

Principal statutes and statutory instruments

<p>Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 SI 1999/293 as amended Regulations 3, 4, 5 and 6</p>	<p>Reg.3 prohibits a relevant planning authority from granting planning permission for an <i>EIA application</i> unless they have considered environmental information in reaching their decision. Reg. 4 establishes the rules regarding screening opinions in respect of whether an application for planning permission requires submission of an Environmental Statement (ES). An ES is required for all applications for developments listed in Sch.1, and for a development listed in Sch.2 if in the opinion of planning authority or SoS, it is likely to have significant effects on the environment by virtue of factors such as its nature, size or location. There is no requirement for a screening opinion if a developer voluntarily submits an ES. A developer may request a <i>screening opinion</i> from the planning authority as to whether an ES is required under Reg. 5, such an opinion must be provided within 3 weeks. If no opinion is provided or the developer chooses to question the opinion, under Reg. 6 they may request that the SoS gives a <i>screening direction</i> to the planning authority.</p>
<p>Regulations 7, 8 and 9</p>	<p>Reg. 7 and Reg.8 specify the procedures to be followed by a planning authority and the SoS where a planning application is submitted for an EIA application without a supporting ES. A planning authority must notify the applicant within 3 weeks advising that an ES is required. The applicant must confirm in writing that an ES will be submitted or that a screening direction is being requested from the SoS, otherwise the application must be deemed to have been refused. Reg. 9 concerns the procedures applying to appeals.</p>
<p>Regulations 10, 11, 12</p>	<p>Reg. 10 provides for an applicant to write to a planning authority asking for a <i>scoping opinion</i> setting out their views on what environmental information should be included in an ES for the proposed development. The scoping opinion must be provided within five weeks. An applicant may request a scoping direction from the SoS under Reg. 11. Reg. 12 specifies that a planning authority in receipt of a notice from an applicant that they intend to submit an ES, must notify consultation bodies of the fact and advise the applicant of which consultation bodies have been notified. The applicant may then request environmental information relevant to the development from such bodies who must make it available unless it is confidential information (see E key facts 18 – Public Access to Environmental Information).</p>
<p>Regulations 13, 14, 15, 16, 17, 18 and 19</p>	<p>Reg. 13 requires an applicant submitting an ES to a planning authority to provide a list of all bodies who have been served with copies of the ES together with three additional copies which the authority then forwards to the SoS. The authority must then notify the applicant of the number of additional copies that it requires to serve on any remaining consultation bodies which have not received a copy directly from the applicant. Under Reg.14, an applicant must advertise the fact they have submitted an EIA application supported or to be supported by an ES in local press and London Gazette containing prescribed information and must display a notice upon the land for at least 28 days containing the same prescribed information. Copies of the advertisement and certificate to confirm that he has posted a notice upon the land must be submitted with the ES to the planning authority. Regs. 15 to 18 relate the provision of copies of an ES in the case of referral or application to the SoS or in the event of appeals. Reg. 19 specifies that similar procedures to the above shall be followed for any additional environmental information that is provided after the ES has been prepared and submitted.</p>
<p>Regulations 20 and 21,</p>	<p>These Regulations place a duty upon planning authorities to enter specified information in the public register (planning register) and to inform the public and SoS of their decision in respect of the planning application.</p>
<p>Regulations 22, 23 and 24</p>	<p>These Regulations specify the procedures to be followed in special cases: where the applicant is the planning authority or the development is in a simplified planning zones or enterprise zone.</p>
<p>Regulations 25 and 26</p>	<p>These Regulations concern the procedures to be followed by the SoS and planning authority in the case of unauthorised EIA development.</p>
<p>Regulations 27 and 28</p>	<p>Regulation 27 and 28 apply to developments which the SoS considers may have significant transboundary environmental effects..</p>
<p>Regulations 29 to 35</p>	<p>Contain various miscellaneous provisions.</p>

What developments are EIA developments?

<p>Schedule 1 Developments Requiring a Mandatory Environmental Statement</p>	
<p>Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day</p>	<p>Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.</p>
<p>(a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more; and (b) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).</p>	<p>Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos - (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products; (b) for friction material, with an annual production of more than 50 tonnes of finished products; and (c) for other uses of asbestos, utilisation of more than 200 tonnes per year</p>
<p>(a) Integrated works for the initial smelting of cast-iron and steel; (b) Installations for the production of non-ferrous crude metals from</p>	<p>Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.</p>

Schedule 1 Developments Requiring a Mandatory Environmental Statement

ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes	Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 millimetres and a length of more than 40 kilometres
Integrated chemical installations (installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another) which are - (a) for the production of basic organic chemicals; (b) for the production of basic inorganic chemicals; (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers); (d) for the production of basic plant health products and of biocides; (e) for the production of basic pharmaceutical products using a chemical or biological process; (f) for the production of explosives	(a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more; (b) Construction of motorways and express roads; (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometres or more in a continuous length.
(a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes; (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes	Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres
Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Council Directive 75/442/EEC under heading D9), or landfill of hazardous waste (that is to say, waste to which Council Directive 91/689/EEC applies).	Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares
Waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Council Directive 75/442/EEC under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day	Installations for the intensive rearing of poultry or pigs with more than - (a) 85,000 places for broilers or 60,000 places for hens; (b) 3,000 places for production pigs (over 30 kg); or (c) 900 places for sows
Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.	Industrial plants for - (a) the production of pulp from timber or similar fibrous materials; (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.
(a) Installations for the reprocessing of irradiated nuclear fuel; (b) Installations designed - (i) for the production or enrichment of nuclear fuel, (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste, (iii) for the final disposal of irradiated nuclear fuel, (iv) solely for the final disposal of radioactive waste, (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.	Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Council Directive 91/271/EEC
	(a) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year; (b) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.

Schedule 2 Developments where ES may be Required

Development	Threshold	Development	Threshold
Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes	Area of the development > 0.5 hectare	Industrial installations for carrying gas, steam and hot water	Area of the works > 1 hectare
Water management projects for agriculture, including irrigation and land drainage projects	Area of the works > 1 hectare	Surface storage of natural gas; Underground storage of combustible gases; or (e) Surface storage of fossil fuels	(i) Area of any new building, deposit or structure > 500 square metres; or (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled waters.
Intensive livestock installations (unless included in Schedule 1)	New floorspace > 500 square metres	Installations for hydroelectric energy production	The installation is designed to produce > 0.5 megawatts
Intensive fish farming	Installation is designed to produce >10 tonnes of dead weight fish per year	Installations for the processing and storage of radioactive waste (unless included in Schedule 1)	(i) Area of new floorspace > 1,000 square metres; or (ii) the installation resulting from the development will require an authorisation or the variation of an authorisation under the Radioactive Substances Act 1993
Reclamation of land from the sea; or Extraction of minerals by fluvial dredging	All development		
Industrial briquetting of coal and lignite	Area of new floorspace > 1,000 square metres		
(a) Quarries, open-cast mining and peat extraction (unless included in Schedule 1); (b) Underground mining	All development except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres	Installations for the harnessing of wind power for energy production (wind farms).	(i) Development involves the installation of > 2 turbines; or (ii) the hub height of any turbine or height of any other structure > 15 metres
Deep drillings with the exception of drillings for investigating the stability of the soil	(i) In relation to any type of drilling, the area of the works > 1 hectare; or (ii) in relation to geothermal drilling and drilling for the storage of nuclear waste material, the drilling is within 100 metres of any controlled waters	Coastal work to combat erosion and maritime works capable of altering the coast through the construction, excluding the maintenance and reconstruction of such works	All development

E key facts No. 16

Environmental Assessment - Continued

Schedule 2 Developments where ES may be Required			
Development	Threshold	Development	Threshold
Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.	Area of the development > 0.5 hectare	Storage facilities for petroleum, petrochemical and chemical products.	(i) Area of any new building or structure > 0.05 hectare; or (ii) > 200 tonnes of such products are to be stored at any one time
The following where the area of new floorspace > 1,000 square metres		(a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1) (b) Industrial estate development projects; (c) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas; (d) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1); (e) Motorway service areas (f) Holiday villages and hotel complexes outside urban areas and associated developments; (g) Theme parks;	Area of the development > 0.5 hectare
(a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting; (b) Installations for the processing of ferrous metals - (i) hot-rolling mills; (ii) smitheries with hammers; (iii) application of protective fused metal coats. (c) Ferrous metal foundries; (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.); (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process; (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines; (g) Shipyards; (h) Installations for the construction and repair of aircraft; (i) Manufacture of railway equipment; (j) Swaging by explosives; (k) Installations for the roasting and sintering of metallic ores. (l) Coke ovens (dry coal distillation); (m) Installations for the manufacture of cement; (n) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1); (o) Installations for the manufacture of glass including glass fibre; (p) Installations for smelting mineral substances including the production of mineral fibres; (q) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain. (r) Manufacture and treatment of elastomer-based products	(a) Manufacture of vegetable and animal oils and fats; (b) Packing and canning of animal and vegetable products; (c) Manufacture of dairy products; (d) Brewing and malting; (e) Confectionery and syrup manufacture; (f) Installations for the slaughter of animals; (g) Industrial starch manufacturing installations; (h) Fish-meal and fish-oil factories; (i) Sugar factories. (j) Industrial plants for the production of paper and board (unless included in Schedule 1); (k) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles; (l) Plants for the tanning of hides and skins; (m) Cellulose-processing and production installations. (n) Waste-water treatment plants (unless included in Schedule 1); (o) Test benches for engines, turbines or reactors; (p) Installations for the manufacture of artificial mineral fibres; (q) Installations for the recovery or destruction of explosive substances; (r) Knackers' yard (s) Marinas. UNLESS in Sch. 1 - (a) Treatment of intermediate products and production of chemicals; (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides	(a) Construction of railways; (b) Construction of airfields; (c) Construction of roads; (d) Construction of harbours and port installations including fishing harbours; (e) Inland-waterway construction not included in Schedule 1, canalisation and flood-relief works; (f) Dams and other installations designed to hold water or store it on a long-term basis; (g) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport; (h) Oil and gas pipeline installations; (i) Installations of long-distance aqueducts; (j) Groundwater abstraction and artificial groundwater recharge not included in Schedule 1; (k) Works for the transfer of water resources between river basins not included in Schedule 1; (l) Permanent racing and test tracks for motorised vehicles; (m) Ski-runs, ski-lifts and cable-cars and associated developments; (n) Permanent camp sites and caravan sites; (o) Golf courses and associated developments	The area of the works > 1 hectare; or (i) An airfield development involves an extension to a runway; or (ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge; or. (iii) for ski-run, ski-lift, cable car or associated development, the height of any building or other structure exceeds 15 metres Unless the development is included in Schedule 1.
Installations for the disposal of waste (unless included in Schedule 1);	(i) The disposal is by incineration; or (ii) the area of the development > 0.5 hectare; or (iii) the installation is to be sited within 100 metres of any controlled waters.	(a) Sludge-deposition sites; (b) Storage of scrap iron, including scrap vehicles;	(i) The area of deposit or storage exceeds 0.5 hectare; or (ii) a deposit is to be made or scrap stored within 100 metres of any controlled waters.

What criteria are used in screening a Schedule 2 development?

1. Characteristics of development

The characteristics of development must be considered having regard, in particular, to -

- (a) the size of the development;
- (b) the cumulation with other development;
- (c) the use of natural resources;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

2. Location of development

The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to -

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas -
 - (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (see E key facts No.11 – Protection of Habitats and Wildlife);
 - (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
 - (vii) densely populated areas;
 - (viii) landscapes of historical, cultural or archaeological significance.

3. Characteristics of the potential impact

The potential significant effects of development must be considered in relation to criteria set out under 1 and 2 above, and having regard in particular to -

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

What information may be included in an Environmental Statement?

PART I – Environmental Statement Full

1. Description of the development, including in particular -

- (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
- (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
- (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.

2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.

3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.

4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:

- (a) the existence of the development;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,
- and the description by the applicant of the forecasting methods used to assess the effects on the environment.

5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

6. A non-technical summary of the information provided under paragraphs 1 to 5 above.

7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

PART II Non-technical Summary

1. A description of the development comprising information on the site, design and size of the development.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 above.