
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 1

**TOWN AND COUNTRY PLANNING
ROADS AND BRIDGES
LAND DRAINAGE**

**The Environmental Impact Assessment
(Scotland) Regulations 1999**

<i>Made</i>	- - - -	<i>8th July 1999</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th July 1999</i>
<i>Coming into force</i>	- -	<i>1st August 1999</i>

The Scottish Ministers, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(1) and section 40 of the Town and Country Planning (Scotland) Act 1997(2) and of all other powers enabling him in that behalf, and having taken into account the selection criteria in Annex III to Council Directive 85/337/EEC(3) as amended by Council Directive 97/11/EC(4), hereby make the following Regulations:

**PART I
INTRODUCTORY**

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Scotland) Regulations 1999 and shall come into force on 1st August 1999.

(1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15; functions of the Secretary of State under section 2(2) were transferred to the Scottish Ministers by virtue of section 53 of that Act.
(2) 1997 c. 8; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(3) O.J. No. L175, 5.7.1985, p.40.
(4) O.J. No. L73, 14.3.1997, p.5.

PART II
TOWN AND COUNTRY PLANNING
CHAPTER 1
GENERAL

Interpretation

2.—(1) In this Part, except where the context otherwise requires—

“the Act” means the Town and Country Planning (Scotland) Act 1997 and references to sections are references to sections of that Act;

“the 1981 Regulations” means the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981⁽⁵⁾;

“the consultation bodies” means—

- (a) any adjoining planning authority, where the development is likely to affect land in their area;
- (b) Scottish Natural Heritage;
- (c) the water and sewerage authority or authorities for the area in which the development is to take place;
- (d) the Scottish Environment Protection Agency;
- (e) the Health and Safety Executive;
- (f) the Scottish Ministers;

“the Directive” means Council Directive [85/337/EEC](#)⁽⁶⁾;

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁷⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁸⁾;

“EIA application” means an application for planning permission for EIA development;

“EIA development” means development which is either—

- (a) Schedule 1 development; or
- (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“environmental information” means the environmental statement, including any further information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development;

“environmental statement” means a statement—

- (a) that includes such of the information referred to in Part I of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but

⁽⁵⁾ S.I. [1981/829](#), amended by S.I. [1984/238](#).

⁽⁶⁾ O.J. No. L175, 5.7.1985, p.40. Council Directive [85/337/EEC](#) was amended by Council Directive [97/11/EC](#), O.J. No. L73, 14.3.97, p.5.

⁽⁷⁾ Cm 2073.

⁽⁸⁾ Cm 2183.

- (b) that includes at least the information referred to in Part II of Schedule 4;
- “exempt development” means development which comprises or forms part of a project serving national defence purposes or in respect of which the Scottish Ministers have made a direction under regulation 4(4);
- “further information” has the meaning given in regulation 19(1);
- “general development order” means the Town and Country Planning (General Development Procedure) (Scotland) Order 1992(9);
- “the land” means the land on which the development would be carried out or, in relation to development already carried out, has been carried out;
- “register” means a register kept pursuant to section 36 (registers of applications etc.) and “appropriate register” means the register on which particulars of an application for planning permission for the relevant development have been placed or would fall to be placed if such an application were made;
- “relevant planning authority” means the body to whom it falls, fell, or would, but for a direction under section 46 (call-in of applications by Secretary of State), fall to determine an application for planning permission for the development in question;
- “reporter” means a person appointed by the Scottish Ministers under Schedule 4 to the Act to determine an appeal under section 47 or 130, or to report to them on an application for planning permission referred to them under section 46 or which is the subject of an appeal under section 47 or 130;
- “Schedule 1 application” and “Schedule 2 application” mean an application for planning permission for Schedule 1 development and Schedule 2 development respectively;
- “Schedule 1 development” means development, other than exempt development, of a description mentioned in Schedule 1;
- “Schedule 2 development” means development, other than exempt development, of a description mentioned in Column 1 of the table in Schedule 2 where—
- (a) any part of that development is to be carried out in a sensitive area; or
 - (b) any applicable threshold or criterion in the corresponding part of Column 2 of that table is respectively exceeded or met in relation to that development;
- “scoping direction” and “scoping opinion” have the meanings given in regulation 10;
- “screening direction” means a direction made by the Secretary of State as to whether development is EIA development;
- “screening opinion” means a written statement of the opinion of the relevant planning authority as to whether development is EIA development;
- “sensitive area” means any of the following—
- (a) land notified under subsection (1) of section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981(10);
 - (b) land to which subsection (3) of section 29 (nature conservation orders) of the Wildlife and Countryside Act 1981 applies;
 - (c) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage(11);

(9) S.I. 1992/224, amended by S.I. 1992/2083, 1993/1039, 1994/2585 and 3293, 1996/467 and 1997/749.

(10) 1981 c. 69.

(11) See Command Paper 9424.

- (d) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979(12);
- (e) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994(13);
- (f) an area designated as a Natural Heritage Area by a direction made by the Secretary of State or the Scottish Ministers under section 6(2) of the Natural Heritage (Scotland) Act 1991(14) or as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972(15).

(2) Subject to paragraph (3), expressions used both in these Regulations and in the Act have the same meaning for the purposes of these Regulations as they have for the purposes of the Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations, any reference to a Council Directive is a reference to that Directive as amended at the date these Regulations were made.

(5) In these Regulations, references to the Scottish Ministers shall, as regards an application for planning permission or appeal in relation to which a reporter has been appointed, be construed as including references to that reporter.

Prohibition on granting planning permission without consideration of environmental information

3.—(1) This regulation applies to every EIA application received by the authority with whom it is lodged on or after the commencement of these Regulations and, for the purposes of this paragraph, the date of receipt of an application by an authority shall be determined in accordance with paragraph (3) of article 14 (time periods for decision) of the general development order.

(2) The relevant planning authority or the Scottish Ministers shall not grant planning permission pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.

CHAPTER 2

SCREENING

General provisions relating to screening

4.—(1) Subject to paragraphs (3) and (4), the occurrence of an event mentioned in paragraph (2) shall determine for the purpose of these Regulations that development is EIA development.

(2) The events referred to in paragraph (1) are—

- (a) the submission by the applicant or appellant in relation to that development of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these Regulations; or
- (b) the adoption by the relevant planning authority of a screening opinion to the effect that the development is EIA development.

(12) 1979 c. 46. See the definition in section 1(11).

(13) S.I. 1994/2716.

(14) 1991 c. 28.

(15) 1972 c. 52; section 6(9) of the Natural Heritage (Scotland) Act 1991 contained a saving provision for any areas which were designated as National Scenic Areas under section 262C of the Town and Country Planning (Scotland) Act 1972 as at the date of repeal of that section by section 27 of, and Schedule 11 to, that 1991 Act.

(3) A direction of the Scottish Ministers shall determine for the purpose of these Regulations whether development is or is not EIA development.

(4) The Scottish Ministers may direct that particular proposed development is exempted from the application of these Regulations in accordance with Article 2(3) of the Directive (but without prejudice to Article 7 of the Directive) and shall send a copy of any such direction to the relevant planning authority.

(5) Where a planning authority or the Scottish Ministers have to decide under these Regulations whether Schedule 2 development is EIA development, they shall take into account in making that decision such of the selection criteria set out in Schedule 3 as are relevant to the development.

(6) Where—

- (a) a planning authority adopt a screening opinion; or
- (b) the Scottish Ministers make a screening direction under these Regulations;

to the effect that development is EIA development—

- (i) that opinion or direction shall be accompanied by a written statement giving clearly and precisely the full reasons for that conclusion; and
- (ii) the authority or the Scottish Ministers, as the case may be, shall send a copy of the opinion or direction and a copy of the written statement required by sub-paragraph (i) to the person who proposes to carry out, or who has carried out, the development in question.

(7) The Scottish Ministers may make a screening direction irrespective of whether they have received a request to do so.

(8) The Scottish Ministers may direct that particular development of a description mentioned in Column 1 of the table in Schedule 2 is EIA development in spite of the fact that none of the conditions contained in sub-paragraphs (a) and (b) of the definition of “Schedule 2 development” in regulation 2(1) is satisfied in relation to that development.

(9) The Scottish Ministers shall send a copy of any screening direction to the relevant planning authority.

Requests for screening opinions of the planning authority

5.—(1) A person who is minded to carry out development may request the relevant planning authority to adopt a screening opinion.

(2) A request for a screening opinion shall be accompanied by—

- (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) An authority receiving a request for a screening opinion shall, if they consider that they have not been provided with sufficient information to adopt an opinion, notify in writing the person making the request of the points on which they require additional information.

(4) An authority shall adopt a screening opinion within three weeks beginning with the date of receipt of a request made pursuant to paragraph (1) or such longer period as may be agreed in writing with the person making the request.

(5) An authority which adopts a screening opinion pursuant to paragraph (4) shall forthwith send a copy to the person who made the request.

(6) Where an authority—

- (a) fail to adopt a screening opinion within the relevant period mentioned in paragraph (4); or
- (b) adopt an opinion to the effect that the development is EIA development;

the person who requested the opinion may request the Scottish Ministers to make a screening direction.

(7) The person may make a request pursuant to paragraph (6) even if the authority have not received additional information which they have sought under paragraph (3).

Requests for screening directions of the Scottish Ministers

6.—(1) A person who pursuant to regulation 5(6) requests the Scottish Ministers to make a screening direction shall submit with his request—

- (a) a copy of his request to the relevant planning authority under regulation 5(1) and the documents which accompanied it;
- (b) a copy of any notification under regulation 5(3) which he has received and of any response;
- (c) a copy of any screening opinion he has received from the authority and of any accompanying statement of reasons; and
- (d) any representations that he wishes to make.

(2) When a person makes a request pursuant to regulation 5(6), he shall send to the relevant planning authority a copy of that request and of any representations he makes to the Scottish Ministers, and that authority may, within two weeks of receiving those documents, provide the Scottish Ministers with their comments on the request and representations.

(3) The Scottish Ministers shall, if they consider that they have not been provided with sufficient information to make a screening direction, notify in writing the person making the request pursuant to regulation 5(6) of the points on which they require additional information, and may request the relevant planning authority to provide such information as they can on any of those points.

(4) The Scottish Ministers shall make a screening direction within three weeks beginning with the date of receipt of a request pursuant to regulation 5(6) or such longer period as they may reasonably require.

(5) The Scottish Ministers shall send a copy of any screening direction made pursuant to paragraph (4) forthwith to the person who made the request.

CHAPTER 3

PROCEDURES CONCERNING APPLICATIONS FOR PLANNING PERMISSION

Application made to a planning authority without an environmental statement

7.—(1) Where it appears to the relevant planning authority that—

- (a) an application for planning permission which is before them for determination is a Schedule 1 application or Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

(2) Where an EIA application which is before a planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the

purposes of these Regulations, the authority shall notify the applicant in writing that the submission of an environmental statement is required.

(3) An authority shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Scottish Ministers, after the expiry of that period of three weeks or of any longer period so agreed, make a screening direction to the effect that the development is EIA development, the authority shall so notify the applicant within seven days beginning with the date the authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (2) may, within three weeks beginning with the date of the notification, write to the authority—

- (a) stating that he accepts their view and is providing an environmental statement; or
- (b) unless the Scottish Ministers have made a screening direction in respect of the development, stating that he is writing to them to request a screening direction.

(5) If the applicant does not write to the authority in accordance with paragraph (4), the permission sought shall, unless the Scottish Ministers have made a screening direction to the effect that the development is not EIA development, be deemed to be refused at the end of the relevant three week period, and the deemed refusal—

- (a) shall be treated as a decision of the authority for the purposes of paragraph 3(c) of Schedule 5 (registers) to the general development order; but
- (b) shall not give rise to an appeal to the Scottish Ministers by virtue of section 47 (right to appeal against planning decisions and failure to take such decisions).

(6) An authority which has given a notification in accordance with paragraph (2) shall, unless the Scottish Ministers make a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 13(3).

(7) A person who requests a screening direction pursuant to sub-paragraph (4)(b) shall send to the Scottish Ministers with his request copies of—

- (a) his application for planning permission;
- (b) all documents sent to the authority as part of the application; and
- (c) all correspondence between the applicant and the authority relating to the proposed development,

and paragraphs (2) to (5) of regulation 6 shall apply to a request under this regulation as they apply to a request made pursuant to regulation 5(6).

Application referred to the Scottish Ministers without an environmental statement

8.—(1) Where it appears to the Scottish Ministers that—

- (a) an application for planning permission which has been referred to them for determination is a Schedule 1 application or Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the referral of the application were a request made by the applicant pursuant to regulation 5(6).

(2) Where it appears to the Scottish Ministers that an application which has been referred to them for determination is an EIA application and is not accompanied by a statement referred to by the

applicant as an environmental statement for the purposes of these Regulations, the Scottish Ministers shall notify the applicant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(3) The Scottish Ministers shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date they received the application or such longer period as they may reasonably require.

(4) An applicant who receives a notification under paragraph (2) may within three weeks beginning with the date of the notification write to the Scottish Ministers stating that he proposes to provide an environmental statement.

(5) If the applicant does not write in accordance with paragraph (4), the Scottish Ministers shall be under no duty to deal with the application; and at the end of the three week period the Scottish Ministers shall inform the applicant in writing that no further action is being taken on the application.

(6) Where the Scottish Ministers have given a notification under paragraph (2), they shall determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 13(3).

Appeal to the Scottish Ministers without an environmental statement

9.—(1) Where on consideration of an appeal under section 47 (right to appeal against planning decisions and failure to take such decisions) it appears to the Scottish Ministers that—

- (a) the relevant application is a Schedule 1 application or Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the appeal were a request made by the appellant pursuant to regulation 5(6).

(2) Where it appears to the Scottish Ministers that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, they shall notify the appellant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(3) An appellant who receives a notification under paragraph (2) may within three weeks beginning with the date of the notification write to the Scottish Ministers stating that he proposes to provide an environmental statement.

(4) If the appellant does not write in accordance with paragraph (3), the Scottish Ministers shall be under no duty to deal with the appeal; and at the end of the three week period they shall inform the appellant that no further action is being taken on the appeal.

(5) Where the Scottish Ministers have given a notification under paragraph (2), they shall determine the appeal only by refusing planning permission if the appellant does not submit an environmental statement and comply with regulation 13(3).

CHAPTER 4

PREPARATION OF ENVIRONMENTAL STATEMENTS

Scoping opinions of the planning authority

10.—(1) A person who is minded to make an EIA application may ask the relevant planning authority to state in writing their opinion as to the information to be provided in the environmental statement (a “scoping opinion”).

(2) A request under paragraph (1) shall 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) An authority receiving a request under paragraph (1) shall, 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 additional information.

(4) An authority shall not adopt a scoping opinion in response to a request under paragraph (1) until they have consulted the person who made the request and the consultation bodies, but shall, subject to paragraph (5), within five weeks beginning with the date of receipt of that request 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 person has, at the same time as making a request for a screening opinion under regulation 5(1), asked the authority for an opinion under paragraph (1) above, and the authority have adopted a screening opinion to the effect that the development is EIA development, the authority shall 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 authority shall 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 an 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 11(1) ask the Scottish Ministers to make a direction as to the information to be provided in the environmental statement (a “scoping direction”).

(8) Paragraph (7) applies notwithstanding that the authority may not have received additional information which they have sought under paragraph (3).

(9) An authority which has adopted a scoping opinion in response to a request under paragraph (1) shall not be 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

11.—(1) A request made under this paragraph pursuant to regulation 10(7) shall include—

- (a) a copy of the relevant request to the relevant planning authority under regulation 10(1);

- (b) a copy of any relevant notification under regulation 10(3) 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.

(2) When a person makes a request under paragraph (1) he shall send to the relevant planning authority a copy of that request, but that copy need not include the matters mentioned in subparagraphs (a) to (c) of that paragraph.

(3) The Scottish Ministers shall notify in writing the person making the request of any points on which they consider the information provided pursuant to paragraph (1) is insufficient to enable them to make a scoping direction; and may request the relevant planning authority to provide such information as they can on any of those points.

(4) The Scottish Ministers shall not make a scoping direction in response to a request under paragraph (1) until they have consulted the person making the request and the consultation bodies, but shall, 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 relevant planning authority.

(5) Before making a scoping direction, the Scottish Ministers shall take into account the matters specified in regulation 10(6).

(6) Where the Scottish Ministers have made a scoping direction in response to a request under paragraph (1), neither they nor the relevant planning authority shall be 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

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

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

(3) The recipient of—

- (a) such notice as is mentioned in paragraph (1); or
- (b) a written statement made pursuant to regulation 7(4)(a), 8(4) or 9(3),

shall—

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

(5) Paragraph (4) shall not require the disclosure of information which is capable of being treated as confidential, or must be so treated, under regulation 4 of the Environmental Information Regulations 1992(16).

(6) 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).

CHAPTER 5

PUBLICITY AND PROCEDURES ON SUBMISSION OF ENVIRONMENTAL STATEMENTS

Publicity for environmental statement

13.—(1) In an EIA application, when the applicant or appellant submits to the Scottish Ministers or the relevant planning authority a statement which he refers to as an environmental statement for the purposes of these Regulations, he shall serve on any party who holds a notifiable interest in neighbouring land a notice in the form set out in Schedule 5 (or in a form substantially to the like effect) stating—

- (a) that the statement may be inspected in the office of the relevant planning authority for the period of 4 weeks from the date of the said notice;
- (b) the address at which copies of the statement may be acquired;
- (c) the cost of a copy of the statement; and
- (d) that representations may be made.

(2) The parties holding a notifiable interest in neighbouring land are the owners, lessees and occupiers of the land.

(3) A statement such as is referred to in paragraph (1) shall not be taken into consideration by a planning authority or the Scottish Ministers unless it is accompanied by a certificate stating—

- (a) that notices have been served in terms of paragraph (1);
- (b) that no notification in terms of paragraph (1) is required; or
- (c) that the applicant has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of all the parties holding a notifiable interest in neighbouring land, and either—
 - (i) that the names and addresses of the parties holding a notifiable interest in neighbouring land have not been ascertained and no notice has been served in terms of paragraph (1); or
 - (ii) that notices have been served in terms of paragraph (1) on one or more of the parties holding a notifiable interest in neighbouring land but that the names and addresses of the other parties holding a notifiable interest have not been ascertained.

(4) The certificate under paragraph (3) shall, where appropriate, state the names and addresses of all those parties having a notifiable interest in neighbouring land who have been notified in terms of paragraph (1).

(5) When a statement such as is referred to in paragraph (1) is submitted, the relevant planning authority or the Scottish Ministers, as the case may be, shall publish as soon as possible a notice (containing similar information to that required to be included in a notice served in accordance with paragraph (1)) in a newspaper circulating in the locality in which the neighbouring land is situated and in The Edinburgh Gazette.

(6) Where the Scottish Ministers or the planning authority are required to publish a notice in a newspaper in accordance with paragraph (5), the applicant shall pay the cost to be incurred by the

Scottish Ministers or the planning authority in arranging such advertisement at the time of submitting his statement.

(7) For the purposes of this regulation, “neighbouring land” has the same meaning as in article 2(1) of the general development order.

Consultation where environmental statement received by planning authority

14.—(1) Where a planning authority receive in connection with an EIA application a statement which the applicant refers to as an environmental statement for the purposes of these Regulations, they shall—

- (a) place a copy of the statement in Part I of the register together with a copy of the related application;
- (b) send to the Scottish Ministers a copy of the application, and of any plans and other documents sent with it, and 3 copies of the statement; and
- (c) send a copy of the statement to each consultation body, consult them about it and inform them that they may make representations.

(2) Where an applicant for planning permission submits a statement such as is referred to in paragraph (1) to the relevant planning authority, he shall let them have enough copies of the environmental statement or parts thereof to enable them to comply with paragraph (1)(c) and 5 additional copies.

(3) Where under this regulation a planning authority consult any person about any statement, they shall give not less than 4 weeks' notice to such person that environmental information is to be taken into consideration, and shall not take the environmental information into consideration until after the expiration of the period of such notice.

(4) Where any person whom a planning authority are required to consult under this regulation considers that consultation with him is not required in respect of any statement relating to any case or class of case or relating to any specified area, he shall so inform the planning authority in writing and notwithstanding the foregoing provisions of this regulation the planning authority shall not be required so to consult him.

Copies of environmental statement for the Scottish Ministers

15. Where a statement which the applicant refers to as an environmental statement for the purposes of these Regulations is provided in relation to an application for planning permission which is directed to be referred to the Scottish Ministers for determination, or is to be the subject of an appeal to them, the applicant or appellant shall provide the Scottish Ministers with 3 copies of the statement and, where relevant, the further information unless (in the case of a referred application) the planning authority have already forwarded 3 copies when referring the application.

Consultation where environmental statement received by the Scottish Ministers

16.—(1) This regulation applies where the Scottish Ministers are taking into consideration environmental information relating to an EIA application which is being determined by them by virtue of section 46 or 47 and the environmental statement has not previously been submitted to the relevant planning authority.

(2) The provisions of regulation 14(1)(c), (2), (3) and (4) shall apply to the Scottish Ministers as they apply to the planning authority, as if references to the applicant include, where the case requires, references to the appellant.

(3) The Scottish Ministers shall consult the planning authority for the area in which is situated the land to which the application relates about the statement and shall send them 2 copies of it.

(4) When the planning authority receive 2 copies of the statement under paragraph (3), they shall place one copy in Part I of the register together with a copy of the related application.

Copies of environmental statement for the public

17. Where a statement which the applicant refers to as an environmental statement for the purposes of these Regulations is provided in relation to an application for planning permission, the applicant or appellant shall ensure that a reasonable number of copies of the statement are available at the address named in the notices under regulation 13(1) as the address at which copies may be obtained.

Charges for copies of environmental statements

18. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of a statement made available in accordance with regulation 17.

Further information and evidence relating to environmental statements

19.—(1) The Scottish Ministers or the relevant planning authority, when dealing with an application or appeal in relation to which a statement which the applicant or appellant refers to as a environmental statement for the purposes of these Regulations has been provided, may in writing require the applicant or appellant to provide such further information as may be specified to enable the application or appeal to be determined, or concerning any matter which is required to be dealt with in the environmental statement; and where in the opinion of the Scottish Ministers or the relevant planning authority—

- (a) the applicant or appellant could (having regard in particular to current knowledge and methods of assessment) provide further information about any matter mentioned in Schedule 4; and
- (b) that further information is reasonably required to give proper consideration to the likely environmental effects of the proposed development,

they shall notify the applicant or appellant in writing and the applicant or appellant shall provide that further information (and such further information provided by the applicant or appellant is referred to in these Regulations as “further information”).

(2) Where further information is required in accordance with paragraph (1), except insofar as such further information—

- (a) is required to be provided for the purposes of a local inquiry held under the Act and the written requirement for such further information states that it is to be provided for such purposes, or
- (b) is required to be provided for the purposes of an appeal under section 130,

regulations 14 and 16 to 18 shall apply to the submission of such further information as they apply to the submission of an environmental statement (subject to any necessary modifications) and regulation 13 shall similarly apply subject to substitution, in paragraph (1), of “in Schedule 6” in place of “in Schedule 5”.

(3) The Scottish Ministers or the relevant planning authority may in writing require to be produced to them such evidence, in respect of any environmental statement which it falls to them to take into consideration, as they may reasonably call for to verify any information it contains.

CHAPTER 6

AVAILABILITY OF DIRECTIONS ETC. AND NOTIFICATION OF DECISIONS

Availability of opinions, directions etc. for inspection

20.—(1) Where particulars of a planning application are placed on Part I of the register, the relevant planning authority shall take steps to secure that there is also placed on that Part a copy of any relevant—

- (a) screening opinion;
- (b) screening direction;
- (c) scoping opinion;
- (d) scoping direction;
- (e) notification given under regulation 7(2), 8(2) or 9(2);
- (f) direction under regulation 4(4);
- (g) environmental statement, including any further information;
- (h) statement of reasons accompanying any of the above.

(2) Where the relevant planning authority—

- (a) adopt a screening opinion or scoping opinion; or
- (b) receive—
 - (i) a request under regulation 10(1) or 11(2); or
 - (ii) a copy of a screening direction, scoping direction, or direction under regulation 4(4), before an application is made for planning permission for the development in question, the authority shall take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant section of that register) is kept.

(3) Documents made available under paragraph (2) shall remain so available for a period of two years.

Duties to inform the public and the Scottish Ministers of final decisions

21.—(1) Where an EIA application is determined by a planning authority, the authority shall—

- (a) in writing, inform the Scottish Ministers and the consultation bodies of the decision;
- (b) inform the public of the decision (and of where the statement referred to in subparagraph (c) may be inspected), by publishing a notice in a newspaper circulating in the locality in which the land is situated, or by such other means as are reasonable in the circumstances; and
- (c) make available for public inspection at the place where the appropriate register (or relevant section of that register) is kept a statement containing—
 - (i) the content of the decision and any conditions attached thereto;
 - (ii) the main reasons and considerations on which the decision is based; and
 - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

(2) Where an EIA application is determined by the Scottish Ministers, they shall—

- (a) notify the relevant planning authority and the consultation bodies of the decision; and

(b) provide the authority with such a statement as is mentioned in paragraph (1)(c).

(3) The relevant planning authority shall, as soon as reasonably practicable after receipt of a notification under paragraph (2)(a), comply with sub-paragraphs (b) and (c) of paragraph (1) in relation to the decision so notified as if it were a decision of the authority.

CHAPTER 7

DEVELOPMENT BY PLANNING AUTHORITIES

Development by planning authority – preliminary

22.—(1) Before a planning authority take any action under regulation 4 of the 1981 Regulations in respect of development which appears to them to be Schedule 1 or Schedule 2 development, they shall—

- (a) consult such of the consultation bodies as they consider appropriate and then adopt a screening opinion; or
- (b) request the Scottish Ministers in writing to make a screening direction.

(2) Where a planning authority are minded to undertake development which appears to them to be Schedule 1 or Schedule 2 development and which they consider may be development—

- (a) of a description specified in Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(17) (other than development of a description specified in article 3(10) of that Order); or
- (b) for which permission would be granted but for regulation 27(1),

they shall—

- (i) consult such of the consultation bodies as they consider appropriate and then adopt a screening opinion; or
- (ii) request the Scottish Ministers in writing to make a screening direction.

(3) Any approach for consultation or request to the Scottish Ministers under paragraph (1) or (2) shall be accompanied by—

- (a) a plan sufficient to identify the land on which the development would be carried out;
- (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 authority may wish to provide or make.

(4) Paragraphs (3) and (4) of regulation 6 shall apply to a request under paragraph (1)(b) or (2) (ii) of this regulation as they apply to a request made pursuant to regulation 5(6).

(5) Where the screening opinion of the planning authority is to the effect that their development is EIA development or the Scottish Ministers make a screening direction to that effect, the planning authority shall prepare an environmental statement in respect of the development.

(6) This regulation and regulations 23 to 26 shall not apply in a case where the notices and consultation of a planning authority under regulation 4(2) of the 1981 Regulations were given and carried out respectively, or the application of a planning authority was made, before 1st August 1999.

Provision of information to planning authority

23. In preparing an environmental statement, the planning authority shall inform the consultation bodies that they are doing so and any body so informed shall make available to the planning authority

(17) S.I. 1992/223; relevant amending instrument is S.I. 1997/1871.

any information in their possession which they or the planning authority consider relevant to the preparation of the environmental statement.

Publicity for environmental statement prepared by planning authority

- 24.**—(1) After an environmental statement has been prepared, the planning authority shall—
- (a) place a copy of the environmental statement in Part I of the register together with the copy of the notice of intention to develop required to be placed there by regulation 8 of the 1981 Regulations;
 - (b) make available copies of the environmental statement for inspection by, and sale to, the public; and
 - (c) in addition to publishing a notice in a local newspaper under regulation 4(1) of the 1981 Regulations, publish such a notice in The Edinburgh Gazette.
- (2) The notice to be so published shall contain, in addition to the information specified in regulation 4(1) of the 1981 Regulations, a statement—
- (a) that an environmental statement has been prepared;
 - (b) that copies of the environmental statement may be inspected and acquired at the same address and times as the plans of the development may be inspected;
 - (c) of the cost of a copy of the environmental statement; and
 - (d) that representations may be made in writing to the planning authority within 4 weeks of the date of publication under paragraph (1)(c) (or the later date of such publication where the notices were not published on the same day).
- (3) In addition to the consultations carried out under regulation 4(2)(b) of the 1981 Regulations, the planning authority shall consult the consultation bodies on the environmental statement, shall send each of them a copy thereof and shall inform them that they may make representations.
- (4) The information to be provided by the planning authority, when complying under regulation 4(2)(c) of the 1981 Regulations with the requirements of any development order or direction, shall include information to the same effect as is specified in sub-paragraphs (a) to (d) of paragraph (2) of this regulation.

Granting of planning permission to planning authority

- 25.**—(1) No planning permission shall be deemed to have been granted under regulation 5(1) of the 1981 Regulations where, if the development were the subject of an application for planning permission, it would be an EIA application.
- (2) Where paragraph (1) applies, the provisions of regulation 6 of the 1981 Regulations shall apply as if the development were one of the classes of case specified in paragraph (1) of regulation 6 of the 1981 Regulations.
- (3) When complying with the provisions of regulation 6 of the 1981 Regulations in respect of a development to which paragraph (1) of this regulation applies, the planning authority shall accompany their notice of intention to develop with a copy of the environmental statement and the Scottish Ministers shall consider the environmental statement and issue a decision as to whether or not to require the planning authority to make an application to them for planning permission and shall state in their decision that they have considered the statement.

Intimation of decision

26. Where the Scottish Ministers decide under regulation 25(3) that the planning authority are not required to make an application to them for planning permission, they shall take the steps described in paragraph (2) of regulation 21 and the authority shall comply with paragraph (3) of that regulation.

CHAPTER 8

SPECIAL CASES

Restriction of grant of permission by old simplified planning zone schemes or enterprise zone orders

27.—(1) Any—

- (a) adoption or approval of a simplified planning zone scheme⁽¹⁸⁾;
- (b) order designating an enterprise zone⁽¹⁹⁾; or
- (c) approval of a modified scheme in relation to an enterprise zone,

which has effect immediately before the commencement of these Regulations to grant planning permission shall, on and after that date, cease to have effect to grant planning permission for Schedule 1 development, and cease to have effect to grant planning permission for Schedule 2 development unless either—

- (i) the relevant planning authority have adopted a screening opinion; or
- (ii) the Scottish Ministers have made a screening direction,

to the effect that the particular proposed development is not EIA development.

(2) Paragraph (1) shall not affect the completion of any development begun before the commencement of these Regulations.

Restriction of grant of permission by new simplified planning zone schemes or enterprise zone orders

28. No—

- (a) adoption or approval of a simplified planning zone scheme;
- (b) order designating an enterprise zone made; or
- (c) modified scheme in relation to an enterprise zone approved,

after the commencement of these Regulations shall—

- (i) grant planning permission for EIA development; or
- (ii) grant planning permission for Schedule 2 development unless that grant is made subject to the prior adoption of a screening opinion or prior making of a screening direction that the particular proposed development is not EIA development.

⁽¹⁸⁾ See section 50 of, and Schedule 5 to, the Town and Country Planning (Scotland) Act 1997.

⁽¹⁹⁾ See sections 55 and 56 of the Town and Country Planning (Scotland) Act 1997 and Schedule 32 to the Local Government, Planning and Land Act 1980 (c. 65).

CHAPTER 9

UNAUTHORISED DEVELOPMENT

Prohibition on the grant of planning permission for unauthorised EIA development

29. The Scottish Ministers shall not grant planning permission under subsection (1) of section 133 (grant or modification of planning permission on appeals against enforcement notices) in respect of EIA development which is the subject of an enforcement notice under section 127 (issue of enforcement notice) (“unauthorised EIA development”) unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.

Screening opinions of the planning authority

30.—(1) Where it appears to the planning authority by whom or on whose behalf an enforcement notice is to be issued that the matters constituting the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, they shall, before the enforcement notice is issued, adopt a screening opinion.

(2) Where it appears to the planning authority by whom or on whose behalf an enforcement notice is to be issued that the matters constituting the breach of planning control comprise or include EIA development they shall serve with a copy of the enforcement notice a notice (“regulation 30 notice”) which shall—

- (a) include the screening opinion required by paragraph (1) and the written statement required by regulation 4(6); and
 - (b) require a person who gives notice of an appeal under section 130 to submit to the Scottish Ministers with the notice four copies of an environmental statement relating to that EIA development and to provide them with such further copies as they may require under regulation 35(2).
- (3) The authority by whom a regulation 30 notice has been served shall send a copy of it to—
- (a) the Scottish Ministers; and
 - (b) the consultation bodies.

(4) Where an authority provide the Scottish Ministers with a copy of a regulation 30 notice, they shall also provide them with a list of the other persons to whom a copy of the notice has been or is to be sent.

Screening directions of the Scottish Ministers

31. Any person on whom a regulation 30 notice is served may apply to the Scottish Ministers for a screening direction and the following shall apply—

- (a) an application under this regulation shall be accompanied by—
 - (i) a copy of the regulation 30 notice;
 - (ii) a copy of the enforcement notice which accompanied it; and
 - (iii) such other information or representations as the applicant may wish to provide or make;
- (b) the applicant shall send to the authority by whom the regulation 30 notice was served, at such time as he applies to the Scottish Ministers, a copy of the application under this regulation and of any information or representations provided or made in accordance with paragraph (a)(iii);

- (c) if the Scottish Ministers consider that the information provided in accordance with paragraph (a) is insufficient to enable them to make a direction, they shall notify the applicant and the authority of the matters in respect of which they require additional information; and the information so requested shall be provided by the applicant within such reasonable period as may be specified in the notice;
- (d) the Scottish Ministers shall send a copy of their direction to the applicant and to the authority and, where they conclude that the matters which are alleged to constitute the breach of planning control comprise or include EIA development, they shall send with the copy of the direction a written statement giving clearly and precisely their full reasons for that conclusion;
- (e) without prejudice to paragraph (d), where the Scottish Ministers direct that the matters which are alleged to constitute the breach of planning control do not comprise or include EIA development, they shall send a copy of the direction to the consultation bodies.

Provision of information

32.—(1) The relevant planning authority and any consultation body shall, if requested by the person on whom the regulation 30 notice was served, enter into consultation with that person to determine whether the authority or body have in their possession any information which he or they consider relevant to the preparation of an environmental statement and, if they have, the authority or body shall make any such information available to that person.

(2) The provisions of paragraphs (5) and (6) of regulation 12 shall apply to information under paragraph (1) as they apply to any information falling within regulation 12(4).

Appeal to the Scottish Ministers without a screening opinion or screening direction

33.—(1) Where on consideration of an appeal under section 130 it appears to the Scottish Ministers that the matters which are alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development and, in either case, no screening opinion has been adopted and no screening direction has been made in respect of that development, they shall, before any notice is served pursuant to regulation 34(a), make such a screening direction.

(2) If the Scottish Ministers consider that they have not been provided with sufficient information to make a screening direction, they shall notify the applicant and the authority by whom the notice under section 127 was served of the matters in respect of which they require additional information; and the information so requested shall be provided by the applicant within such reasonable period as may be specified in the notice.

(3) If an appellant to whom notice has been given under paragraph (2) fails to comply with the requirements of that notice—

- (a) the application which is deemed to have been made by virtue of the appeal made under section 130 (“the deemed application”); and
- (b) the appeal in so far as it is brought under the ground mentioned in section 130(1)(a) (“the ground (a) appeal”),

shall lapse at the end of the period specified in the notice.

(4) Paragraphs (d) and (e) of regulation 31 shall apply to a screening direction made under this regulation as they apply to such a direction made under that regulation.

Appeal to the Scottish Ministers without an environmental statement

34. Where the Scottish Ministers are considering an appeal under section 130 and the matters which are alleged to constitute the breach of planning control comprise or include unauthorised EIA

development, and the documents submitted to them for the purposes of the appeal do not include a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, the following procedure shall apply—

- (a) the Scottish Ministers shall, subject to paragraph (b), within the period of three weeks beginning with the day on which they receive the appeal, or such longer period as they may reasonably require, notify the appellant in writing of the requirements of paragraph (c) below;
- (b) notice need not be given under paragraph (a) where the appellant has submitted a statement which he refers to as an environmental statement for the purposes of these Regulations to the Scottish Ministers for the purposes of an appeal under section 47 (right to appeal against planning decisions and failure to take such decisions) which—
 - (i) relates to the development to which the appeal under section 130 relates; and
 - (ii) is to be determined at the same time as that appeal under section 130;
 and that statement, any further information, and the representations (if any) made in relation to it shall be treated as the environmental statement and representations for the purpose of regulation 29;
- (c) the requirements of this paragraph are that the appellant shall, within the period specified in the notice or such longer period as the Scottish Ministers may allow, submit to them such number of copies of an environmental statement relating to the unauthorised EIA development in question as may be so specified;
- (d) the Scottish Ministers shall send to the relevant planning authority a copy of any notice sent to the appellant under paragraph (a);
- (e) if an appellant to whom notice has been given under paragraph (a) fails to comply with the requirements of paragraph (c), the deemed application and the ground (a) appeal (if any) shall lapse at the end of the period specified or allowed (as the case may be);
- (f) as soon as reasonably practicable after the occurrence of the event mentioned in paragraph (e), the Scottish Ministers shall notify the appellant and the planning authority in writing that the deemed application and the ground (a) appeal (if any) have lapsed.

Procedure where an environmental statement is submitted to the Scottish Ministers

35.—(1) Where the Scottish Ministers receive (otherwise than as mentioned in regulation 34(b)) in connection with an enforcement appeal a statement which the appellant refers to as an environmental statement for the purposes of these Regulations, they shall send a copy of that statement to the relevant planning authority and the consultation bodies, advise them that the statement will be taken into consideration in determining the deemed application and the ground (a) appeal (if any), and inform them that they may make representations.

(2) The appellant shall provide the Scottish Ministers with such copies of the statement referred to in paragraph (1) as they may require to enable them to fulfil their obligations under that paragraph.

Further information and evidence respecting environmental statements

36.—(1) Paragraphs (1) and (3) of regulation 19 shall apply to statements provided in accordance with this Chapter with the following modifications—

- (a) where the Scottish Ministers notify the appellant under regulation 19(1), the appellant shall provide the further information within such period as they may specify in the notice or such longer period as they may allow;

- (b) if an appellant to whom a notice has been given under sub-paragraph (a) fails to provide the further information within the period specified or allowed (as the case may be), the deemed application and the ground (a) appeal (if any) shall lapse at the end of that period.

(2) Regulation 35 shall apply in relation to further information received by the Scottish Ministers in accordance with paragraph (1) as it applies to such a statement as is referred to in that regulation.

Publicity for environmental statements or further information

37.—(1) Where an authority receive a copy of a statement or further information by virtue of regulation 35, they shall publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

- (a) the name of the appellant and that he has appealed to the Scottish Ministers against the enforcement notice;
- (b) the address or location of the land to which the notice relates and the nature of the development;
- (c) that a copy of the statement or further information may be inspected by members of the public at all reasonable hours;
- (d) an address in the locality in which the land is situated at which the statement or further information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);
- (e) that any person wishing to make representations about any matter dealt with in the statement or further information should make them in writing, no later than 14 days after the date specified in accordance with sub-paragraph (d), to the Scottish Ministers; and
- (f) the address to which any such representations should be sent.

(2) The authority shall as soon as practicable after publication of a notice in accordance with paragraph (1) send to the Scottish Ministers a copy of the notice certified by or on behalf of the authority as having been published in a named newspaper on a date specified in the certificate.

(3) Where the Scottish Ministers receive a certificate under paragraph (2), they shall not determine the deemed application or the ground (a) appeal in respect of the development to which the certificate relates until the expiry of 14 days from the date stated in the published notice as the last date on which the statement or further information was available for inspection.

Public inspection of documents

38.—(1) The relevant planning authority shall make available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept a copy of—

- (a) every regulation 30 notice given by the authority;
- (b) every direction received by the authority under regulation 31(d) or 33(4);
- (c) every notice received by the authority under regulation 34(d); and
- (d) every statement and all further information received by the authority under regulation 35;

and copies of those documents shall remain so available for a period of two years or until they are entered in Part II of the register in accordance with paragraph (2), whichever is the sooner.

(2) Where particulars of any planning permission granted by the Scottish Ministers under section 130 are entered in Part II of the register, the relevant planning authority shall take steps to secure that that Part also contains a copy of any of the documents referred to in paragraph (1) as are relevant to the development for which planning permission has been granted.

(3) The provisions of paragraphs (2) and (3) of regulation 21 apply to a deemed application and a grant of planning permission under section 130 as they apply to an application for and grant of planning permission under Part III of the Act.

Unauthorised development with significant transboundary effects

39. Regulation 40 shall apply to unauthorised EIA development as if—

- (a) for regulation 40(1)(a) there were substituted—
 - “(a) on consideration of an appeal under section 130, the Scottish Ministers are of the opinion that the matters which are alleged to constitute the breach of planning control comprise or include EIA development and that the development has or is likely to have significant effects on the environment in another EEA State; or”;
- (b) in regulation 40(3)(a) the words “a copy of the application concerned” were replaced by the words “a description of the development concerned”;
- (c) in regulation 40(3)(b) the words “to which that application relates” were omitted; and
- (d) in regulation 40(6) the word “application” was replaced by the word “appeal”.

CHAPTER 10

DEVELOPMENT WITH SIGNIFICANT TRANSBOUNDARY EFFECTS

Development in Scotland likely to have significant effects in another EEA State

40.—(1) Where—

- (a) it comes to the attention of the Scottish Ministers that development proposed to be carried out in Scotland is the subject of an EIA application and is likely to have significant effects on the environment in another EEA State; or
- (b) another EEA State likely to be significantly affected by such development so requests, the Scottish Ministers shall—
 - (i) send to the EEA State, as soon as possible and no later than their date of publication in The Edinburgh Gazette referred to in sub-paragraph (ii) below, the particulars mentioned in paragraph (2) and, if they think fit, the information referred to in paragraph (3);
 - (ii) publish the information in sub-paragraph (i) above in a notice placed in The Edinburgh Gazette indicating the address where additional information is available; and
 - (iii) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.
- (2) The particulars referred to in paragraph (1)(i) are—
 - (a) a description of the development, together with any available information on its possible significant effect on the environment in another EEA State; and
 - (b) information on the nature of the decision which may be taken.
- (3) Where an EEA State indicates, in accordance with paragraph (1)(iii), that it wishes to participate in the procedure for which these Regulations provide, the Scottish Ministers shall as soon as possible send to that EEA State the following information—
 - (a) a copy of the application concerned;
 - (b) a copy of the environmental statement in respect of the development to which that application relates; and
 - (c) relevant information regarding the procedure under these Regulations,

but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (1)(i).

- (4) The Scottish Ministers, insofar as they are concerned, shall also—
 - (a) arrange for the particulars and information referred to in paragraphs (2) and (3) to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected; and
 - (b) ensure that those authorities and the public concerned are given an opportunity, before planning permission for the development is granted, to forward to the Scottish Ministers, within a reasonable time, their opinion on the information supplied.
- (5) The Scottish Ministers shall, in accordance with Article 7(4) of the Directive—
 - (a) enter into consultations with the EEA State concerned regarding, inter alia, the potential significant effects of the development on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
 - (b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.
- (6) Where an EEA State has been consulted in accordance with paragraph (5), on the determination of the application concerned the Scottish Ministers shall inform the EEA State of the decision and shall forward to it a statement of—
 - (a) the content of the decision and any conditions attached thereto;
 - (b) the main reasons and considerations on which the decision is based; and
 - (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

Projects in another EEA State likely to have significant transboundary effects

41.—(1) Where the Scottish Ministers receive from another EEA State pursuant to Article 7(2) of the Directive information which that EEA State has gathered from the developer of a proposed project in that EEA State which is likely to have significant effects on the environment in Scotland, the Scottish Ministers shall, in accordance with Article 7(4) of the Directive—

- (a) enter into consultations with that EEA State regarding, inter alia, the potential significant effects of the proposed project on the environment in Scotland and the measures envisaged to reduce or eliminate such effects; and
 - (b) determine in agreement with that EEA State a reasonable period, before development consent for the project is granted, during which members of the public in Scotland may submit to the competent authority in that EEA State representations pursuant to Article 7(3)(b) of the Directive.
- (2) The Scottish Ministers, insofar as they are concerned, shall also—
- (a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time, both to the authorities in Scotland which they consider are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Scotland; and
 - (b) ensure that those authorities and the public concerned in Scotland are given an opportunity, before development consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied.

CHAPTER 11 MISCELLANEOUS

Service of notices etc.

42. Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 271 (service of notices).

Application to the Court of Session

43. For the purposes of Part XI of the Act (validity), the references in section 239(1)(b) and (2) to action of the Scottish Ministers which is not within the powers of the Act shall be taken to extend to a grant of planning permission by the Scottish Ministers in contravention of regulation 3 or 29.

Hazardous waste and material change of use

44. A change in the use of land or buildings to a use for a purpose mentioned in paragraph 9 of Schedule 1 involves a material change in the use of that land or those buildings for the purposes of subsection (1) of section 26 (meaning of “development”).

Extension of the period for an authority’s decision on a planning application

45.—(1) In determining for the purposes of section 47 (right to appeal against planning decisions and failure to take such decisions) the time which has elapsed without the relevant planning authority giving notice to the applicant of their decision in a case where—

- (a) the authority have notified an applicant in accordance with regulation 7(2) that the submission of an environmental statement is required; and
- (b) the Scottish Ministers have given a screening direction in relation to the development in question,

no account shall be taken of any period before the issue of the direction.

(2) Where it falls to an authority to determine an EIA application, article 14 (time periods for decision) of the general development order shall have effect as if—

- (a) for the reference in paragraph (2) of that article to two months there were substituted a reference to four months; and
- (b) after paragraph (3) of that article there were inserted—

“(4) In any case where an environmental statement (within the meaning of regulation 2(1) of the Environmental Impact Assessment (Scotland) Regulations 1999) is required to be submitted in respect of an application, the date determined under paragraph (3) shall be the date on which that statement and the documents which require to accompany it were submitted (if that date is later than would otherwise be determined under paragraph (3)).”.

Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with

46. The provisions enabling the Scottish Ministers to give directions which may be included in a development order by virtue of section 31 (permission granted by development order) shall include provisions enabling him to direct that development which is both of a description mentioned in Column 1 of the table in Schedule 2, and of a class described in the direction, is EIA development for the purposes of these Regulations.

Miscellaneous and consequential amendments

47.—(1) In section 26(2)(b) of the Act, after the words “improvement of the road” there are inserted the words “but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment”.

(2) In article 3(5) of the Town and Country Planning (Use Classes) (Scotland) Order 1997(20), after sub-paragraph (j) there is inserted the following sub-paragraph:—

“(k) as a waste disposal installation for the incineration, chemical treatment (as defined in Annex IIA to Directive 75/442/EEC(21) under heading D9), or landfill of waste to which Directive 91/689/EEC(22) applies”.

(3) In article 2 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(23), the definitions of “annex 1 application”, “annex 2 application” and “Environmental Assessment Regulations” shall be deleted.

(4) For paragraphs (8) and (9) of article 3 (permitted development) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, there is substituted—

“(8) Subject to paragraph (10), Schedule 1 development or Schedule 2 development within the meaning of the Environmental Impact Assessment (Scotland) Regulations 1999 (“the EIA Regulations”) is not permitted by this Order unless—

- (a) the planning authority have adopted a screening opinion under regulation 5 of those Regulations that the development is not EIA development;
- (b) the Scottish Ministers have made a screening direction under regulation 4(7) or 6(4) of those Regulations that the development is not EIA development; or
- (c) the Scottish Ministers have given a direction under regulation 4(4) of those Regulations that the development is exempted from the application of these Regulations.

(9) Where—

- (a) the planning authority have adopted a screening opinion pursuant to regulation 5 of the EIA Regulations that development is EIA development and the Scottish Ministers have in relation to that development neither made a screening direction to the contrary under regulation 4(7) or 6(4) of those Regulations nor directed under regulation 4(4) of those Regulations that the development is exempted from the application of those Regulations; or
- (b) the Scottish Ministers have directed that development is EIA development,

that development shall be treated, for the purposes of paragraph (8), as development which is not permitted by this Order.”.

(5) In article 3(10) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992—

- (a) sub-paragraphs (a) and (c) shall be deleted;
- (b) in sub-paragraph (b), for “V of the Environmental Assessment Regulations” there is substituted “IV of the Environmental Impact Assessment (Scotland) Regulations 1999”; and

(20) S.I. 1997/3061, as amended by S.I. 1998/1196.

(21) O.J. No. L194, 25.7.1975, p.39. Council Directive 75/442/EEC was amended by Council Directive 91/156/EEC (O.J. No. L78, 26.3.1991, p.32) and by Commission Decision 94/3/EC (O.J. No. L5, 7.1.1994, p.15).

(22) O.J. No. L337, 31.12.1991, p.20. Council Directive 91/689/EEC was amended by Council Directive 94/31/EC (O.J. No. L168, 2.7.1994, p.28).

(23) S.I. 1992/223; relevant amendment instrument is S.I. 1997/1871.

- (c) in sub-paragraphs (e) and (f), for “1st September 1997” there is substituted “1st August 1999”.
- (6) For Class 31 in Part 12 in Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, there is substituted—
 “Class 31. The carrying out by a roads authority—
- (a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where said works involve development by virtue of section 26(2) (b) of the Act; or
 - (b) on land outside but adjoining the boundary of an existing road of works required for or incidental to the maintenance or improvement of the road.”
- (7) For article 16 of the general development order, there is substituted—
 “16. The Scottish Ministers may give directions that development which is both of a description set out in Column 1 of the table in Schedule 2 to the Environmental Impact Assessment (Scotland) Regulations 1999 and of a class described in the direction is EIA development for the purposes of those Regulations.”
- (8) In the Public Gas Transporter Pipe-Line Works (Environmental Impact Assessment) Regulations 1999⁽²⁴⁾—
- (a) in regulation 2(1), for the definition of “the 1988 Scottish EIA Regulations” there is substituted the following definition:—
 ““the 1999 Scottish EIA Regulations” means the Environmental Impact Assessment (Scotland) Regulations 1999;” and
 - (b) in regulation 5(3)—
 - (i) for “1988”, where it first occurs, there is substituted “1999”;
 - (ii) in sub-paragraph (a), for the words after “whether” there is substituted “the pipe-line works in question are, or are not, EIA development within the meaning of the 1999 Scottish EIA Regulations”; and
 - (iii) for sub-paragraph (b), there is substituted the following sub-paragraph:—
 “(b) be treated for the purposes of those Regulations as if it were a direction by the Scottish Ministers under regulation 6 of the 1999 Scottish EIA Regulations.”

PART III

ROADS

General

48. The Roads (Scotland) Act 1984⁽²⁵⁾ shall be amended in accordance with this Part.

Sections 20A and 20B

49. For section 20A⁽²⁶⁾ there shall be substituted the following:—

⁽²⁴⁾ S.I. 1999/1672.

⁽²⁵⁾ 1984 c. 54.

⁽²⁶⁾ Section 20A was inserted by S.I. 1988/1221 and amended by S.I. 1994/2012 and section 42(1) of the New Roads and Street Works Act 1991 (c. 22).

“Environmental assessment of certain road construction projects

20A.—(1) If the Scottish Ministers have under consideration the construction of a new road for which they are the roads authority they shall before details of the project are published, determine whether or not it falls within Annex I or II.

- (2) If the Scottish Ministers determine that the project—
- (a) falls within Annex I, or
 - (b) is a relevant project falling within Annex II and that having regard to the selection criteria contained in Annex III it should be made subject to an environmental impact assessment in accordance with the Directive,

they shall, not later than the date when details of the project are published, publish an environmental statement.

(3) The Scottish Ministers shall publish any determination made by them in accordance with subsection (2) above.

(4) Any project for the construction of a special road which falls within Annex II shall be treated as having characteristics that require it to be made subject to an environmental impact assessment.

(5) The Scottish Ministers shall publish any environmental statement so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express an opinion before they decide whether to proceed with the project, and they shall not make any such decision without taking into consideration any opinion so expressed to them within a period of 3 weeks from the date of publication of the environmental statement.

(6) The Scottish Ministers shall ensure that the consultation bodies are given an opportunity to express an opinion on the published details of the project and the environmental statement before they decide whether to proceed with the project.

(7) Subject to subsection (8) below, to the extent to which the Scottish Ministers consider that—

- (a) it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it, and
- (b) having regard in particular to current knowledge and methods of assessment, the information may reasonably be gathered,

the environmental statement published in accordance with subsection (2) above shall contain the information referred to in Annex IV.

(8) The environmental statement published in accordance with subsection (2) above shall contain at least the following information—

- (a) a description of the project comprising information on the site, design and size of the project;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (d) an outline of the main alternatives studied by the Scottish Ministers and an indication of the main reason for their choice (taking into account the environmental effects); and
- (e) a non-technical summary of the information mentioned in paragraphs (a) to (d).

(9) In this section and section 20B of this Act—

“the Directive” means Council Directive No. [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive No. [97/11/EC](#);

“Annex” means an Annex to the Directive;

“relevant project” means a project for the construction of a new road where the completed works (together with any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other such facilities or stores required during the period of construction)–

- (a) exceed 1 hectare in area; or
- (b) are situated in whole or in part in a sensitive area;

“sensitive area” shall have the meaning ascribed to that expression in regulation 2(1) of the Environmental Impact Assessment (Scotland) Regulations 1999.

Projects with significant transboundary effects

20B.—(1) This section applies if–

- (a) it appears to the Scottish Ministers that a project to which section 20A(2) of this Act applies is likely to have a significant effect on the environment in another EEA State; or
- (b) an EEA State the environment of which is likely to be significantly affected by such a project asks the Scottish Ministers for information about it.

(2) The Scottish Ministers shall give to the EEA State–

- (a) a description of the project together with any information available to them which suggests that it may have a significant effect on the environment in the EEA State;
- (b) any information which they have about the nature of the decision which may be taken on the project;
- (c) where they consider it appropriate, information about the environmental impact assessment procedure; and
- (d) a reasonable period within which to indicate whether the EEA State wishes to participate in that procedure of this Act.

(3) Subsection (2)(a) and (b) above must be complied with no later than the date of publication of the notice referred to in section 20A(3) of this Act.

(4) If the EEA State indicates that it wishes to participate in the environmental impact assessment procedure, the Scottish Ministers shall give it–

- (a) a copy of the environmental statement where that has not already been given to that EEA State; and
- (b) any information about the environmental impact assessment procedure which they consider it appropriate to give and which has not already been made available to that EEA State.

(5) The Scottish Ministers shall also–

- (a) arrange for the information which they have given to the EEA State to be made available within a reasonable time to–
 - (i) the authorities referred to in Article 6(1) of the Directive; and
 - (ii) members of the public in the EEA State who are likely to be concerned; and

- (b) ensure that those authorities and the members of the public concerned are given a reasonable opportunity to express an opinion before they decide whether to proceed with the project.
- (6) In accordance with Article 7(4) of the Directive, the Scottish Ministers shall—
 - (a) enter into consultation with the EEA State concerned regarding in particular the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate those effects; and
 - (b) agree with the EEA State a reasonable period for that consultation.
- (7) Where an EEA State has been consulted in accordance with subsection (4) above, the Scottish Ministers shall inform the EEA State of the decision and give it copies of the documents referred to in paragraph 7(1B) or 13(1B) as the case may be of Schedule 1 to this Act.
- (8) In this section “EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽²⁷⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽²⁸⁾.”.

Sections 55A and 55B

50. For section 55A⁽²⁹⁾ there shall be substituted the following—

“Environmental assessment of certain road improvement projects

- 55A.**—(1) If the Scottish Ministers as roads authority have under consideration—
- (a) the making of an order such as is mentioned in paragraph 1 of Schedule 1 to this Act relating to the improvement of a road; or
 - (b) the improvement of a road without such an order,
- they shall, before details of the project are published, determine whether or not it falls within Annex I or Annex II.
- (2) If the Scottish Ministers determine that the project—
- (a) falls within Annex I, or
 - (b) is a relevant project falling within Annex II and that, having regard to the selection criteria contained in Annex III, it should be made subject to an environmental impact assessment in accordance with the Directive,
- they shall no later than the date when details of the project are published, publish an environmental statement.
- (3) The Scottish Ministers shall publish any determination made by them in accordance with subsection (2) above.
- (4) Any project for the improvement of a special road which falls within Annex II shall be treated as having characteristics that require it to be made subject to an environmental impact assessment.
- (5) The Scottish Ministers shall publish any environmental statement so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express an opinion before they decide whether to proceed with the project, and they shall not make any such decision without taking into consideration any opinion so expressed to

⁽²⁷⁾ Cm 2073.

⁽²⁸⁾ Cm 2183.

⁽²⁹⁾ Section 55A was inserted by S.I. 1988/1221 and amended by section 42(2) of the New Roads and Street Works Act 1991 (c. 22).

them within a period of 3 weeks running from the date of publication of the environmental statement.

(6) The Scottish Ministers shall ensure that the consultation bodies are given an opportunity to express an opinion on the published details of the project and the environmental statement before they decide whether to proceed with the project.

(7) In this section, the expressions “the Directive”, “Annex”, “relevant project” and “sensitive area” shall have the meanings assigned to those expressions in section 20A(9) of this Act with the proviso that in the definition of “relevant project” the reference to the construction of a new road shall be a reference to the improvement of a road and cognate expressions shall be construed accordingly.

Application of section 20B

55B. The provisions of section 20B of this Act shall apply to a project in terms of section 55A of this Act as they apply to a project in terms of section 20A of this Act.”.

Section 151

51. Section 151(30) shall be amended as follows—

(a) the definition of “appropriate environmental body” shall be deleted and at the appropriate place there shall be inserted—

““consultation bodies” means—

- (a) the appropriate planning authority where the proposed project is likely to affect land in their area;
- (b) Scottish Natural Heritage;
- (c) the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995; and
- (d) Historic Scotland;”;

(b) for the definition of “environmental assessment” there shall be substituted—

““environmental impact assessment” means an assessment in accordance with Council Directive No. [85/377/EEC](#) as amended by Council Directive No. [97/11/EC](#);”;

(c) for the definition of “environmental statement” there shall be substituted—

““environmental statement” means a statement containing the information required by section 20A(7) or (8) of this Act;”.

Schedule 1

52. Schedule 1(31) shall be amended in each of paragraphs 7 and 13 by substituting the following for sub-paragraphs (1A) and (1B)—

“(1A) Where the Scottish Ministers have published an environmental statement they shall take into consideration—

- (a) that statement; and
- (b) any opinion expressed by a member of the public, by any of the consultation bodies or by any EEA State consulted under section 20B of this Act.

(30) Relevant amendments were made by S.I. [1988/1221](#).

(31) Sub-paragraph (1A) was inserted in each of paragraphs 7 and 13 by S.I. [1988/1221](#) and sub-paragraph (1B) was similarly inserted by S.I. [1994/2012](#).

(1B) When the Scottish Ministers have decided whether to proceed with the project in relation to which an environmental impact assessment has been made they shall publish their decision together with a statement confirming that they have complied with subparagraph (1A) above and shall make available to the public documents containing—

- (a) the content of the decision and any conditions attached to it;
- (b) the main reasons and considerations on which the decision is based; and
- (c) where their decision is to proceed with the project, a description of the main measures which will be taken to avoid, reduce and if possible offset any major adverse effects of the project.

(1C) Any requirement for publication in connection with an environmental impact assessment shall be met by publication in The Edinburgh Gazette and in at least one local newspaper circulating in the area in which the project is situated.”.

Application

53. Regulations 48 to 52 shall not apply to a project—

- (a) for which the Secretary of State or the Scottish Ministers had published an environmental statement before 1st August 1999 but for which no draft order or scheme was published; or
- (b) in relation to which a draft order or scheme was published before that date; or
- (c) where a draft order was not required and for which the works contract had been entered into before that date.

PART IV

DRAINAGE WORKS

Application

54. This Part applies to proposed drainage works which are likely to have significant effects on the environment by virtue inter alia of their nature, size or location and for which authority under the Land Drainage (Scotland) Act 1958(32) to execute these works is sought from the Scottish Ministers on or after 1st August 1999.

Interpretation

55. In this Part, except where the context otherwise requires—

- (a) “the Act” means the Land Drainage (Scotland) Act 1958;
- “improvement order” means an order made by the Scottish Ministers in accordance with the First Schedule to the Act;
- “local authority” means any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(33);
- “site of special scientific interest” means land to which section 28(1) of the Wildlife and Countryside Act 1981(34) applies; and
- “statutory body” means any body exercising functions conferred on it by or under any enactment;

(32) 1958 c. 24.

(33) 1994 c. 39.

(34) 1981 c. 69.

- (b) the following phrases have the meanings assigned to them by section 18(1) of the Act:–
 - (i) “agricultural land”;
 - (ii) “drainage works”; and
 - (iii) “owner”;
- (c) the following phrases have the meanings assigned to them by regulation 2(1):–
 - (i) “the consultation bodies”;
 - (ii) “environmental information”; and
 - (iii) “environmental statement”.

Request for the opinion of the Scottish Ministers on the information to be supplied under this Part

56.—(1) An owner of agricultural land who proposes to apply under section 1 of the Act may, before submitting such application, request the opinion of the Scottish Ministers on the information to be supplied by him under this Part.

- (2) A request under paragraph (1) shall be accompanied by–
 - (a) a plan sufficient to identify the land on which the proposed development would be carried out;
 - (b) a brief description of the nature and purpose of the proposed development and 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) Where the Scottish Ministers upon receipt of a request under paragraph (1) consider that they have not been provided with sufficient information to give an opinion they shall notify the owner of the particular points on which they require further information.

(4) The Scottish Ministers shall not give an opinion in response to a request under paragraph (1) until they have consulted the owner who made the request, and the local authorities and statutory bodies affected by the drainage works (including, where appropriate, the consultation bodies), but shall respond within 3 weeks of the period allowed for consultation or such longer period as may be agreed in writing with the owner.

(5) In response to a request under paragraph (1), the Scottish Ministers shall indicate which of the descriptions of information set out in paragraphs 1 to 5 of Part I of Schedule 4 they consider relevant, taking into account–

- (a) the specific characteristics of the proposed drainage works;
- (b) the environmental features likely to be affected by those works; and
- (c) the extent to which the owner who requested the opinion may reasonably be required to compile the information, having regard to current knowledge and methods of assessment.

(6) Where the Scottish Ministers have given an opinion in response to a request under paragraph (1), they shall not be precluded from subsequently requiring the owner to submit further information.

Prohibition on making an improvement order without consideration of environmental information

57. The Scottish Ministers shall not make an improvement order authorising drainage works which are likely to have significant effects on the environment by virtue inter alia of their nature,

size or location unless they have taken into consideration environmental information in respect of the proposed works.

Provision of information

58. In preparing an environmental statement the owner of agricultural land shall consult the local authorities and statutory bodies affected or likely to be concerned by the drainage works by reason of their specific environmental responsibilities (including, where appropriate, the consultation bodies) who shall make available to him any relevant information in their possession.

Submission and publication of environmental statement

59.—(1) This regulation applies where an owner of agricultural land applies under section 1 of the Act to the Scottish Ministers for an improvement order authorising drainage works likely to have significant effects on the environment by virtue of their nature, size or location and—

- (a) the area of the proposed works exceeds 1 hectare; or
- (b) the area of the proposed works or any part thereof lies within a site of special scientific interest.

(2) Where this regulation applies, the owner shall submit an environmental statement to the Scottish Ministers along with the application under section 1 of the Act and the Scottish Ministers shall—

- (a) notify and publicise the statement in the same manner as a draft improvement order under paragraph 1 of the First Schedule to the Act; and
- (b) forward a copy of the statement to the local authorities and statutory bodies affected or likely to be concerned by the drainage works by reason of their specific environmental responsibilities (including, where appropriate, the consultation bodies).

Further information respecting environmental statement

60.—(1) When dealing with an application to which regulation 59 applies the Scottish Ministers may, after taking into account the factors mentioned in paragraph (2), require the owner of the agricultural land to provide such further information as they may specify to enable the application for an improvement order to be determined, or concerning any matter which is required to be dealt with in the environmental statement.

(2) The factors referred to in paragraph (1) are—

- (a) the specific characteristics of the proposed drainage works;
- (b) the environmental features likely to be affected by those works; and
- (c) the extent to which the owner may reasonable be required to have regard to current knowledge and methods of assessment.

Confidentiality

61. Any person required to provide information under this Part shall not be required to provide information which that person is entitled or bound to hold in confidence.

Charges

62.—(1) A reasonable charge reflecting the costs of printing, copying and distribution may be made to the public for copies of an environmental statement made available to them under this Part and for copies of an environmental statement, in excess of one copy, required by a person consulted under this Part.

(2) A person required to supply information under this Part may make a reasonable charge reflecting the costs of making available information which he had in his possession.

PART V

GENERAL

Amendment of private legislation general orders

63.—(1) The Private Legislation Procedure (Scotland) General Orders 1946⁽³⁵⁾ are amended as follows.

(2) In General Order 27A(2)(a), for heads (i) to (iii) there is substituted “all of the information set out in Schedule 4 to the Environmental Impact Assessment (Scotland) Regulations 1999”.

(3) In General Order 27A(2)(b), for heads (i) to (iii) there is substituted “such of the information set out in that Schedule as may be specified in a written direction given by the Secretary of State,”.

Revocation of statutory instruments and transitional provisions

64.—(1) The instruments in Schedule 7 are hereby revoked to the extent shown in that Schedule.

(2) Nothing in paragraph (1) shall affect the continued application of the provisions revoked by that paragraph to any planning application lodged or received by an authority before 1st August 1999, to any appeal in relation to such an application, or to any matter in relation to which a planning authority have before that date issued an enforcement notice under section 127 of the Town and Country Planning (Scotland) Act 1997 and these Regulations shall not apply to any such application, appeal, or matter.

(3) Nothing in paragraph (1) shall affect the continued application of the provisions revoked by that paragraph to any proposed drainage works such as are referred to in regulation 63 of the Environmental Assessment (Scotland) Regulations 1988 for which authority was sought before 1st August 1999.

St Andrew’s House, Edinburgh
8th July 1999

Sarah Boyack
A member of the Scottish Executive

(35) S.R. & O. 1946/2157; relevant amending instrument is S.I. 1992/1206.

SCHEDULE 1

Regulation 2(1)

DESCRIPTIONS OF DEVELOPMENT FOR THE PURPOSES OF THE DEFINITION OF “SCHEDULE 1 DEVELOPMENT”

Interpretation

In this Schedule—

“airport” means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14)**(36)**;

“express road” means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15th November 1975**(37)**;

“nuclear power station” and “other nuclear reactor” do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor shall not be treated as development of the description mentioned in paragraph 2(2) of this Schedule.

Descriptions of development

The carrying out of development to provide any of the following—

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude-oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2.—(1) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more.

(2) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile material, whose maximum power does not exceed 1 kilowatt continuous thermal load).

3.—(1) Installations for the reprocessing of irradiated nuclear fuel.

(2) Installations designed—

(a) for the production or enrichment of nuclear fuel;

(b) for the processing of irradiated nuclear fuel or high-level radioactive waste;

(c) for the final disposal of irradiated nuclear fuel;

(d) solely for the final disposal of radioactive waste;

(e) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

4.—(1) Integrated works for the initial smelting of cast-iron and steel.

(2) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.

5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—

(36) See Command Paper 6614.

(37) See Command Paper 6993.

- (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;
- (b) for friction material, with an annual production of more than 50 tonnes of finished products; and
- (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.

6. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—

- (a) for the production of basic organic chemicals;
- (b) for the production of basic inorganic chemicals;
- (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
- (d) for the production of basic plant health products and of biocides;
- (e) for the production of basic pharmaceutical products using a chemical or biological process;
- (f) for the production of explosives.

7.—(1) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more.

(2) Construction of motorways and express roads.

(3) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road, would be 10 kilometres or more in a continuous length.

8.—(1) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.

(2) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.

9. Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Directive [75/442/EEC](#)(**38**) under heading D9), or landfill of hazardous waste (that is to say, waste to which Directive [91/689/EEC](#)(**39**) applies).

10. Waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Directive [75/442/EEC](#) under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

12.—(1) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year.

(2) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.

(38) O.J. No. L194, 25.7.1975, p.39. Council Directive [75/442/EEC](#) was amended by Council Directive [91/156/EEC](#) (O.J. No. L78, 26.3.1991, p.32) and by Commission Decision [94/3/EC](#) (O.J. No. L5, 7.1.1994, p.15).

(39) O.J. No. L337, 31.12.1991, p.20. Council Directive [91/689/EEC](#) was amended by Directive [94/31/EC](#) (O.J. No. L168, 2.7.1994, p.28).

13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2(6) of Council Directive 91/271/EEC(40).

14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.

15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

16. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 millimetres and a length of more than 40 kilometres.

17. Installations for the intensive rearing of poultry or pigs with more than—

- (a) 85,000 places for broilers or 60,000 places for hens;
- (b) 3,000 places for production pigs (over 30 kg); or
- (c) 900 places for sows.

18. Industrial plants for—

- (a) the production of pulp from timber or similar fibrous materials;
- (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.

19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.

20. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

SCHEDULE 2

Regulation 2(1)

DESCRIPTIONS OF DEVELOPMENT AND APPLICABLE THRESHOLDS AND CRITERIA FOR THE PURPOSES OF THE DEFINITION OF “SCHEDULE 2 DEVELOPMENT”

1. In the table below—

“area of the works” includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

“controlled waters” has the same meaning as in section 30A(1) of the Control of Pollution Act 1974(41);

“floorspace” means the floorspace in a building or buildings.

2. The table below sets out the descriptions of development and applicable thresholds and criteria for the purposes of classifying development as Schedule 2 development.

TABLE

<i>Column 1</i>	<i>Column 2</i>
<i>Description of development</i>	<i>Applicable thresholds and criteria</i>

(40) O.J. No. L135, 30.5.1991, p.40.

(41) 1974 c. 40; section 30A was inserted by the Water Act 1989 (c. 15), Schedule 23, paragraph 4 and amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 29(2) and (3).

The carrying out of development to provide any of the following–

1. Agriculture and aquaculture

- | | |
|--|--|
| (a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes; | The area the development exceeds 0.5 hectare. |
| (b) Water management projects for agriculture, including irrigation and land drainage projects; | The area of the works exceeds 1 hectare. |
| (c) Intensive livestock installations (unless included in Schedule 1); | The area of new floorspace exceeds 500 square metres |
| (d) Intensive fish farming; | The installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year. |
| (e) Reclamation of land from the sea. | All development. |

2. Extractive industry

- | | |
|--|---|
| (a) Quarries, open-cast mining and peat extraction (unless included in Schedule 1); | All development except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres. |
| (b) Underground mining; | |
| (c) Extraction of minerals by marine or fluvial dredging; | All development. |
| (d) Deep drillings, in particular– | (i) In relation to any type of drilling, the area of the works exceeds 1 hectare; or |
| (i) geothermal drilling; | |
| (ii) drilling for the storage of nuclear waste material; | (ii) in relation to geothermal drilling and drilling for the storage of nuclear waste material, the drilling is within 100 metres of any controlled waters. |
| (iii) drilling for water supplies; with the exception of drillings for investigating the stability of the soil. | |
| (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale. | The area of the development exceeds 0.5 hectare. |

3. Energy industry

- | | |
|--|--|
| (a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1); | The area of the development exceeds 0.5 hectare. |
| (b) Industrial installations for carrying gas, steam and hot water; | The area of the works exceeds 1 hectare. |

- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Schedule 1);
- (ii) the installation resulting from the development will require an authorisation or the variation of an authorisation under the Radioactive Substances Act 1993.
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms).
- (i) The area of any new building, deposit or structure exceeds 500 square metres; or
- (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled waters.
- The area of new floorspace exceeds 1,000 square metres.
- (i) The area of new floorspace exceeds 1,000 square metres; or
- The installation is designed to produce more than 0.5 megawatts.
- (i) The development involves the installation of more than 2 turbines; or
- (ii) the hub height of any turbine or height of any other structure exceeds 15 metres.

4. Production and processing of metals

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals–
 - (i) hot-rolling mills;
 - (ii) smitheries with hammers;
 - (iii) application of protective fused metal coats.
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;
- The area of new floorspace exceeds 1,000 square metres.

- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

5. Mineral industry

- (a) Coke ovens (dry coal distillation); The area of new floorspace exceeds 1,000 square metres.
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

6. Chemical industry (unless included in Schedule 1)

- (a) Treatment of intermediate products and production of chemicals; The area of new floorspace exceeds 1,000 square metres.
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.
 - (i) The area of any new building or structure exceeds 0.05 hectare; or
 - (ii) more than 200 tonnes of petroleum, petrochemical or chemical products is to be stored at any one time.

7. Food industry

- (a) Manufacture of vegetable and animal oils and fats; The area of new floorspace exceeds 1,000 square metres.
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;

- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

8. Textile, leather, wood and paper industries

- (a) Industrial plants for the production of paper and board (unless included in Schedule 1); The area of new floorspace exceeds 1,000 square metres.
- (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;
- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

9. Rubber industry

Manufacturing and treatment of elastomer-based products. The area of new floorspace exceeds 1,000 square metres.

10. Infrastructure projects

- (a) Industrial estate development projects; The area of the development exceeds 0.5 hectare.
- (b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;
- (c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1);
- (d) Construction of railways (unless included in Schedule 1); The area of the works exceeds 1 hectare.
- (e) Construction of airfields (unless included in Schedule 1);
 - (i) The development involves an extension to a runway; or
 - (ii) the area of the works exceeds 1 hectare.
- (f) Construction of roads (unless included in Schedule 1); The area of the works exceeds 1 hectare.
- (g) Construction of harbours and port installations, including fishing harbours (unless included in Schedule 1); The area of the works exceeds 1 hectare.
- (h) Inland-waterway construction not included in Schedule 1, canalisation and flood-relief works; The area of the works exceeds 1 hectare.

- (i) Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1);
 - (j) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
 - (k) Oil and gas pipeline installations (unless included in Schedule 1);
 - (l) Installations of long-distance aquaducts;
 - (m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
 - (n) Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule 1;
 - (o) Works for the transfer of water resources between river basins not included in Schedule 1;
 - (p) Motorway service areas.
- (i) The area of the works exceeds 1 hectare; or
 - (ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.
- All development.
- The area of the works exceeds 1 hectare.
- The area of the development exceeds 0.5 hectare.

11. Other projects

- (a) Permanent racing and test tracks for motorized vehicles;
 - (b) Installations for the disposal of waste (unless included in Schedule 1);
 - (c) Waste-water treatment plants (unless included in Schedule 1);
 - (d) Sludge-deposition sites;
 - (e) Storage of scrap iron, including scrap vehicles;
 - (f) Test benches for engines, turbines or reactors;
- The area of the development exceeds 1 hectare.
 - (i) The disposal is by incineration; or
 - (ii) the area of the development exceeds 0.5 hectare; or
 - (iii) the installation is to be sited within 100 metres of any controlled waters.
 - The area of the development exceeds 1,000 square metres.
 - (i) The area of deposit or storage exceeds 0.5 hectare; or
 - (ii) a deposit is to be made or scrap stored within 100 metres of any controlled waters.
 - The area of new floorspace exceeds 1,000 square metres.

- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

12. Tourism and leisure

- (a) Ski-runs, ski-lifts and cable cars and associated developments;
 - (i) The area of the works exceeds 1 hectare; or
 - (ii) the height of any building or other structure exceeds 15 metres.
- (b) Marinas;

The area of the enclosed water surface exceeds 1,000 square metres.
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;

The area of the development exceeds 0.5 hectare.
- (d) Theme parks;
- (e) Permanent camp sites and caravan sites;

The area of the development exceeds 1 hectare.
- (f) Golf courses and associated developments.

The area of the development exceeds 1 hectare.

13.

- (a) Any change to or extension of development of a description listed in Schedule 1 or in paragraphs 1 to 12 of Column 1 of this table, where that development is already authorised, executed or in the process of being executed, and the change or extension may have significant adverse effects on the environment;
 - (i) In relation to development of a description mentioned in Column 1 of this table, the thresholds and criteria in the corresponding part of Column 2 of this table applied to the change or extension (and not to the development as changed or extended).
 - (ii) In relation to development of a description mentioned in a paragraph in Schedule 1 indicated below, the thresholds and criteria in Column 2 of the paragraph of this table indicated below applied to the change or extension (and not to the development as changed or extended):

<i>Paragraph in Schedule 1</i>	<i>Paragraph of this table</i>
1	6(a)
2(a)	3(a)
2(b)	3(g)
3	3(g)
4	4
5	5

Status: This is the original version (as it was originally made). Scottish Statutory Instruments are not carried in their revised form on this site.

<i>Paragraph in Schedule 1</i>	<i>Paragraph of this table</i>
6	6(a)
7(a)	10(d) (in relation to railways) or 10(e) (in relation to airports)
7(b) and (c)	10(f)
8(a)	10(h)
8(b)	10(g)
9	11(b)
10	11(b)
11	10(n)
12	10(o)
13	11(c)
14	2(e)
15	10(i)
16	10(k)
17	1(c)
18	8(a)
19	2(a)
20	6(c)

- (b) Development of a description mentioned in Schedule 1, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years. All development.

SCHEDULE 3

Regulation 4(5)

SELECTION CRITERIA FOR SCREENING SCHEDULE 2 DEVELOPMENT

Characteristics of development

1. The characteristics of development must be considered having regard, in particular, to—
 - (a) the size of the development;
 - (b) the cumulation with other development;
 - (c) the use of natural resources;
 - (d) the production of waste;

- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

Location of development

2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds(42) and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(43);
 - (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
 - (vii) densely populated areas;
 - (viii) landscapes of historical, cultural or archaeological significance.

Characteristics of the potential impact

3. The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to—

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

SCHEDULE 4

Regulation 2(1)

INFORMATION FOR INCLUSION IN ENVIRONMENTAL STATEMENTS

PART I

1. Description of the development, including in particular—

(42) O.J. No.L103, 25.4.1979, p.1.

(43) O.J. No.L206, 22.7.1992, p.7.

- (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:
- (a) the existence of the development;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,
- and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant or appellant in compiling the required information.

PART II

1. A description of the development comprising information on the site, design and size of the development.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

SCHEDULE 5

Regulation 13(1)

THE ENVIRONMENTAL IMPACT ASSESSMENT (SCOTLAND) REGULATIONS 1999
NOTICE UNDER REGULATION 13

Notes

- | | | |
|---|---|--------------------|
| (a) Insert address for location of development. | Proposed development at (a) Notice is hereby given that an environmental statement has been submitted to (b) by (c) relating to the planning application in respect of (d) notified to you under Article 9(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 on (e) | the Council at (f) |
| (b) Insert name of planning authority or insert the Scottish Ministers as appropriate. | | |
| (c) Insert name of applicant. | | |
| (d) Insert description of proposed development. | | |
| (e) Insert date of notification under Article 9(1) of the General Development Procedure Order. | A copy of the environmental statement and the associated planning application may be inspected at all reasonable hours in the register of planning applications kept by the planning authority for the area at (f) and also at (g)* during the period of 28 days beginning with the date of this notice. | |
| (f) Insert address of planning authority. | | |
| (g) *Insert other address in the locality at which the environmental statement etc. may be inspected. | Copies of the environmental statement may be purchased from (h) at a cost of (j) | |
| (h) Insert address where copies of environmental statement available. | Any person who wishes to make representations to (b) about the environmental statement should make them in writing within that period *to | |
| (j) Insert cost of a copy of the environmental statement. | | |
| (k) Address to be supplied by the Scottish Ministers. | | |

*Delete where inappropriate.

*to the Scottish Ministers at (k)

Signed

*On behalf of
Date

SCHEDULE 6

Regulation 19(2)

THE ENVIRONMENTAL IMPACT ASSESSMENT (SCOTLAND) REGULATIONS 1999
NOTICE UNDER REGULATION 13 AS APPLIED BY REGULATION 19(2)

Notes

- | | |
|--|---|
| <p>(a) Insert address for location of development.</p> <p>(b) Insert name of planning authority or insert the Scottish Ministers as appropriate.</p> <p>(c) Insert name of applicant.</p> <p>(d) Insert description of proposed development.</p> <p>(e) Insert date of notification under Article 9(1) of the General Development Procedure Order.</p> <p>(f) Insert address of planning authority.</p> <p>(g) *Insert other address in the locality at which the further information may be inspected.</p> <p>(h) Insert address where copies of the further information are available.</p> <p>(j) Insert cost of a copy of the further information.</p> <p>(k) Address to be supplied by the Scottish Ministers.</p> | <p>Proposed development at (a) Notice is hereby given that further information in relation to an environmental statement has been submitted to (b) by (c) relating to the planning application in respect of (d) notified to you under Article 9(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 on (e)</p> <p>A copy of the further information together with the environmental statement and the associated planning application may be inspected at all reasonable hours in the register of planning applications kept by the planning authority for the area at (f) and also at (g)* during the period of 28 days beginning with the date of this notice.</p> <p>Copies of the further information may be purchased from (h) at a cost of (j)</p> <p>Any person who wishes to make representations to (b) about the further information should make them in writing within that period *to the Council at (f)</p> |
|--|---|

*Delete where inappropriate.

*to the Scottish Ministers at (k)

Signed

*On behalf of

Date

SCHEDULE 7

Regulation 64(1)

REVOCATIONS

<i>Column 1</i> <i>Instrument</i>	<i>Column 2</i> <i>S.I. Number</i>	<i>Column 3</i> <i>Extent of revocation</i>
The Environmental Assessment (Scotland) Regulations 1988	1988/1221	Parts II, V and VI
The Town and Country Planning (General Permitted Development) (Scotland) Order 1992	1992/223	Article 3(10)(a) and (c)
The Environmental Assessment (Scotland) Amendment Regulations 1994	1994/2012	Regulation 4 and paragraphs 1 to 9, 14 to 23 and 26 of the Schedule
The Environmental Assessment (Scotland) Amendment Regulations 1997	1997/1870	Regulations 4 to 34

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, in relation to town and country planning, roads and drainage works in Scotland, Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (O.J. No. L 175, 5.7.1985, p.40), as amended by Council Directive [97/11/EC](#) (O.J. No. L 73, 14.3.1997, p.5).

The Regulations revoke and re-enact, with amendments, the relevant Parts of the Environmental Assessment (Scotland) Regulations 1988.

The main changes made by Directive [97/11/EC](#), which these Regulations implement, are as follows. The number of categories of project subject to environmental impact assessment (EIA) is increased. An individual determination on whether EIA is required must be made in respect of every project in Annex II to the Directive (Schedule 2 to these Regulations) which exceeds thresholds established by a Member State. Advice on the content of an environmental statement must be given to a developer who requests it before submitting an application. Competent authorities must give reasons for their decision on granting or refusing development consent. The Directive establishes detailed procedures for consulting other Member States on projects which are likely to have significant environmental effects in their territories.

PART I – INTRODUCTORY

Regulation 1 provides for the citation and commencement of the Regulation.

PART II – TOWN AND COUNTRY PLANNING

The Regulations impose procedural requirements in relation to the consideration of applications for planning permission under the Town and Country Planning (Scotland) Act 1997, development by planning authorities and enforcement of planning control, and restrict the grant of permission by simplified planning zone schemes, enterprise zones and the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

All development in Schedule 1 requires EIA. Development in Column 1 of the table in Schedule 2 which is either to be carried out in a sensitive area or satisfies a threshold or criterion in Column 2 of that table (“Schedule 2 development”) requires EIA if it is likely to have significant effects on the environment. Development which requires EIA is referred to in this Part as “EIA development”.

Regulation 3 prohibits the grant of planning permission for EIA development unless the planning authority or the Scottish Ministers have first taken account of the environmental information (defined in regulation 2) which is before them. The prohibition applies where an application is received by or lodged by the local planning authority on or after 1st August 1999.

Regulations 4 to 9 set out procedures for determining whether development is EIA development (“screening”). They require a “screening opinion” of the planning authority or a “screening direction” of the Scottish Ministers in relation to all Schedule 2 development. Such an opinion or direction must be made by reference to the criteria in Schedule 3. Where the authority or the Scottish Ministers determine that development is EIA development, they must notify the applicant (or appellant) that he is required to submit an environmental statement.

Regulations 10 and 11 enable a person to seek an opinion from the local planning authority (“a scoping opinion”) or the Scottish Ministers (a “scoping direction”) on the information to be included in an environmental statement. The types of information which may be required are set out in Schedule 4. The planning authority or the Scottish Ministers must consult bodies with environmental responsibilities (“the consultation bodies” defined in regulation 2(1)) before adopting a scoping opinion or scoping direction. Regulation 12 requires consultation bodies, if requested, to assist the preparation of an environmental statement by making information available to the applicant.

Regulation 13 requires notice of the lodging of an environmental statement to be given by the applicant or appellant to the owners and occupiers of land adjacent to that on which the proposed development is to be carried out. Regulations 14 and 16 provide as to necessary consultation where an environmental statement is received by the planning authority or the Scottish Ministers respectively. Regulations 15, 17 and 18 are concerned with the provision of copies of an environmental statement.

Regulation 19 contains procedures for the provision by the applicant of information additional to that contained in the environmental statement.

Regulation 20 provides for documents to be placed on the planning register or otherwise made available to the public.

Regulation 21 requires planning authorities and the Scottish Ministers to provide information about decisions taken following the consideration of environmental information in accordance with this Part.

Regulations 22 to 26 provide procedures for EIA in relation to development to be undertaken by planning authorities.

Regulations 27 and 28 restrict the grant of planning permission by simplified planning zone schemes or enterprise zone orders.

Regulations 29 to 38 establish procedures for EIA in relation to the enforcement of planning control.

Regulations 39 to 41 implement Article 7 of the Directive by providing for consultation between EEA States where development is likely to have significant effects on the environment in another EEA State.

Regulation 42 provides for the service of notices under the Regulations. Regulation 43 provides that a grant of permission in contravention of regulation 3 or 29 shall be treated, for the purpose of

section 239 of the Town and Country Planning (Scotland) Act 1997, as an act which is not within the powers of that Act. Regulation 44 provides that beginning specified operations to dispose of hazardous waste constitutes “development” under section 26 of the 1997 Act. Regulation 45 extends the time allowed to a planning authority to consider an application for planning permission for EIA development. Regulation 46 extends, in relation to EIA, the statutory power to provide in a development order for the giving of directions.

Regulation 47 provides for miscellaneous and consequential amendments. Regulation 47(4) provides for a person who is minded to undertake development which would otherwise be permitted development to seek an opinion from the planning authority as to whether the development is EIA development.

PART III – ROADS

Regulations 48 to 53 provide procedures for the Scottish Ministers to take into consideration information on the likely environmental effects of certain trunk road projects.

Regulation 49 substitutes new sections 20A and 20B for the existing section 20A of the Roads (Scotland) Act 1984. The new section 20A requires the Scottish Ministers, when they have under consideration the construction of a new road, to determine whether the project falls within the scope of the Directive. Where they so consider, they must publish an environmental statement. The new section makes provision as to the content of such a statement and as to giving the public and certain bodies with environmental responsibilities an opportunity to express an opinion before any decision is taken. The new section 20B provides for consultation between EEA States where a project is likely to have significant effects on the environment in another EEA State.

Regulation 50 substitutes new sections 55A and 55B for the existing section 55A of the 1984 Act. New sections 55A and 55B make, in respect of improvements to trunk roads, similar provision to that being made by new sections 20A and 20B.

Regulations 51 and 52 make additional amendments of the 1984 Act and regulation 53 specifies that the provisions of this Part do not apply in relation to projects where relevant procedures have been commenced before 1st August 1999.

PART IV – DRAINAGE WORKS

Regulations 54 to 62 provide that the Scottish Ministers shall take into consideration environmental information about any proposed drainage works for which authority under the Land Drainage (Scotland) Act 1958 is sought if they are likely to have significant effects on the environment.

Regulation 56 enables the Scottish Ministers to give an opinion in advance about the sort of information which requires to be submitted under this Part.

Regulation 57 prohibits the Scottish Ministers from making an improvement order authorising drainage works which come within the scope of the Directive unless they have first taken into consideration environmental information in respect of the works.

Regulation 58 requires bodies with relevant information in their possession to make it available to the applicant for the improvement order.

Regulation 59 requires an environmental statement to be submitted to the Scottish Ministers and also requires them to notify and publicise the environmental statement in the same manner as a draft order under the First Schedule to the 1958 Act.

Regulation 60 enables the Scottish Ministers to require the applicant to submit further environmental information and regulations 61 and 62 make provision as to confidentiality and charges respectively.

PART V – GENERAL

Regulation 63 makes amendments to the Private Legislation Procedure (Scotland) General Orders 1946 consequential on provisions elsewhere in the Regulations.

Regulation 64 and Schedule 7 contain revocations and transitional provisions.

Status: *This is the original version (as it was originally made). Scottish
Statutory Instruments are not carried in their revised form on this site.*

A Regulatory Impact Appraisal has been prepared in relation to these Regulations. It has been placed in the Scottish Parliament Information Centre and copies may be obtained from Planning Division, Scottish Executive Development Department, Area 2-H, Victoria Quay, Edinburgh, EH6 6QQ (Telephone 0131 244 7066).