

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3571 of 14 December, 2006

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LEGAL NOTICE NO. 158 OF 2006.

## TOWN PLANNING ORDINANCE 1999

### TOWN PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (AMENDMENT) REGULATIONS 2006

In the exercise of the powers conferred upon him by sections 23 and 44 of the Town Planning Ordinance and for the purposes of transposing in part Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, the Minister has made the following Regulations-

#### **Title and commencement.**

1. These Regulations may be cited as the Town Planning (Environmental Impact Assessment) (Amendment) Regulations 2006 and come into operation on the day the Minister appoints by notice in the Gazette.

#### **Amendment of the Town Planning (Environmental Impact Assessment) Regulations 2000.**

2.(1) The Town Planning (Environmental Impact Assessment) Regulations 2000 are amended in accordance with this regulation.

(2) In regulation 2(1)-

(a) immediately preceding the definition of “the Commission” insert-

“ “any particular person” includes any non-governmental organization promoting environmental protection;”;

(b) in the definition of “the consultation bodies”-

(i) in paragraph (a) delete “and”;

- (ii) in paragraph (b) after the semi-colon insert “and”;
  - (c) at the end of the definition of “the Directive” insert “and Council Directive 2003/35/EC”;
  - (d) for the definition of “environmental information” substitute  
““environmental information” means–
    - (a) the environmental statement;
    - (b) any other information relating to the environmental statement;
    - (c) any further information provided under regulation 11;  
and
    - (d) any representations made by any body or person about the environmental effects of the development;”;
  - (e) in the definition “exempted development” for “regulation 4(3)” substitute “regulation 4(8)”.
- (3) In regulation 4–
- (a) for subregulation (8) substitute–
    - “(8) The Minister may direct that these Regulations shall not apply to a project specified in the direction either–
      - (a) in accordance with Article 2(3) of the Directive (but without prejudice to Article 7 of the Directive), or
      - (b) if the development comprises or forms part of a project serving national defence purposes and these Regulations would have an adverse effect on those purposes.”;
  - (b) after subregulation (8) insert–

“(9) Where a direction is given under subregulation (8) the Minister must send a copy of any such direction to the Commission.

(10) Where a direction is given under subregulation (8) the Minister must—

(a) make available the information considered in making the direction and his reasons for doing so;

(b) consider whether another form of assessment would be appropriate; and

(c) take such steps as he considers appropriate to bring the information obtained under the other form of assessment to the attention of the public.”.

(4) In regulation 6—

(a) for subregulation (1) substitute—

“6.(1) Where an EIA application for planning permission under sections 17 or 18 of the Ordinance which is before them for determination is not accompanied by an environmental statement, the Commission shall notify the applicant in writing—

(a) that the submission of an environmental statement is required;

(b) where appropriate, the details of any particular person who is or is likely to be affected by or has an interest in the application.”; and

(b) in subregulation (4) for “submits” substitute “does not submit”.

(5) In regulation 9(1)—

- (a) at the end of paragraph (b) delete “and”;
- (b) for the full stop in paragraph (c) substitute “; and”;
- (c) after paragraph (c) insert–
  - “(d) inform any particular person who he considers is likely to be affected by, or has an interest in, the application, by sending him a notice that contains the details set out in subregulation (2)(b) to (f).”.

(6) After regulation 10(1) insert–

“(1A) Where the applicant has been notified under regulation 6(1)(b), he shall serve a notice on every person of whom he has been so notified; and the notice shall contain the information specified in regulation 9(2)(b) to (f), except that the date named as the latest date on which the documents will be available for inspection shall not be less than 21 days later than the date on which the notice is first served.”.

(7) In regulation 11–

- (a) in subregulations (1) and (2) on both occasions “additional” appears substitute “further”;
- (b) subregulations (4), (5) and (6) are renumbered as (3), (4) and (5) respectively.

(8) At the end of regulation 12(e) insert “provided under regulation 11 or any other information relating to the environmental statement”.

(9) For regulation 13 substitute–

“13.(1) Where an EIA application is determined by the Commission it shall inform the public, by publishing a notice in the Gazette and by such other means as are reasonable in the circumstances, that the Commission’s decision is available for inspection at the office of the secretary of the Commission during working hours and, if also available electronically, the web address.

(2) A notice issued under subregulation (1) must include a statement as to the appeals procedure available.”.

(10) Regulation 16(4) is repealed.

(11) In Schedule 1, after paragraph 21 insert–

“22. Any change to or extension of projects listed in this Schedule where such a change or extension in itself meets the thresholds, if any, set out in this Schedule.”.

(12) In paragraph 13(a) of Schedule 2, after “Schedule 1” insert “(other than a change or extension falling within paragraph 22 of that Schedule)”.

Dated this 14th day of December, 2006.

J J HOLLIDAY,

Minister with responsibility for Town Planning.

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#### **EXPLANATORY MEMORANDUM**

These Regulations amend the Town Planning (Environmental Impact Assessment) Regulations 2000 to make provision for public participation in accordance with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.