

**EXPLANATORY MEMORANDUM TO**  
**THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING) (ENGLAND)**  
**(CORONAVIRUS) (AMENDMENT) REGULATIONS 2020**

**2020 No. 731**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities, and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Town and Country Planning (Local Planning) (England) Regulations 2012 (S.I. 2012/767) (“the 2012 Regulations”) in order to remove, on a temporary basis, the requirements on local planning authorities to make certain documents available for inspection at premises and to provide hard copies on request. The temporary modifications are needed as a result of the effects of the coronavirus pandemic and will only apply until 31 December 2020. The documents will still need to be made available on the local planning authority’s website.
- 2.2 The instrument also makes a minor amendment to regulation 35(3)(b) of the 2012 Regulations to update a reference to section 113 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”).

**3. Matters of special interest to Parliament**

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

- 3.1 These Regulations, except for regulation 2(2), are being laid in breach of the 21-day rule, which requires instruments to be laid at least 21 days before they come into effect. This is necessary because the temporary modifications to Part 9 of the 2012 Regulations are urgently required to ensure local planning authorities can satisfy the requirements in that Part to make documents available when progressing their local development documents during the response to the coronavirus pandemic. Without the temporary changes made by this instrument, the delivery of local development documents that may support the recovery of the UK’s economy will be delayed.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

## **5. European Convention on Human Rights**

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

## **6. Legislative Context**

- 6.1 The 2012 Regulations make provision in relation to the local planning regime established by Part 2 of the 2004 Act. They set out the procedure to be followed by local planning authorities in relation to the preparation of local plans and supplementary planning documents (referred to collectively in this Memorandum as ‘local development documents’).
- 6.2 The 2012 Regulations set out the documents which must be made available at each stage of the process. For example, regulation 19 of the 2012 Regulations provides that before submitting a local plan to the Secretary of State under section 20 of the 2004 Act, the local planning authority must make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 35.
- 6.3 Regulation 35 provides that a document is taken to be made available by a local planning authority when made available for inspection at the authority’s principal office and at such other places within their area as the authority consider appropriate. The document must also be published on the local planning authority’s website. Regulation 36 provides that a local planning authority must provide, on request, a hard copy of a document made available in accordance with regulation 35.
- 6.4 This statutory instrument inserts new regulations 36A and 36B into the 2012 Regulations. New Regulation 36A temporarily disapplies paragraph (1)(a) of regulation 35. This means that, during the period beginning with 16 July 2020 and ending with 31 December 2020 (“the relevant period”), a document will be taken to be made available when published on the local planning authority’s website. There will be no requirement to make a document available for inspection at premises. New regulation 36A also temporarily removes the requirement to provide a hard copy, on request, of a document made available in accordance with regulation 35, for the reasons outlined in paragraph 7.3 below.
- 6.5 New regulation 36B makes transitional provision in relation to documents which are made available on a local planning authority’s website during the relevant period. It makes clear that, if the document is still required to be made available after that period, the local planning authority must (as soon as reasonably practicable after the end of the relevant period) also make it available for inspection at their principal office and at such other places within their area as they consider appropriate.
- 6.6 This statutory instrument also makes a minor amendment to regulation 35(3)(b) of the 2012 Regulations. This amendment is not related to the coronavirus pandemic. It is needed to update a reference to section 113 of the 2004 Act following amendments made to that section by the Criminal Justice and Courts Act 2015.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Effective engagement and consultation with a wide section of the community, businesses and other interested parties plays an important role in informing the

preparation of local development documents. This ensures that local planning authorities can, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area.

- 7.2 At specified points in the production of local development documents, certain documents must be made available for inspection at principal offices and other such places within their area as the local planning authority consider appropriate. Hard copies must also be available to be sent out on request and the local planning authority must publish the documents on their website.
- 7.3 The effects of coronavirus, which include restrictions on movement and increased home-working have made the physical inspection of documents more difficult, for a number of reasons:
- The display and inspection of physical documents require travel to offices at a time when travel for non-essential purposes is discouraged;
  - The continued closure of the offices of local planning authorities means that it may be impossible to provide a physical address for inspection or to receive postal requests for hard copies of documents;
  - The closure of principal offices and home working means that providing hard copies of documents, on request, may be impossible, given the potentially substantial print runs of large documents; and
  - If offices were to open, those who are shielding, or who are vulnerable, may still be unable or unwilling to travel to inspect documents at premises.
- 7.4 This has, in several cases, led to a pause in the preparation of local development documents and a delay in the adoption of local plans. An up to date plan is crucial for setting out a framework for the future development of the area, including releasing land for housing. Plans are also a key tool for encouraging and directing investment in the local area, helping to secure the housing and jobs that our communities need.
- 7.5 This instrument removes, on a temporary basis, the requirements on local planning authorities to make certain documents available for inspection at premises and to provide hard copies on request. The documents will still need to be published on the local planning authority's website. This will enable local planning authorities to progress local development documents and act to get up to date local plans in place.
- 7.6 The instrument also makes a minor amendment to regulation 35(3)(b) of the 2012 Regulations to update a reference to section 113 of the 2004 Act. The current legislation provides that a document in relation to a local plan may cease to be made available when the 6 week period referred to in section 113(4) of the 2004 Act has expired. Subsection (4) was, however, repealed by the Criminal Justice and Courts Act 2015. The 6 week period is now referred to in subsection (3B). This instrument, therefore, amends regulation 35(3)(b) so that it refers to section 113(3B) of the 2004 Act. There is no change to the relevant time period itself.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

9.1 There are no immediate plans to consolidate the 2012 Regulations.

## **10. Consultation outcome**

10.1 The temporary measures being urgently brought forward in this amending instrument have been drafted in response to local planning authorities' concerns. These relate to meeting their statutory duties to make certain documents available given the effects of the coronavirus pandemic, including restrictions on movement and the closure of principal offices of local planning authorities. Given the urgent timescales, there has been no public consultation. However, several local planning authorities and planning consultants as well as the Planning Inspectorate and the Planning Advisory Service, which provides advice on planning matters to local planning authorities, are supportive of the need for changes to allow local plans to progress.

## **11. Guidance**

11.1 Local planning authorities must prepare a statement of community involvement which explains how they will engage with local communities and other interested parties including during plan preparation. Government has already published guidance making clear the expectation that local planning authorities will need to assess their statements of community involvement to identify which policies are inconsistent with current restrictions. This could include, for example, providing physical documents for inspection. The guidance also sets out that local planning authorities should make any temporary amendments that are necessary to the statement of community involvement to ensure that local plan-making can continue during the coronavirus pandemic. This includes local planning authorities taking reasonable steps to ensure sections of the community that don't have internet access still have access to information and the opportunity to be involved. The updated guidance on the statement of community involvement is available at <https://www.gov.uk/guidance/plan-making#covid19>

## **12. Impact**

12.1 This instrument forms part of the Government's emergency response to the Coronavirus pandemic and provides for temporary changes to the requirements in Part 9 of the 2012 Regulations, which will make it safer for planning officers and the public, allowing plans to progress and ultimately bringing land for development into the system which would otherwise be delayed.

12.2 This temporary measure impacts on local planning authorities. It temporarily disappplies the requirement for local planning authorities to make certain documents available for inspection at premises and to provide hard copies on request. The impact is that the progress of local development documents should not be delayed due to difficulties in making documents available for inspection at premises or in providing copies on request.

12.3 The instrument also makes a permanent minor amendment to regulation 35(3)(b) of the 2012 Regulations. The amendment does not change the current practice and therefore there is no, or no significant, impact on business, charities or voluntary bodies.

12.4 A full Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

**13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

**14. Monitoring & review**

14.1 The main changes introduced by this instrument will only have effect until 31st December 2020. The impact of the temporary changes will be kept under review.

**15. Contact**

15.1 Andrew Langley at the Ministry of Housing, Communities and Local Government; email: [andrew.langley@communities.gov.uk](mailto:andrew.langley@communities.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Benjamin Clayton, Deputy Director for Planning – Development Plans, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.