



RESPONSE TO THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND) (AMENDMENT) REGULATIONS 2007 CONSULTATION

The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.

UKELA prepares advice to government with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by its Planning & Sustainable Development Working Party.

UKELA works on a UK basis and seeks to ensure that best legislation and practice are achieved across the devolved jurisdictions.

Response to Consultation

UKELA welcomes the Government's proposed amendment of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations to reflect the ECJ's judgments. UKELA is concerned though that as drafted the Regulations fail to do this.

The definition of "multi-stage consent" in the draft Regulations is:

"any consent...which

(a) has a condition imposed on a grant of outline planning permission or planning permission requiring further approval of matters; and

(b) that approval must be sought and granted before all or part of the development concerned may be carried out".

In other words, to fall within the definition of a multi-stage consent, it must result in a consent that satisfies both (a) and (b), ie. a consent which itself has at least one pre-condition attached to it for UK Environmental Law Association: making the law work for a better environment

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matters that require further approval. New Regulation 26B then applies the EIA Regulations to applications for and determination of "multi-stage consents" and multi-stage consent developments.

If the "multi-stage consent" is a piece of paper which contains pre-conditions of some kind (see definition), this does not encompass all the consents in the sequence and in particular fails to capture the application at the end of the line which will result in a piece of paper that has no further pre-conditions attached.

UKELA considers that regulation 26B should therefore apply the EIA Regulations to applications for approval under a multi-stage consent, rather than (or in addition to) applications for multi-stage consents themselves. Alternatively the definition of "multi-stage consent" needs to be amended.

If any further comments or representations are required from UKELA, or for clarification on any of the above points, please contact:

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