
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 1

The Environmental Impact Assessment
(Scotland) Regulations 1999

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⁽¹⁾;

“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](#)⁽²⁾;

“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⁽³⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁴⁾;

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

“EIA development” means development which is either—

- (a) Schedule 1 development; or

⁽¹⁾ [S.I. 1981/829](#), amended by [S.I. 1984/238](#).

⁽²⁾ 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.

⁽³⁾ Cm 2073.

⁽⁴⁾ Cm 2183.

(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

(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(5);

“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⁽⁶⁾;
- (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⁽⁷⁾;
- (d) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979⁽⁸⁾;
- (e) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994⁽⁹⁾;
- (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⁽¹⁰⁾ 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⁽¹¹⁾.

(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.

⁽⁶⁾ 1981 c. 69.

⁽⁷⁾ See Command Paper 9424.

⁽⁸⁾ 1979 c. 46. See the definition in section 1(11).

⁽⁹⁾ S.I. 1994/2716.

⁽¹⁰⁾ 1991 c. 28.

⁽¹¹⁾ 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.