

2003 No. 341

TOWN AND COUNTRY PLANNING

ROADS AND BRIDGES

LAND DRAINAGE

**The Environmental Impact Assessment (Water Management)
(Scotland) Regulations 2003**

<i>Made</i>	<i>30th June 2003</i>
<i>Laid before the Scottish Parliament</i>	<i>1st July 2003</i>
<i>Coming into force</i>	<i>30th September 2003</i>

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

Citation and Commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003 and shall come into force on 30th September 2003.

Amendment of the Town and Country Planning (Scotland) Act 1997

2. In section 26 of the Town and Country Planning (Scotland) Act 1997—
- (a) in subsection (2), in paragraph (e), at beginning insert “subject to subsection (2A),”;
 - (b) after that subsection insert—

“(2A) Development includes the carrying out of irrigation or drainage for agriculture or of any other water management project for that purpose.”.

(a) 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15. The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) 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.

(c) O.J. No. L 175, 5.7.85, p.40.

(d) O.J. No. L 73, 14.3.97, p.5.

Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

3. In Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(a), after Class 18 insert—

“Water Management

Class 18A.—(1) The carrying out of irrigation or drainage for agriculture or of any other water management project for that purpose.

(2) Development consisting of the erection of a building or the significant extension or significant alteration of a building is permitted by this class subject to the conditions set out in Class 18(4)(a); and development consisting of the significant extension or the significant alteration of a building may be carried out only once in respect of that building.”.

Amendment of the Environmental Impact Assessment (Scotland) Regulations 1999

4. In column 2 of the Table in Schedule 2 to the Environmental Impact Assessment (Scotland) Regulations 1999(b), for the entry corresponding to the entry in column 1 which relates to water management projects for agriculture, substitute—

- “(i) The project is an irrigation project involving the abstraction or diversion of water for more than 48 hours in any calendar year and the total area of agricultural land to be irrigated in any agricultural unit or any part thereof exceeds 50 hectares;
- (ii) in any other case, the area of the works exceeds one hectare;
- and for the purposes of this entry, “agricultural land” and “agricultural unit” have the same meaning as in Part 6 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.”.

Transitional provisions

5. These Regulations shall not apply to the extent that the development was, immediately before the coming into force of these Regulations, permitted under the 1997 Act.

MARY MULLIGAN

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
30th June 2003

(a) S.I. 1992/223, there are no amending instruments relevant to these Regulations.
(b) S.S.I. 1999/1, there are no amending instruments relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further implement, in relation to water management projects for agriculture including irrigation and land drainage projects 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 Directive”).

Regulation 2 amends the definition of development in the Town and Country Planning (Scotland) Act 1997 to include the carrying out of irrigation or drainage for agriculture or of any other water management project for that purpose.

Regulation 3 introduces a new Class 18A to Part 6 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. This extends permitted development rights to such projects subject to the other provisions in the Order including the provisions on environmental impact assessment in article 3 of the Order.

Regulation 4 amends Schedule 2 to the Environmental Impact Assessment (Scotland) Regulations 1999 which implemented the Directive in relation to town and country planning, roads and certain land drainage works in Scotland. Regulation 4 substitutes a new threshold for such projects.

Regulation 5 provides that these changes to planning legislation do not apply to development permitted under the Town and Country Planning (Scotland) Act 1997 prior to the coming into force of these Regulations.

