



# Transport and Works (Scotland) Act 2007

## 2007 asp 8

### PART 1

#### ORDERS AUTHORISING WORKS ETC.

##### *Procedure for making orders*

#### **11 Making or refusal of orders under section 1**

- (1) This section applies where—
- (a) an application is made to the Scottish Ministers under section 4, or
  - (b) they propose to make an order by virtue of section 6,
- and the requirements of the preceding provisions of this Act in relation to any objections have been satisfied.
- (2) The Scottish Ministers may determine—
- (a) to make an order under section 1 which gives effect to the proposals concerned without modification,
  - (b) to make an order under that section which gives effect to those proposals with modifications, or
  - (c) not to make an order.
- (3) Without prejudice—
- (a) to the generality of paragraph (c) of subsection (2), and
  - (b) to subsection (4),
- where this section applies by virtue of paragraph (a) of subsection (1) but the Scottish Ministers consider that any of the objects of the order applied for could be achieved other than by means of such an order, they may on that ground determine to decline to make an order.
- (4) The Scottish Ministers' powers under subsection (2) include the power to make a determination in respect of some only of the proposals concerned, while making a separate determination in respect of, or deferring consideration of, others (and accordingly the power to make an order under section 1 includes power to make two or more orders on the same application).

*Changes to legislation: There are currently no known outstanding effects for the Transport and Works (Scotland) Act 2007, Section 11. (See end of Document for details)*

- (5) Where the Scottish Ministers propose to make an order giving effect, with modifications, to the proposals concerned being modifications which in their opinion make a substantial change in the proposals, they are—
- (a) to notify any person who appears to them likely to be affected by the change,
  - (b) to give that person an opportunity to make representations to them about the modifications within such period as they may specify in the notification, and
  - (c) before making the order, to consider any representations timeously made to them by that person.
- (6) [<sup>F1</sup>An order under section 1 which is not subject to the affirmative procedure by virtue of section 13] comes into force on the date on which the notice required by section 12(1)(c) is first published unless a later date for its coming into force is specified in the order (in which case it comes into force on that later date).
- [<sup>F2</sup>(7) In relation to an order which, by virtue of section 13, is subject to the affirmative procedure, references to making an order in subsections (2)(a) and (b) and (5) are to be read as references to laying before the Parliament a draft statutory instrument containing an order.]
- [<sup>F3</sup>(8) If the Scottish Ministers have under consideration an application under section 4, or a proposal to make an order under section 6, they must not make the order if an environmental impact assessment is required by rules made under this Act unless an environmental impact assessment has been carried out in respect of the application or proposal, and in carrying out such an assessment the Scottish Ministers must take the environmental information referred to in section 12(6)(b) into account.]

#### Textual Amendments

- F1** Words in s. 11(6) substituted (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **19(a)**
- F2** S. 11(7) inserted (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **19(b)**
- F3** S. 11(8) inserted (16.5.2017) by [The Transport and Works \(Scotland\) Act 2007 \(Environmental Impact Assessment\) Regulations 2017 \(S.S.I. 2017/138\)](#), regs. 1, **4** (with reg. 7)

#### Modifications etc. (not altering text)

- C1** S. 11(1)(2) applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 52(2)(3), 70(1)**
- C2** S. 11(4)-(7) applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 52(2)(3), 70(1)**
- C3** S. 11(8): power to disapply conferred (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 5 para. 3(1)(a)**

#### Commencement Information

- I1** S. 11 in force at 28.12.2007 by [S.S.I. 2007/516](#), **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Transport and Works (Scotland) Act 2007, Section 11.