STATUTORY INSTRUMENTS

2005 No. 1430

AGRICULTURE, ENGLAND

The Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (England) (Amendment) Regulations 2005

Made - - - -	*25th May 2005*
Laid before Parliament	*26th May 2005*
Coming into force - -	*25th June 2005*

The Secretary of State, being a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment and to the conservation of natural habitats and of wild fauna and flora, in exercise of the powers conferred upon her by the said section 2(2), hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (England) (Amendment) Regulations 2005 and shall come into force on 25th June 2005.

Amendment of Regulations

2. The Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (England) Regulations 2001(**c**) are amended as follows.

Interpretation

3. At the end of the definition of "the EIA Directive" in regulation 2(1) add "as last amended by Directive 2003/35/EC"(**d**).

Application of Regulations

4. In regulation 3—

(a) after "from" in paragraph (3) insert "regulations 4 to 25"; and

(b) after paragraph (4) add—

(**a**) S.I. 1988/785 (in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment) and S.I. 1992/2870 (in relation to measures relating to the conservation of natural habitats and of wild fauna and flora).

(**b**) 1972 c. 68. The enabling powers of section 2(2) of this Act were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c. 51).

(**c**) S.I. 2001/3966.

(**d**) OJ No. L156, 25.06.03, p. 17.

"(5) Where the Secretary of State proposes to give a direction under paragraph (3) she shall—

(a) consider whether any assessment of the project would be appropriate, other than an assessment of the kind which, if regulations 4 to 25 of these Regulations applied to the project, would be required prior to a screening decision under regulation 5(4) or a decision to grant or refuse consent under regulation 13(1); and

(b) take such steps as she considers appropriate to bring to the attention of the public—

(i) the information considered in making the direction and the reasons for doing so, and

(ii) the information obtained from any assessment of the project under sub-paragraph (a).".

Provision of information

5. In regulation 8, for paragraph (3) substitute—

"(3) Paragraph (1) shall not require a consultation body to make available to the applicant any information which—

(a) it may refuse to disclose under regulation 12(1) of the Environmental Information Regulations 2004(**a**); or

(b) it is prevented from disclosing by regulation 13(1) of those Regulations.

(4) Where a consultation body is not a public authority within the meaning of regulation 2(2) of the Environmental Information Regulations 2004, paragraph (3) shall apply as if it were such a public authority.".

The consent application

6. In regulation 9(3)(b)—

(a) after "publish in a newspaper circulating in the locality of the relevant land" insert "and on an appropriate website";

(b) in sub-paragraph (ii), after "publication of the notice" omit "and";

(c) after sub-paragraph (iii), add—

"(iv) stating that, if consent is granted, it shall be subject to the conditions specified in regulation 13(11) and to any such additional conditions as the Secretary of State may think fit; and

(v) stating, where relevant, which of the other EEA States, the authorities referred to in Article 6(1) of the EIA Directive and the public concerned in any such EEA State, will be consulted on the application.".

Additional information

7. In regulation 10—

(a) in paragraph (1), for "the environmental statement" substitute "a statement included with an application for consent made under regulation 9(1) which purports to be an environmental statement";

(b) in paragraph (3), after "publish in a newspaper circulating in the locality of the relevant land" insert "and on an appropriate website".

(**a**) S.I. 2004/3391.

Other EEA States

8. In regulation 11—

(a) in paragraph (2), for "additional environmental information", substitute "further information she considers relevant to the application";

(b) after paragraph (6), add—

"(7) Where another EEA State has taken a decision to grant or refuse development consent and has informed the Secretary of State of that decision in accordance with Article 9(2) of the EIA Directive, the Secretary of State shall take such steps as she considers appropriate to bring to the attention of the public any information received from that EEA State in relation to that decision.".

The consent decision

9. In regulation 13—

(a) in paragraph (12)(a), for "of her decision together with the full reasons and considerations on which the decision is based", substitute—

"of—

(i) her decision;

(ii) the full reasons and considerations on which the decision is based; and

(iii) any representations made by the public concerned in relation to the application."

(b) in paragraph (12)(c), at the end of sub-paragraph (ii), omit "and";

(c) in paragraph (12)(c), at the end of sub-paragraph (iii), add—

"(iv) a summary of any representations made by the public concerned in relation to the application; and

(v) information regarding the right to challenge the decision and the procedures for doing so.".

Jim Knight
Parliamentary Under Secretary of State
25th May 2005 Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (England) Regulations 2001 (S.I. 2001/3966) ("the principal Regulations").

They implement Directive 2003/35/EC (OJ No. L156, 25.6.2003, p.17) providing for public participation in certain environmental decision making, which amends Council Directive 85/337/EEC (OJ No. L175, 5.7.85, p.40, as amended by Council Directive 97/11/EC, OJ No. L73, 14.3.97, p.5) ("the EIA Directive") on the assessment of the effects of certain public and private projects on the environment, insofar as it affects environmental impact assessments of uncultivated land and semi-natural areas.

They also include amendments to reflect a change in the legislation relating to disclosure of environmental information, and to correct a drafting error in the principal Regulations.

Regulation 3 updates the interpretation of "the EIA Directive" in the principal Regulations to include the amendments made to the EIA Directive by Directive 2003/35/EC.

Regulation 4 requires the Secretary of State, when exercising her power to direct that a particular project is exempt from regulations 4 to 25 of the principal Regulations, to consider whether any assessment of the project would be appropriate, other than an assessment of the kind which would take place under regulations 4 to 25 of the principal Regulations, and to bring certain information relating to the exercise of the power to the attention of the public.

Regulation 5 updates the reference in the principal Regulations to the Environmental Information Regulations 1992 (S.I. 1992/3240, as amended by S.I. 1998/1447), which are now revoked. It provides that a consultation body is not required to make available to an applicant for consent any information which it may refuse to disclose under the Environmental Information Regulations 2004 (S.I. 2004/3391) or which it is prevented from disclosing by those Regulations.

Regulation 6 requires the Secretary of State to publish notice of an application for consent on an appropriate website, and requires certain additional information to be included in the notice.

Regulation 7 corrects a drafting defect in the principal Regulations relating to the environmental statement submitted with an application for consent, and requires the Secretary of State to publish any notice of additional environmental information on an appropriate website.

Regulation 8 amends the requirements in the principal Regulations relating to projects in England which may affect the environment in other EEA States and vice versa.

Regulation 9 requires certain additional information to be provided by the Secretary of State when giving notice of a decision to grant or refuse consent.

A full regulatory impact assessment has not been prepared for this instrument as it has no impact on the costs of business.

A Transposition Note has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Transposition Note can be obtained from Sustainable Land Use Division, Defra, Ergon House, Horseferry Road, London, SW1P 2AL, or from the Defra website: www.defra.gov.uk.

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