
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 139

**The Town and Country Planning (Environmental
Impact Assessment) (Scotland) Regulations 2011**

PART 4

PREPARATION OF ENVIRONMENTAL STATEMENTS

Scoping opinions of the planning authority

14.—(1) A person who is minded to make an EIA application may ask the planning authority to adopt a scoping opinion.

(2) A request under paragraph (1) must include—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
- (c) such other information or representations as the person making the request may wish to provide or make.

(3) A planning authority receiving a request under paragraph (1)—

- (a) must not adopt a scoping opinion in response to a request under paragraph (1) until they have consulted—
 - (i) the person who made the request;
 - (ii) the consultation bodies; and
 - (iii) the Health and Safety Executive where they would be required to be consulted under paragraph 3 or 4 of Schedule 5 to the Development Management Procedure Regulations in relation to the application for planning permission for the proposed development; and

(b) must, if they consider that they have not been provided with sufficient information to adopt a scoping opinion, notify the person making the request of the points on which they require further information.

(4) Subject to paragraph (5), the planning authority must within five weeks beginning with the date of receipt of a request under paragraph (1) or such longer period as may be agreed in writing with the person making the request, adopt a scoping opinion and send a copy to the person who made the request.

(5) Where—

- (a) a person has, at the same time as making a request for a screening opinion under regulation 6(1), asked the planning authority for an opinion under paragraph (1) above; and
- (b) the planning authority have adopted a screening opinion to the effect that the development is EIA development,

the planning authority must within five weeks beginning with the date on which that screening opinion was adopted or such longer period as may be agreed in writing with the person making the request, adopt a scoping opinion and send a copy to the person who made the request.

(6) Before adopting a scoping opinion, the planning authority must take into account—

- (a) the specific characteristics of the particular development;
- (b) the specific characteristics of development of the type concerned; and
- (c) the environmental features likely to be affected by the development.

(7) Where a planning authority fail to adopt a scoping opinion within the relevant period mentioned in paragraph (4) or (5), the person who requested the opinion may under regulation 15 ask the Scottish Ministers to make a scoping direction.

(8) Paragraph (7) applies even if the planning authority have not received the information which they have sought under paragraph (3)(b).

(9) A planning authority which has adopted a scoping opinion in response to a request under paragraph (1) is not precluded from requiring of the person who made the request additional information in connection with any statement that may be submitted by that person as an environmental statement in connection with an application for planning permission for the same development as was referred to in the request.

Scoping directions of the Scottish Ministers

15.—(1) The Scottish Ministers may make a scoping direction under this regulation either—

- (a) at their own volition; or
- (b) where requested to do so pursuant to—
 - (i) regulation 11(3);
 - (ii) regulation 12(2); or
 - (iii) regulation 14(7).

(2) A request made pursuant to regulation 11(3) or 12(2) must include—

- (a) a copy of any relevant screening opinion received by the person making the request and of any accompanying statement of reasons; and
- (b) any representations that the person making the request wishes to make.

(3) A request made pursuant to regulation 14(7) must include—

- (a) a copy of the relevant request to the planning authority under regulation 14(1);
- (b) a copy of any relevant notification under regulation 14(3)(b) and of any response;
- (c) a copy of any relevant screening opinion received by the person making the request and of any accompanying statement of reasons; and
- (d) any representations that the person making the request wishes to make.

(4) When a person makes a request pursuant to regulation 14(7) that person must send to the planning authority a copy of that request, but that copy need not include the matters mentioned in paragraph (3)(a) to (c).

(5) The Scottish Ministers must notify in writing the person making the request of any points on which they consider the information provided is insufficient to enable them to make a scoping direction and may request the planning authority to provide such information as they can on any of those points.

(6) Before making a scoping direction the Scottish Ministers must—

- (a) consult—

- (i) the person who made the request;
- (ii) the consultation bodies; and
- (iii) the Health and Safety Executive where they would be required to be consulted under paragraph 3 or 4 of Schedule 5 to the Development Management Procedure Regulations in relation to the application for planning permission for the proposed development; and

(b) take into account the matters specified in regulation 14(6).

(7) The Scottish Ministers must, within five weeks beginning with the date of receipt of that request or such longer period as they may reasonably require, make a direction and send a copy to the person who made the request and to the planning authority.

(8) Where the Scottish Ministers have made a scoping direction in response to a request under this regulation, neither they nor the planning authority are precluded from requiring of the person who made the request additional information in connection with any statement that may be submitted by that person as an environmental statement in connection with an application for planning permission for the same development as was referred to in the request.

Procedure to facilitate preparation of environmental statements

16.—(1) Any person who intends to submit an environmental statement to the planning authority or the Scottish Ministers under these Regulations may give notice in writing to that planning authority or the Scottish Ministers under this paragraph.

(2) A notice under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the development, and must indicate the main environmental consequences to which the person giving the notice proposes to refer in the environmental statement.

(3) Where the planning authority or the Scottish Ministers receive notice under paragraph (1) or a written statement made pursuant to regulation 9(3)(a), 11(3), 12(2) or 13(2)(a), they must—

- (a) notify the consultation bodies in writing of the name and address of the person who intends to submit an environmental statement and of the duty imposed on the consultation bodies by paragraph (4) to make information available to that person; and
- (b) inform in writing the person who intends to submit an environmental statement of the names and addresses of the bodies so notified.

(4) Subject to paragraph (5), the planning authority and any body notified in accordance with paragraph (3) must, if requested by the person who intends to submit an environmental statement, enter into consultation with that person to determine whether the planning authority or consultation body have in their possession any information which that person or they consider relevant to the preparation of the environmental statement, and the planning authority or consultation body must make any such information available to that person.

(5) In relation to a person to which the Environmental Information (Scotland) Regulations 2004(1) apply, paragraph (4) does not require disclosure of information which the person—

- (a) may refuse to disclose under regulation 10(1) of those Regulations; or
- (b) is prevented from disclosing by regulation 11(1) of those Regulations.

(6) In relation to a person to which the Environmental Information Regulations 2004 apply, paragraph (4) does not require disclosure of information which the person—

- (a) may refuse to disclose under regulation 12(1) of those Regulations; or

(b) is prevented from disclosing by regulation 13(1) of those Regulations.

(7) A reasonable charge reflecting the cost of making the relevant information available may be made by any person who makes information available in accordance with paragraph (4).