
STATUTORY INSTRUMENTS

2011 No. 1824

**The Town and Country Planning (Environmental
Impact Assessment) Regulations 2011**

PART 3

Procedures Concerning Applications for Planning Permission

Appeal to the Secretary of State without an environmental statement

12.—(1) Where on consideration of an appeal under section 78 (right to appeal against planning decisions and failure to take such decisions) it appears to the Secretary of State that—

- (a) the relevant application is an EIA 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 relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the appeal were a request made by the appellant pursuant to regulation 5(7).

(2) Where an inspector is dealing with an appeal and a question arises as to whether the relevant application is an EIA application and it appears to the inspector that it may be such an application, the inspector shall refer that question to the Secretary of State and shall not determine the appeal, except by refusing planning permission or subsequent consent, before a screening direction is made.

(3) Paragraphs (3) and (4) of regulation 6 shall apply to a question referred under paragraph (2) as if the referral of that question were a request made by the appellant pursuant to regulation 5(7).

(4) Where it appears to the Secretary of State that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, the Secretary of State shall notify the appellant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

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

(6) An appellant who receives a notification under paragraph (4), may within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(7) If the appellant does not write in accordance with paragraph (6), the Secretary of State or, where relevant, the inspector, shall be under no duty to deal with the appeal; and at the end of the 3 week period shall inform the appellant that no further action is being taken on the appeal.

(8) Where—

(a) a notification has been given under paragraph (4), and

(b) the appellant does not submit an environmental statement and comply with regulation 17(6),

the Secretary of State or, where relevant, the inspector shall determine the appeal only by refusing planning permission or subsequent consent.