

EXPLANATORY MEMORANDUM TO
THE INFRASTRUCTURE PLANNING (PRESCRIBED CONSULTEES AND
INTERESTED PARTIES ETC.) REGULATIONS 2013

2013 No. 522

1. This Explanatory Memorandum has been prepared by the Department for Communities and Local Government (DCLG) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The purpose of this instrument is to amend the lists of bodies contained in five statutory instruments relating to the nationally significant infrastructure regime under the Planning Act 2008. The lists prescribe bodies to be consulted or notified in a variety of circumstances during the process of applying for development consent under the Planning Act 2008. In order to make the application process less cumbersome, this instrument updates the lists to remove the names of bodies which no longer exist, remove certain other bodies, replace the names of bodies where other bodies have taken over functions or where a body has changed its name, change the circumstances in which bodies are to be contacted and insert certain new bodies.

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

3.1 None

4. **Legislative Context**

4.1 The Planning Act 2008 (the “2008 Act”) established the nationally significant infrastructure regime. Applications for development consent for nationally significant infrastructure projects must be made under the provisions of that Act.

4.2 A number of provisions in the 2008 Act require that lists of bodies be prescribed and this is done in five sets of regulations: the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009; Infrastructure Planning (National Policy Statement Consultation) Regulations 2009; Infrastructure Planning (Interested Parties) Regulations 2010; Infrastructure Planning (Compulsory Acquisition) Regulations 2010 and Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011.

4.3 Over time the lists contained in these instruments have become out-of-date as some bodies listed have ceased to exist and some have changed their names. In some cases, the functions of one body have been divided between new bodies. This instrument updates these lists to reflect these changes.

4.4 In addition, the Department for Communities and Local Government aims to simplify the process for obtaining development consent under the 2008 Act. In order to do so, some bodies are being removed from the lists to reduce the number of bodies to be consulted or notified in each situation.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain, although certain provisions apply to England only. Where bodies have ceased to exist or names have changed, these changes apply to both England and Wales. Where bodies have been removed to streamline the consultation requirements, these changes only apply to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Delivering economic growth is the over-riding priority for the Government, and improving the efficiency and speed of the planning process is a crucial part of creating the conditions for sustainable local growth. One element of the September 2012 package of reforms to housing and planning was to consider how to further streamline the nationally significant infrastructure planning regime by broadening the scope of the ‘one stop shop’ for non-planning consents, alongside other improvements to the service.

7.2 The nationally significant infrastructure regime is governed by the Planning Act 2008 (as amended by the Localism Act 2011). A developer wishing to construct a nationally significant infrastructure project must first apply to the Secretary of State for consent to do so. Following examination, the Examining Authority (Planning Inspectorate) makes a recommendation to the relevant Secretary of State who determines whether to grant or refuse development consent. There is a strong emphasis on the developer carrying out detailed pre-application work, including consultation with a wide range of prescribed consultees, before an application is submitted.

7.3 There is currently a long list of prescribed consultees set out in regulations which developers must consult prior to application, inform once the application has been formally accepted or consult on changes. The Planning Inspectorate must also contact these bodies both as part of environmental impact assessment scoping and during the examination of the application. In practice this can involve consulting around 150 bodies on each application.

7.4 However, experience indicates that some of these consultees have never responded to a consultation and others have asked to be removed from the consultation list. Other listed bodies no longer exist; where their statutory function(s) continue, developers must seek an equivalent body to consult. Collectively, these factors create a confusing and time-consuming consultation process where the benefits are not always apparent.

7.5 The Department recently consulted on a proposal to update and streamline the current list of prescribed consultees. Those bodies which are removed from the list would still be able to participate in the examination as interested parties if they wished, by submitting a relevant representation. In addition we have included two additional bodies, the Ministry of Defence and for Wales, the Design Commission for Wales. We consider that the changes will make the list of prescribed consultees fit for purpose whilst retaining a transparent and rigorous approach to consultation.

8. Consultation outcome

8.1 The Government consulted on ‘Nationally Significant Infrastructure: Expanding and Improving the ‘one stop shop’ for 6 weeks from 22nd November 2012. 46 responses were received. The overall response to the proposal to streamline the lists of prescribe bodies to be consulted or notified in a variety of circumstances during the process of applying for development consent under the Planning Act 2008 was positive, with a wide range of private sector, voluntary, local authority and trade bodies welcoming the proposed streamlining and reduction of bureaucracy. The Government has published a response to the consultation, available at <https://www.gov.uk/government/consultations/nationally-significant-infrastructure-planning-expanding-and-improving-the-one-stop-shop-approach-for-consents>. We intend to implement these changes through new regulations, which if approved will come into effect from 6 April.

9. Guidance

9.1 The Department for Communities and Local Government publishes guidance alongside the relevant regulations on prescribed bodies. The Department conducted a ‘Light Touch Review’ of the full suite of guidance documents to support the nationally significant infrastructure planning regime during the summer 2012. It published revised guidance on the pre-application process, including consultation with prescribed bodies. This can be found at [Planning Act 2008: guidance on the pre-application process](#).

10. Impact

10.1 There is an expected positive impact for promoters of nationally significant infrastructure projects, as the change will reduce by at least one third the number of prescribed bodies they need to consult at various stages of project development. There is no expected impact on charities or voluntary bodies.

10.2 There is no expected impact on the public sector.

10.3 An Impact Assessment was published as part of the original consultation and is available at <https://www.gov.uk/government/consultations/nationally-significant-infrastructure-planning-expanding-and-improving-the-one-stop-shop-approach-for-consents>.

11. Regulating small business

11.1 The legislation will have no impact on small businesses. The vast majority of nationally significant infrastructure projects relate to multi-million pound projects with very significant capital costs. Given the costs associated with such developments, we take the view that only a major developer is likely to submit an application for a development on such a scale that it would be classified as nationally significant.

12. Monitoring & review

12.1 The Department for Communities and Local Government will continue to keep the list of non-planning consents administered outside of the development consent process under review. A review of the Planning Act regime is currently being planned for 2014 and will be conducted by the Department for Communities and Local Government..

13. Contact

Sue Lovelock at the Department for Communities and Local Government can answer any queries regarding the instrument.

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