

EXPLANATORY MEMORANDUM TO
THE INFRASTRUCTURE PLANNING (PRESCRIBED CONSULTEES AND
INTERESTED PARTIES ETC.) (AMENDMENT) REGULATIONS 2021

2021 No. 978

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry for Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to amend the references to Public Health England contained in four statutory instruments relating to the planning regime for nationally significant infrastructure projects as set out under the Planning Act 2008. The existing references prescribe Public Health England as a body to be consulted or notified during the process of applying for development consent under the above Act. This instrument updates references to Public Health England to references to the United Kingdom Health Security Agency.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 This instrument applies to Great Britain.
- 4.2 The territorial extent of this instrument is England and Wales and Scotland (the instrument extends to Scotland only so far as required for certain infrastructure projects which extend into Scotland; see further section 240(4) of the Planning Act 2008).
- 4.3 The territorial application of this instrument is the same as its extent.

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 Public Health England (an executive agency of the Department for Health and Social Care) is to be replaced and the functions of Public Health England which are relevant to the four statutory instruments amended by this instrument will from 1st October 2021 be carried out by the United Kingdom Health Security Agency (also an executive agency of the Department for Health and Social Care). This instrument updates existing references to Public Health England contained in those four statutory instruments.

7. Policy background

What is being done and why?

- 7.1 The Planning Act 2008 established the nationally significant infrastructure regime. Applications for development consent for nationally significant infrastructure projects must be made under the provisions of that Act.
- 7.2 A number of provisions in the Planning Act 2008 require that users of the nationally significant infrastructure regime consult with or notify a prescribed list of bodies during the development consent process. These bodies must be consulted or notified when applying for development consent. Bodies are prescribed in four sets of regulations: the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009; the Infrastructure Planning (Compulsory Acquisition) Regulations 2010; the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 and the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015.
- 7.3 This instrument updates the list of prescribed bodies to reflect Governments reforms to the core institutions that lead public health in England. In August 2020 the Government announced reforms to the core institutions that lead public health nationally.
- 7.4 These reforms include that, by 1st October 2021, the health protection capabilities of Public Health England (an executive agency of the Department for Health and Social Care) will transfer to the United Kingdom Health Security Agency. The United Kingdom Health Security Agency, which will also be an executive agency of the Department for Health and Social Care, is being created to bring together the existing health protection responsibilities discharged by Public Health England with the new capabilities of NHS Test and Trace. This will mean the United Kingdom Health Security Agency will take over the role of Public Health England as a prescribed consultee in the Nationally Significant Infrastructure Projects regime. In order to ensure that the activities of Public Health England in the Nationally Significant Infrastructure Planning regime are maintained this instrument amends existing references related to Public Health England's role in the Nationally Significant Infrastructure Planning regime across the four sets of Regulations.

8. European Union Withdrawal and Future Relationship

- 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 The Government does not intend to consolidate existing Regulations at this time.

10. Consultation outcome

- 10.1 There has been no consultation in relation to this instrument as the changes introduced are not considered to introduce any changes to the operation of the Nationally Significant Infrastructure Projects regime.

11. Guidance

- 11.1 Given the nature of this change it is not considered that specific guidance is required. Government Guidance on the Nationally Significant Infrastructure Projects regime, including the role of statutory consultees, is available at www.infrastructure.planninginspectorate.gov.uk/legislation-and-advice/

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the changes made by this legislation are considered to have no impact on business.

13. Regulating small business

- 13.1 The vast majority of nationally significant infrastructure projects relate to multi-million pound projects with very significant capital costs. Given the costs associated with such developments, we take the view that only a major developer is likely to submit an application for a development on such a scale that it would be classified as nationally significant.

14. Monitoring & review

- 14.1 The Ministry of Housing, Communities and Local Government will continue to keep the list of prescribed bodies in the Nationally Significant Infrastructure regime under review. This will include through the National Infrastructure Planning Reform Programme.

15. Contact

- 15.1 Chris Poulton at the Ministry of Housing, Communities and Local Government email: chris.poulton@communities.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Jenny Preece, Deputy Director for Infrastructure Planning, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Stephen Greenhalgh, Minister of State for Building Safety and Communities, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.