
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 1

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

**PART III
ROADS**

General

48. The Roads (Scotland) Act 1984⁽¹⁾ shall be amended in accordance with this Part.

Sections 20A and 20B

49. For section 20A⁽²⁾ there shall be substituted the following:—

“20A Environmental assessment of certain road construction projects

(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.

⁽¹⁾ 1984 c. 54.

⁽²⁾ 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).

(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.

20B Projects with significant transboundary effects

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

Sections 55A and 55B

50. For section 55A(5) there shall be substituted the following—

⁽³⁾ Cm 2073.

⁽⁴⁾ Cm 2183.

⁽⁵⁾ 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).

“55A Environmental assessment of certain road improvement projects

(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 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.

55B 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(6) 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—

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

- (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(7) 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.

(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 sub-paragraph (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.

(7) 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](#).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*
