

Statutory Instruments 1998 No. 1731
The Environmental Assessment (Forestry) Regulations 1998 -

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, being Ministers designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] 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, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, commencement and extent

1. - (1) These Regulations may be cited as the Environmental Assessment (Forestry) Regulations 1998 and shall come into force on 1st September, 1998.

(2) These Regulations shall apply to Great Britain.

Interpretation

2. - (1) In these Regulations -

"afforestation" has the same meaning as in Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment^[3];

"the Commissioners" means the Forestry Commissioners;

"countryside bodies" means -

(a) in relation to England, the Nature Conservancy Council for England and the Countryside Commission,

(b) in relation to Scotland, Scottish Natural Heritage, and

(c) in relation to Wales, the Countryside Council for Wales;

"environmental information" means information in the environmental statement and any other information provided in accordance with these Regulations in relation to an application for consent or an appeal under regulations 13 or 17 relating to the likely environmental effects of the subject matter of the application or, as the case may be, appeal;

"environmental statement" means a statement such as is described in the Schedule to these Regulations;

"the Minister" means, in relation to England, the Minister of Agriculture, Fisheries and Food, and, in relation to Scotland or Wales, the Secretary of State;

"project" means the execution of construction works or of other installations or schemes or other intervention in the natural surroundings or landscape including those involving the extraction of mineral resources;

"proposer" means person who proposes to carry out a project;

"relevant project" means a project which is likely to have a significant effect on the environment and is -

(a) initial afforestation where this may lead to adverse ecological changes, or

(b) the construction of a forest road where such construction is permitted development by virtue of sub-paragraph (b) of Class A of Part 7 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995[4] or of paragraph (1)(b) of Class 22 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992[5], or

(c) operations to obtain the materials required for the formation, alteration or maintenance of private ways where such operations are permitted development by virtue of sub-paragraph (c) of Class A of Part 7 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 or of paragraph (1)(c) of Class 22 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

(2) In these regulations, any reference to an enforcement notice shall be construed as including, as the context requires, a reference to notice of a variation under regulation 16(6)(a) or to an enforcement notice as so varied,

(3) Any reference in these Regulations, other than regulation 18, to consent shall be construed as a reference to the consent of the Commissioners required by regulation 3.

(4) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

Restriction on relevant project

3. No person shall carry out work in relation to a relevant project unless the Commissioners have given consent for that project and the project is carried out in accordance with the consent (including the conditions to which the consent is subject).

Application for an opinion whether a project is a relevant project

4. - (1) The proposer may apply in writing to the Commissioners for their opinion whether a project is a relevant project.

(2) An application under paragraph (1) above shall include or be accompanied by -

(a) a map or plan sufficient to identify the land that is the subject of the proposed project and the extent of the proposed project,

(b) a brief description of the nature of the proposed project and of its possible effects on the environment, and

(c) such further information or representations as the proposer may wish to provide or make.

(3) The Commissioners shall, if they consider that they have not been

provided with sufficient information to enable them to give an opinion under paragraph (1) above, notify the proposer in writing of the matters on which they require further information and the proposer shall supply that further information to the Commissioners within such period as the Commissioners reasonably may require or such other period as may be agreed in writing between the Commissioners and the proposer.

Opinions of the Commissioners

5. - (1) Where the proposer applies to the Commissioners under regulation 4, they shall give to the proposer written notice of their opinion within -

(a) 28 days beginning with the date of their receipt of the application or, where they notify the proposer under regulation 4(3) that they require further information, the date of their receipt of that information; or

(b) such longer period as may be agreed in writing between the Commissioners and the proposer.

(2) In forming their opinion the Commissioners shall have regard in particular to the nature, size and location of the proposed project.

(3) Where the opinion of the Commissioners is that the project is a relevant project, the Commissioners shall include in or provide with their opinion a written statement of their reasons for being of that opinion.

(4) The Commissioners may of their own motion give their opinion whether or not a project is or would be a relevant project and where they give an opinion under this paragraph -

(a) they shall give written notice of their opinion to any person who reasonably appears to them to be the proposer, and

(b) paragraphs (2) and (3) of this regulation shall apply as they do to an opinion given in relation to an application under regulation 4(1).

Directions by the Minister

6. - (1) Where the Commissioners give notice of their opinion in relation to any application under regulation 4(1) or in accordance with regulation 5(4) and the opinion is that a project is or would be a relevant project, the proposer may apply in writing to the Minister for a direction on the matter.

(2) An application under paragraph (1) above shall be accompanied by, or by copies of -

(a) any application by the proposer to the Commissioners under regulation 4(1) and any document supplied to the Commissioners by the proposer in connection with that application; and

(b) the opinion of the Commissioners and any written statement of reasons which they provided with it,

and may include such further information or representations as the proposer may wish to provide or make.

(3) Where the Minister considers that the documents supplied to him under

paragraph (2) above do not provide him with sufficient information to enable him to give a direction -

(a) he shall notify the proposer in writing of the matters on which he requires further information; and

(b) he may seek further information on those matters from the Commissioners and the Commissioners shall supply that further information to the Minister if it is in their possession.

(4) The Minister shall give a direction within 28 days (or such longer period as he reasonably may require) beginning with -

(a) the date of receipt of the application under paragraph (1) above; or

(b) where he notifies the applicant or the Commissioners under paragraph (3) above that he requires further information, the date of receipt by the Minister of that information.

(5) In giving his direction, the Minister shall in particular have regard to the nature, size and location of the proposed project.

(6) The Minister shall provide the proposer and the Commissioners with a written statement of his direction including, where he directs that the project is or would be a relevant project, his reasons for so directing.

Applications for consent

7. - (1) An application for consent shall be made in writing to the Commissioners and shall be accompanied by -

(a) a map or plan sufficient to identify the land on which the relevant project would be carried out and the extent of any planting, regeneration, construction, works or operations;

(b) a description of the nature of the relevant project;

(c) an environmental statement in respect of the relevant project; and

(d) a copy of the notice to be published in accordance with regulation 9(1).

(2) An applicant for consent shall supply to the Commissioners such number of copies of the application and the documents accompanying it as the Commissioners reasonably may require.

Provision of further information

8. Where in the opinion of the Commissioners -

(a) further information is reasonably required for their proper consideration of the likely environmental effects of the relevant project to which an application for consent relates; and

(b) the applicant could (having regard in particular to current knowledge and methods of assessment) provide such information,

the Commissioners shall notify the applicant in writing of the matter on which they require further information and the applicant shall provide that further

information.

Publicity

9. - (1) A person who makes an application for consent under regulation 7 or who provides further information under regulation 8 shall publish a notice in accordance with paragraph (2) below in such newspapers (not being less than two) as the Commissioners reasonably may require for the purposes of ensuring -

(a) the application for consent or, as the case may be, the information provided under regulation 8, is made available to the public; and

(b) the public concerned is given an opportunity to express an opinion before the application for consent is determined.

(2) A notice required by paragraph (1) above shall -

(a) state that the application has been made or, as the case may be, that the further information has been furnished to the Commissioners;

(b) specify an office of the Commissioners or other place nominated by them at which copies of the application or the further information may be inspected free of charge at all reasonable hours within 28 days beginning with the date of publication of the notice;

(c) specify an address at which copies of the application or the further information may be obtained from the applicant and if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying), of the charge; and

(d) state that any person wishing to make representations regarding the application or the further information should make them in writing to the Commissioners at a specified address nominated by them, within 28 days beginning with the date of publication of the notice.

(3) On receipt of an application for consent under regulation 7, or of further information under regulation 8, the Commissioners shall provide copies of the application or, as the case may be, the further information, together with a notice stating that any representations regarding the application or the further information should be made in writing to the Commissioners within 28 days beginning with the date of the notice, to -

(a) the countryside bodies, and

(b) any local authority or other public authority which appears to the Commissioners to have an interest in the application.

(4) In this regulation, reference to an application shall include a reference to the documents accompanying that application.

Information for another Member State

10. - (1) Where it appears to the Commissioners that a project in relation to which they have received an application for consent would be likely to have a significant effect on the environment of another Member State or where another Member State likely to be significantly affected requests, the Commissioners shall provide a copy of the environmental statement relating to the project to the Minister.

(2) Where the Minister receives a copy of an environmental statement in accordance with paragraph (1) above, he shall forward a copy of the environmental statement to the relevant Member State as soon as practicable.

Determination of applications

11. - (1) Where an application is made to the Commissioners for consent, they may, subject to the following provisions of this regulation -

(a) grant consent, either subject only to the conditions required by regulation 14 or also subject to such further conditions as they see fit, or

(b) refuse consent.

(2) The Commissioners shall not determine an application until after the expiry of the periods referred to in regulation 9.

(3) In determining an application, the Commissioners shall take into consideration the environmental information, any representations received by them in relation to the application and any other material consideration.

Notification of decisions

12. Where an application for consent has been determined by the Commissioners they shall -

(a) give notice in writing of their decision to the applicant and any person from whom they received representations in relation to the application, stating that they have taken into consideration the environmental information relating to the application and giving the reasons and considerations on which the decision was based; and

(b) publish a notice of their decision in the newspapers in which notice of the application was published in accordance with regulation 9(1).

Appeal against decisions of the Commissioners

13. - (1) An applicant for consent may appeal to the Minister where the Commissioners -

(a) refuse the application;

(b) grant consent subject to conditions in addition to those required by regulation 14; or

(c) grant consent subject only to the conditions required by regulation 14 but specify a period for the purposes of one or both of those conditions less than the maximum period permitted by that regulation.

(2) An appeal under this regulation shall be made within 28 days, or such longer period as the Minister may allow, beginning with the date on which the applicant receives notification of the Commissioners' decision under regulation 12.

(3) An appeal shall be made by notice in writing to the Minister accompanied by, or by copies of -

(a) the application to which it relates, and any documents provided by

the applicant to the Commissioners in relation to it;

(b) the decision of the Commissioners; and

(c) any other information or representations which the appellant wishes to provide or make.

(4) On receipt of a notice of appeal duly made, the Minister shall send a copy of it to the Commissioners who shall, within 28 days beginning with the date of receipt by them of the notice of appeal, supply to the Minister copies of any representation or information provided to them in relation to the application.

(5) On an appeal under this regulation, the Minister may allow or dismiss the appeal or vary any part of the Commissioners' decision.

(6) The Minister shall determine an appeal within 28 days (or such longer period as he reasonably may require) beginning with the date of receipt of the representations or information supplied in accordance with paragraph (4) above.

(7) In determining an appeal, the Minister shall take into consideration the environmental information, any representations received by him in relation to the appeal and any other material consideration.

(8) Where an appeal has been determined, the Minister shall -

(a) give notice of his decision stating that he has taken into consideration the environmental information relating to the application and giving the reasons and considerations on which the decision was based to -

(i) the appellant,

(ii) the Commissioners, and

(iii) any person from whom the Commissioners received representations in relation to the application to which the appeal relates; and

(b) publish a notice of his decision in the newspapers in which the decision of the Commissioners to which the appeal relates was published in accordance with regulation 12(b).

Conditions to be included in every consent

14. Every consent shall include conditions to the effect that -

(a) work in relation to the relevant project shall be commenced within such period (not being more than 5 years beginning with the date consent is granted) as is specified in the consent; and

(b) no work shall be carried out in relation to the relevant project after the expiration of such period (not being more than 10 years beginning with the date consent is granted) as is specified in the consent.

Notes:

[1] S.I. 1988/785.back

[2] 1972 c.68.back

[3] OJ No. L175, 5.7.85, p.40.back

[4] S.I. 1995/418.back

[5] S.I. 1992/223; to which there are amendments not relevant to these Regulations.back

Application to the court by person aggrieved

15. - (1) On the application of any person aggrieved by the grant of consent, the court may make an order quashing the consent where it is satisfied that the consent was given contrary to whichever of regulation 11(3) or 13(7) applies in the case or that the interests of the applicant have been substantially prejudiced by a failure to comply with any other requirement of these Regulations.

(2) An application to the court under this regulation shall be made within 6 weeks from the date of publication of the decision in accordance with regulation 12(b) or 13(8)(b).

(3) The court may by interim order, pending the determination of an application under this regulation, stay the operation of the consent on such terms as it may think fit.

(4) In this regulation "the court" means -

(a) in respect of a relevant project wholly or mainly in England and Wales, the High Court; and

(b) in respect of a relevant project wholly or mainly in Scotland, the Court of Session.

Enforcement notices

16. - (1) Where it appears to the Commissioners that a person is carrying out or has carried out work in relation to a relevant project -

(a) without consent, where consent is required by regulation 3, or

(b) in breach of a condition subject to which consent has been granted in relation to that relevant project,

the Commissioners may serve an enforcement notice on that person.

(2) An enforcement notice may require that the person on whom it is served shall take such one or more of the following measures as appear to the Commissioners to be suitable in the circumstances, namely -

(a) apply to the Commissioners for consent;

(b) discontinue work in relation to the relevant project;

(c) restore the land to its condition before any work in relation to the relevant project was carried out;

(d) carry out on the land any works or operations, specified in the enforcement notice, which in the opinion of the Commissioners are reasonably necessary to secure compliance with any condition subject to which consent was granted or to remove or alleviate any injury to the environment which has been caused by the relevant project.

(3) An enforcement notice shall specify the period during which any of the measures mentioned in paragraph (2)(a), (c) or (d) is to be taken and may specify different periods for different measures.

(4) Either: -

(a) an enforcement notice served by virtue of paragraph (1)(a) above shall include or be accompanied by a written statement of the Commissioners' reasons for being of the opinion that the project is a relevant project; or

(b) the Commissioners shall serve such a written statement on the person on whom the enforcement notice was served as soon as practicable after serving the enforcement notice.

(5) Either: -

(a) an enforcement notice shall include or be accompanied by a notice explaining how, to whom and within what period an appeal may be brought and whether the requirements of the enforcement notice will be stayed or, in Scotland, suspended while an appeal is pending; or

(b) the Commissioners shall serve such a notice on the person on whom the enforcement notice was served as soon as practicable after serving the enforcement notice.

(6) The Commissioners may, at any time -

(a) by a further notice served on the person on whom the enforcement notice was served, vary an enforcement notice; and

(b) withdraw an enforcement notice.

(7) An enforcement notice may be served on any person -

(a) by delivering it to him personally;

(b) by leaving it for him at his last known place of abode or business;
or

(c) by sending it through the post addressed to him at his last known place of abode or business;

(8) An enforcement notice may -

(a) in the case of a body corporate, be served on the secretary or clerk of that body at the address of the registered or principal office of that body;

(b) in the case of a partnership, be served on a partner or person

having the control or management of the partnership business or, in Scotland, the firm at the principal office of the partnership.

Appeals against enforcement notices

17. - (1) Any person on whom an enforcement notice has been served in accordance with regulation 16 may appeal to the Minister.

(2) An appeal under this regulation shall be made within 28 days, or such longer period as the Minister may allow, beginning with the date on which the appellant receives the enforcement notice.

(3) An appeal shall be made by notice in writing to the Minister accompanied by, or by copies of -

(a) the enforcement notice;

(b) any relevant consent; and

(c) any other information or representations which the appellant wishes to provide or make.

(4) On receipt of a notice of appeal duly made, the Minister shall send a copy of it to the Commissioners who shall, within 28 days beginning with the date of receipt by them of the notice of appeal, supply to the Minister copies of any representation or information provided to them in relation to any relevant consent or application for consent.

(5) On an appeal under this regulation, the Minister may, subject to paragraph (9) below, allow or dismiss the appeal or vary any part of the enforcement notice.

(6) The Minister shall determine an appeal within 28 days (or such longer period as he reasonably may require) beginning with -

(a) the date of receipt by him of the representations or information supplied in accordance with paragraph (4) above; or

(b) where there is no consent or application for consent relevant to the enforcement notice, the date of receipt by him of the notice of appeal.

(7) In determining an appeal, the Minister shall take into consideration any environmental information, any representations received by him in relation to the appeal and any other material consideration.

(8) Where an appeal has been determined, the Minister shall give notice of his decision, giving the reasons and considerations on which the decision was based, to the appellant and the Commissioners.

(9) The Minister shall not allow an appeal against an enforcement notice served by virtue of regulation 16(1)(a) where it appears to the Minister that consent is required by regulation 3.

(10) The making of an appeal under this regulation shall have the effect of suspending the operation of any requirement in the enforcement notice to which it relates to take measures described in paragraphs (a), (c) or (d) of regulation 16(2) until the appeal is determined by the Minister or, where the appeal is withdrawn, until withdrawal of the appeal.

Penalties for non-compliance with enforcement notices

18. - (1) Any person who carries out work in relation to a relevant project in contravention of a requirement to discontinue that work in an enforcement notice served on him in accordance with regulation 16 shall be guilty of an offence and liable -

(a) on summary conviction to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment to a fine.

(2) Any person on whom an enforcement notice has been served in accordance with regulation 16 who fails, within the period specified in the enforcement notice, to carry out any measure, other than discontinuance of the relevant project, required by the enforcement notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Where an offence under paragraph (1) or (2) above which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) any director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(5) Summary proceedings in Scotland for an offence under paragraph (1) or (2) above may be commenced within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to his knowledge, and in any case within five years from the commission of the offence, and proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such a warrant is executed without undue delay.

(6) A certificate purporting to be signed for the purpose of paragraph (5) above, by the prosecutor, shall be conclusive evidence of the date on which evidence sufficient to justify proceedings came to his knowledge.

(7) In relation to proceedings in Scotland, subsection 3 of section 331 of the Criminal Proceedings (Scotland) Act 1975[6] (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

Power of entry and default powers

19. - (1) Subject to paragraph (2) below, any person duly authorised in writing by the Commissioners may at any reasonable time enter any land on

which he or the Commissioners reasonably suspects that work in relation to a relevant project is being or has been carried out -

(a) without consent, where such consent is required under regulation 3, or

(b) in breach of a condition subject to which consent has been granted.

(2) Where any measures required by an enforcement notice by virtue of regulation 16(2) (other than discontinuance of the relevant project) have not been taken within the period specified in the enforcement notice -

(a) any person duly authorised by the Commissioners may at any reasonable time enter the land to which the enforcement notice relates and take those measures, and

(b) the Commissioners may recover from the person on whom the enforcement notice was served any expenses reasonably incurred by them in doing so.

(3) A person authorised under paragraphs (1) or (2) above to enter any land shall, if so requested, produce evidence of his authority before so entering.

Revocation and transitional provisions

20. - (1) The Environmental Assessment (Afforestation) Regulations 1988[7] (in this regulation called "the 1988 Regulations") are revoked.

(2) Where, before the date of coming into force of these Regulations, an application under regulation 4 of the 1988 Regulations has been received by the Commissioners but the Commissioners have not given their opinion in relation to that application -

(a) the application shall be treated as an application under regulation 4(1) of these Regulations;

(b) any notification by the Commissioners under regulation 4(3) of the 1988 Regulations shall be treated as a notification under regulation 4(3) of these Regulations; and

(c) so much of the period specified in regulation 5(1) of these Regulations as has expired before the date of coming into force of these Regulations shall be taken into account as if that regulation had been in force when the period began to run.

(3) Where, before the date of coming into force of these Regulations, an application under regulation 4(6) or 5(2)(b) of the 1988 Regulations has been received by the Minister but the Minister has not given his direction in relation to that application -

(a) the application shall be treated as an application under regulation 6(1) of these Regulations;

(b) any notification by the Minister under regulation 6(3) of the 1988 Regulations shall be treated as a notification under regulation 6(3) of these Regulations;

(c) so much of the period specified in regulation 6(4) of these Regulations as has expired before the date of coming into force of these Regulations shall be taken into account as if that regulation had been in force when the period began to run.

(4) Where an application for a grant or loan under section 1 of the Forestry Act 1979[8] has been received by the Commissioners before the coming into force of these Regulations, any environmental information provided, consultations undertaken or other things done under the 1988 Regulations for the purpose of the Commissioners' taking into consideration environmental information in respect of the project that is the subject of the application, shall be treated as having been provided, undertaken or done under the corresponding provision of these Regulations as if the application were an application for consent.

(5) Where an application for a grant or loan under section 1 of the Forestry Act 1979 in respect of any relevant project has been approved by the Forestry Commissioners before the date of coming into force of these Regulations -

(a) the relevant project shall be deemed to have consent subject to conditions as required by regulation 14 (and on the basis that the Commissioners had specified the maximum times permitted by that regulation) in addition to the conditions (if any) to which the grant or loan is subject; and

(b) consent shall be deemed to have been given when the Commissioners made their decision to make the grant or loan for the project.

E A Morley
Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

21st July 1998

Signed by order of the Secretary of State

Lord Sewel
Parliamentary Under Secretary of State, Scottish Office

17th July 1998

W T Griffiths
Parliamentary Under Secretary of State, Welsh Office

20th July 1998

SCHEDULE
Regulations 2(1) and 7(1)

ENVIRONMENTAL STATEMENT

1. An environmental statement comprises a document or documents providing, for the purpose of assessing the likely impact of the relevant project on the environment, the information specified in paragraph 2 below (in this Schedule referred to as "the specified information").

2. The specified information is -

(a) a description of the project comprising information about the site, the design and the extent thereof;

(b) the data necessary to identify and assess the main effects which the project is likely to have on the environment;

(c) a description of the likely significant effects of the project, direct and indirect, on the environment, explained by reference to its possible impact on - human beings;

flora;

fauna;

soil;

water;

air;

climate;

the landscape;

the interaction between any of the foregoing;

material assets (including the architectural and archaeological heritage);

the cultural heritage;

(d) where significant adverse effects are identified with respect to any of the foregoing, a description of the measures envisaged in order to avoid, or remedy those effects; and

(e) a summary in non-technical language of the information specified above.

3. An environmental statement may include, by way of explanation or amplification of the specified information, further information on any of the following matters -

(a) the physical characteristics of the project, and the land-use requirements during the planting and subsequent stages;

(b) the main characteristics of the production processes proposed,

including the nature and quality of the materials to be used;

(c) the estimated type and quantity of expected residues and emissions (including pollutants of water, air or soil, noise, vibration, light, heat and radiation) resulting from the project when planting is completed;

(d) (in outline) the main alternatives (if any) studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects;

(e) the likely significant direct and indirect effects on the environment of the project which may result from -

(i) the use of natural resources;

(ii) the emission of pollutants, the creation of nuisances and the elimination of waste;

(f) the forecasting methods used to assess any effects on the environment about which information is given under subparagraph (e); and

(g) any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any specified information.

In subparagraph (e) "effects" includes secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects.

4. Where further information is included in an environmental statement pursuant to paragraph 3 a non-technical summary of that information shall be provided.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations supersede the Environmental Assessment (Afforestation) Regulations 1988 which are revoked (regulation 20(1)). The Regulations provide for further implementation of Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ No. L175, 5.7.85, p.40) in relation to specified projects relating to forestry. These are defined as "relevant projects" in regulation 2(1). The definition includes a limitation to projects which are likely to have significant effects on the environment.

2. The Regulations require that consent shall be obtained from the Forestry Commissioners ("the Commissioners") for relevant projects (regulation 3). A person who proposes to carry out a project may apply to the Commissioners in accordance with regulation 4 for their opinion whether consent is required. Regulation 5 provides for the Commissioners to give notice of their opinion to the person who proposed the

project and makes provision for them to give an opinion of their own motion. If the Commissioners' opinion is that consent is required, the person who proposed the project may, by regulation 6, seek a direction in the matter from the appropriate forestry Minister (defined in regulation 2).

3. Applications for consent are to be made to the Commissioners and must be accompanied by material specified in regulation 7, including an environmental statement conforming to the requirements in the Schedule. The Regulations provide for the Commissioners to seek further information from the applicant (regulation 8); and for publicity for applications and for representations to be made to the Commissioners by interested persons (regulation 9). Regulation 10 provides for information to be provided to other Member States of the European Community.

4. Regulation 11 deals with the determination of applications by the Commissioners, including matters they are to take into consideration. The Commissioners must give notice of their decision to the applicant and publicise it in accordance with regulation 12. The decision of the Commissioners is subject to appeal by the applicant to the appropriate Minister (regulation 13). Regulation 14 specifies conditions as to time which must be included in every consent. Persons aggrieved by a grant of consent may apply to the court in accordance with regulation 15.

5. Where work in relation to a relevant project is or has been carried out without consent or in breach of a condition of consent, the Commissioners may issue an enforcement notice (regulation 16). There is a right of appeal to the Minister against an enforcement notice under regulation 17. Failure to comply with an enforcement notice constitutes an offence (regulation 18). The Regulations provide for powers of entry and for a person authorised by the Commissioners to carry out works where an enforcement notice is not complied with (regulation 19). There are transitional provisions in regulation 20.

6. The Regulations apply to Great Britain (regulation 1)