

2018 No. 1234

EXITING THE EUROPEAN UNION

TOWN AND COUNTRY PLANNING, ENGLAND

INFRASTRUCTURE PLANNING

**The Planning (Hazardous Substances and Miscellaneous
Amendments) (EU Exit) Regulations 2018**

Sift requirements satisfied 8th November 2018

Made - - - - 26th November 2018

Laid before Parliament 28th November 2018

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation and commencement

1. These Regulations may be cited as the Planning (Hazardous Substances and Miscellaneous Amendments) (EU Exit) Regulations 2018 and come into force on exit day.

Amendment of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000

2. In regulation 6 of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000(b)—

- (a) in paragraph (1)(c)(iii), for the words from “Article 5” to “substances” substitute “regulation 5 of the Control of Major Accident Hazards Regulations 2015(c)”;
- (b) omit paragraph (2).

(a) 2018 c. 16.
(b) S.I. 2000/1491; relevant amending instrument is S.I. 2015/627.
(c) S.I. 2015/483.

Amendment of the Town and Country Planning (Mayor of London) Order 2008

- 3.** In article 6 of the Town and Country Planning (Mayor of London) Order 2008(a)—
- (a) in paragraph (2)(i)(iii), for the words from “Article 5” to “substances” substitute “regulation 5 of the Control of Major Accident Hazards Regulations 2015”;
 - (b) omit paragraph (3).

Amendment of the Town and Country Planning (Local Planning) (England) Regulations 2012

- 4.** In regulation 10 of the Town and Country Planning (Local Planning) (England) Regulations 2012(b)—
- (a) in paragraph (1)(b), omit “by pursuing those objectives through the controls described in Article 13 of Council Directive 2012/18/EU”;
 - (b) in paragraph (1)(c), for the second paragraph numbered (ii) substitute—
 - “(iii) in the case of existing establishments, to take additional technical measures in accordance with regulation 5 of the Control of Major Accident Hazards Regulations 2015 so as not to increase the risks to human health or the environment.”;
 - (c) omit paragraph (2).

Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2015

- 5.** In Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015(c)—
- (a) in paragraph (zb), in the column headed “description of development”, in paragraph (ii), for the words from “covered” to “substances” substitute “which would require notification under regulation 6(6) of the Control of Major Accident Hazards Regulations 2015”;
 - (b) in paragraph 1 of the Interpretation of Table, omit paragraph (k)(i).

Amendment of the Planning (Hazardous Substances) Regulations 2015

- 6.** The Planning (Hazardous Substances) Regulations 2015(d) are amended as follows.
- 7.** In regulation 2(1)—
- (a) in the definition of “the Directive” after “dangerous substances” insert “as it had effect immediately before exit day”;
 - (b) insert the following definitions in the appropriate places—
 - ““the EIA Directive” means Directive 2011/92/EU(e) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as it had effect immediately before exit day;”;
 - ““major accident” has the meaning given in regulation 2 of the Control of Major Accident Hazards Regulations 2015;”.

(a) S.I. 2008/580; relevant amending instrument is S.I. 2015/627.
(b) S.I. 2012/767; relevant amending instrument is S.I. 2015/627.
(c) S.I. 2015/595 to which there are amendments which are not relevant to these Regulations.
(d) S.I. 2015/627 to which there are amendments which are not relevant to these Regulations.
(e) OJL 26.28.01.2012

8. In regulation 6(1)(a)—

(a) in paragraph (ii) for the words from “or to consultations” to the end of the paragraph substitute “(which have the same meaning as in any provision of retained EU law which implemented the EIA Directive)”;

(b) after paragraph (ii) insert—

“(iia) where applicable, the fact that the project to which the proposal relates is one in respect of which the Secretary of State is required to consult any state under any provision of retained EU law which implemented the EIA Directive or which is subject to consultations between member States in accordance with Article 14(3) of the Directive;”.

9. In regulation 10(3)(a)—

(a) in paragraph (ii) for the words from “or to consultations” to the end of the paragraph substitute “(which have the same meaning as in any provision of retained EU law which implemented the EIA Directive)”;

(b) after paragraph (ii) insert—

“(iia) where applicable, the fact that the project to which the proposal relates is one in respect of which the Secretary of State is required to consult any state under any provision of retained EU law which implemented the EIA Directive or which is subject to consultations between member States in accordance with Article 14(3) of the Directive;”.

10. In regulation 24, at the end of paragraph (1)(b) add “(with the reference in sub-paragraph (c) of that paragraph of that Article to Article 5 being read as a reference to regulation 5 of the Control of Major Accident Hazards Regulations 2015)”.

11. In regulation 25(6), in the definition of “relevant plan or programme” in both sub-paragraphs (a) and (b), after “pursuant to” insert “any provision of retained EU law which implemented”.

12. In regulation 26(2)(a)—

(a) in paragraph (ii) for the words from “or to consultations” to the end of the paragraph substitute “(which have the same meaning as in any provision of retained EU law which implemented the EIA Directive)”;

(b) after paragraph (ii) insert—

“(iia) where applicable, the fact that the project to which the proposal relates is one in respect of which the Secretary of State is required to consult any state under any provision of retained EU law which implemented the EIA Directive or which is subject to consultations between member States in accordance with Article 14(3) of the Directive;”.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Kit Malthouse
Minister of State

26th November 2018

Ministry of Housing Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under paragraphs (a), (c) and (g) of section 8(2) of that Act) arising from the withdrawal of the United Kingdom from the European Union. These Regulations make amendments to secondary legislation in the field of town and country planning and infrastructure planning. They amend the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (S.I. 2000/1491), the Town and Country Planning

(Mayor of London) Order 2008 (S.I. 2008/580), the Town and Country Planning (Local Planning) (England) Regulations 2012 (S.I. 2012/767), the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595) and the Planning (Hazardous Substances) Regulations 2015 (S.I. 2015/627).

These Regulations: replace a number of references to EU Directives to references within the Control of Major Accident Hazards Regulations 2015 (regulations 2(a), 3(a), 4(b), 5 and 10); omit references to definitions and objectives sitting within the Directive (regulations 2(b), 3(b), 4(a) and (c) and 5); and insert definitions consequential on these amendments (regulation 7). These Regulations also amend references in the Planning (Hazardous Substances) Regulations 2015 so that references to retained EU Law apply correctly (regulations 8, 9, 10, 11 and 12).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private voluntary sector is foreseen. A copy of the Explanatory Memorandum is published alongside the Regulations on www.legislation.gov.uk

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