewhere. This was not the intention, and we have amended the application form and guidance note, to make clear that information should not be duplicated throughout the application, but that appropriate cross-referencing should be used to identify where the information can be found within the documents.

8.9 Several suggestions were made for additional documents and information that should be included within the application, particularly a transport assessment, design and access statement and an economic impact report. We have decided to not include more prescribed documents, but instead make clear in guidance that the promoter needs to consider supplying any information that it believes will be required by the IPC for considering the application and that will either support its case or address concerns of respondents. Many respondents felt it would be too onerous and unnecessary for applicants to submit copies of all consultation responses. We agree, and have removed this requirement, with applicants instead required simply to make these available for the IPC to inspect, if it so wishes.

8.10 Respondents were overwhelmingly supportive of the use of electronic versions of application documents for consultation and submission to the IPC. However, many respondents expressed concern about the limitations of electronic formats - files may be very large or in an inaccessible format, and the internet is not always available and reliable. The use of CD/DVD formats was strongly supported, as was the continuing need for paper versions of forms to be made available. We agree with the benefits of information being provided in electronic formats as much as possible, but that paper versions will still be needed, for example for depositing at public locations and otherwise made available in that format to those who wish to view or receive them that way. In certain parts of the regulations

we have retained the need for paper versions, but an applicant is now only required to submit to the IPC paper versions of an application where the IPC specifically requests this. We have emphasised in guidance that as much use as possible should be made of electronic versions.

Model provisions

8.11 The predominant view of respondents was that the model provisions were helpful, and would assist applicants when they come to formulate an application to the IPC. At the same time, respondents noted that there was an explicit recognition that individual applicants will need to modify the model provisions for the purposes of their own draft development consent order.

8.12 Several consultation responses were received, asking for provisions to be set out specifically for each infrastructure type: we have attempted to do this. However, we have found it impossible to fulfil all such requests, as many infrastructure types would only require “general” model provisions, or would need provisions that are so specific to the project in question that model provisions would not assist. In particular, we sympathise with the request of energy and offshore respondents, that there be specific model provisions for offshore projects – but we have found that formulations on issues such as safety zones, alteration of shipping lanes etc. are particular to specific projects, and a standardised model provision on the subject would be so vague as to not assist greatly. We believe individual applicants should draft additional provisions on offshore issues, after consulting with relevant statutory consultees, drawing from examples like previous Harbours Act orders.

8.13 We agree with respondents who asked for specific provisions related to highways NSIPs. We will consider how best to standardise the provisions of various Highways Act orders, but will only be able to return to this at a later date.

8.14 Some respondents asked for the general model provisions to act as a comprehensive list that identifies all the consents and licences that can be provided by a development consent order. We do not believe this is an appropriate function of model provisions, not least since the Act makes clear that the matters contained in a development consent order are not limited to matters prescribed in model provisions.

8.15 We received extensive technical comments from the Law Society and the Society of Parliamentary Agents, which we have reflected on, and the final version of the model provisions incorporates many of these changes where we believe they are justified.

Environmental Impact Assessment and Habitats

8.16 The vast majority of respondents felt that the draft regulations did not omit any of the principles that are established in the EIA Directive. There were mixed responses to whether there should be a time limit placed on promoters for providing the IPC with further information in order for it to make screening and scoping opinions. The majority felt it was unnecessary or inappropriate, since there could be practical reasons preventing compliance with a time limit such as if some environmental data is only available at certain times of the year. We agree there are strong arguments against having a time limit, and have decided the Regulations will not require this.

8.17 On the question of how to ensure that any requirements placed on a development consent order by the IPC are subject to an EIA, many respondents recognised the need for the Regulations to provide for this, although the majority felt that, in practice, most of the issues would have been fully discussed and addressed with the IPC during the examination process. We have decided to provide for a process that will mean the applicant can apply to the IPC for screening to determine if the requirements would be subject to EIA. But we are also providing for the applicant to move straight to submitting an updated environmental statement, without having to go through the screening process. Where requirements are deemed to be subject to EIA, the updated environmental information must be consulted on and publicised.

8.18 The consultation document set out our intention to combine the information in Annex 2 of the EU Directive and the thresholds of Part 3 of the Act to form a Schedule 2 in the EIA Regulations. In further considering this approach, we found this to not be a practical solution, as the respective thresholds did not allow for an acceptably straightforward process for alignment. Therefore, we have decided that the two proposed schedules will now equate respectively to Annexes 1 and 2 of the EU Directive.

8.19 Respondents also made other suggestions on the Applications: Prescribed Forms & Procedure Regulations. In particular, many were concerned that it was inappropriate to require applicants to undertake pre-application consultation on a draft environmental statement. We agree, and have amended the requirement so that applicants must consult on preliminary environmental information at the pre-application stage; although clearly in order to be able to consult properly, any pre-application consultation will need to identify the likely environmental effects of the proposal. Some respondents felt that it would be better for the EIA and the applications and procedure regulations to be combined into a single document. Given the length and complexity of these two regulations, we consider there would not be a significant advantage gained in that approach. However to respond to those concerns we have made a number of changes to both the Applications: Prescribed Forms & Procedure Regulations and the EIA Regulations to align the requirements wherever possible.

8.20 For the draft Habitats Regulations, the predominant view of respondents was that the draft amendments were appropriate, and would successfully transpose the requirements of the Habitats Directive for the new regime under the Act. It was strongly suggested that the IPC must have regard to the tests of the Habitats Directive regarding alternatives and the test of Imperative Reason of Overriding Public Interest, when it decides on an application which would impact on a European site.

8.21 Some respondents suggested that rather than amend the existing the Conservation (Natural Habitats &c.) Regulations, the Government should make a bespoke set of Habitats Regulations for the purposes of NSIPs. We do not agree that this would improve the transparency of the Habitats regime as regards NSIPs.

9. Guidance

9.1 These Regulations are being made at the same time as guidance documents are published by the Secretary of State on:

- how applicants should conduct pre-application consultation to the standards required by the Planning Act 2008 and these Regulations;

- what types of development could be included in development consent orders, as development “associated” to development mentioned in Part 3 of the Planning Act 2008 ; and
- how applicants should complete the prescribed application forms

These guidance documents are titled as follows and copies can be made available if required:

- Planning Act 2008: Guidance on Pre-Application Consultation
- Planning Act 2008: Guidance on Associated Development
- Planning Act 2008: Nationally Significant Infrastructure Projects Application Form - Guidance Note.

10. Impact

An Impact Assessment has not been prepared for most of this consultation as the policy options do not have an additional impact on business, charities or the public sector beyond that examined in the Impact Assessment that accompanied the Planning Act 2008.

However, an impact assessment has been prepared in relation to the transitional provisions of the Regulations on application procedures. This assessment has been placed in the library of each House of Parliament and copies may be obtained from the NSID, Department of Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU (telephone 020 7944 0810).

11. Regulating small business

The legislation technically applies to small businesses, but the Government believes it is unlikely that a small business will apply for a development consent order under the Planning Act 2008, given the nature and scale of NSIPs.

12. Monitoring & review

This package of legislation may need to be updated over time. CLG will revise it as appropriate. Subsequent additional legislation may affect the bodies who need to be statutory consultees, and CLG will continue to work with other Government Departments to ensure that the list is appropriate and up to date.

13. Contact

Donald Stark at the Department of Communities and Local Government (tel: 020 7944 0815 or email: Donald.stark@communities.gsi.gov.uk) can answer any queries regarding the instruments.