
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 614

The Environmental Impact Assessment
(Scotland) Amendment Regulations 2006

PART II

PLANNING AND DRAINAGE WORKS

Town and Country Planning

3.—(1) In regulation 2(1) (interpretation)—

(a) after the definition of “the Act” insert—

““any other information” means any other substantive information relating to the environmental statement and provided by the applicant or appellant as the case may be;”;

(b) in the definition of “the consultation bodies” after paragraph (f) insert—

“(g) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Scottish Ministers, as the case may be, considers are likely to have an interest in the application.”;

(c) in the footnote to the definition of “the Directive” insert at the end “and as also amended by Council Directive [2003/35/EC](#)(1)”;

(d) in the definition of “environmental information” after “further information” insert “and any other information”;

(e) in the definition of “exempt development” omit “which comprises or forms part of a project serving national defence purposes or”; and

(f) in the definition of “sensitive area” delete the existing (a) to (f) and replace it with the following—

“(a) land notified under sections 3(1) or 5(1) (sites of special scientific interest) of the Nature Conservation (Scotland) Act 2004(2);

(b) land in respect of which an order has been made under section 23 (nature conservation orders) of the Nature Conservation (Scotland) Act 2004;

(c) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994(3);

(d) a property appearing in the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage(4);

(1) O.J. L 156, 25.6.03, p.17.

(2) [2004 asp 6](#).

(3) S.I.1994/2716.

(4) See Command Paper 9424.

- (e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979⁽⁵⁾;
 - (f) an area designated 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⁽⁶⁾;
 - (g) an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000⁽⁷⁾.”
- (2) In regulation 4 (general provisions relating to screening) for paragraph (4) substitute–
- (a) “(4) The Scottish Ministers may direct that these regulations shall not apply to a particular proposed development specified in the direction in accordance with Article 2(3) of the Directive (but without prejudice to Article 7 of the Directive).
 - (b) Where a direction is given under paragraph (a) the Scottish Ministers must–
 - (i) send a copy of any such direction to the relevant planning authority;
 - (ii) make available to the public concerned the information considered in making the direction and the reasons for making the direction;
 - (iii) consider whether another form of assessment would be appropriate; and
 - (iv) take such steps as are considered appropriate to bring the information obtained under the other form of assessment to the attention of the public concerned.”
- (3) In regulation 12 (procedure to facilitate preparation of environmental statements) for paragraph (5) substitute–
- “(5) In relation to a person to which the Environmental Information (Scotland) Regulations 2004⁽⁸⁾ apply, paragraph (4) shall not require disclosure of information which the person–
- (a) may refuse to disclose under regulation 10(1) of those Regulations; or
 - (b) is prevented from disclosing by regulation 11(1) of those Regulations.
- (5A) In relation to a person to which the Environmental Information Regulations 2004⁽⁹⁾ apply, paragraph (4) shall not require disclosure of information which the person–
- (a) may refuse to disclose under regulation 12(1) of those Regulations; or
 - (b) is prevented from disclosing by regulation 13(1) of those Regulations.”
- (4) In regulation 13 (publicity for environmental statement) in paragraph 1(a) after “statement” insert “and other documents submitted with the application”.
- (5) In regulation 19 (further information and evidence relating to environmental statements)–
- (a) in paragraph (2)(b) for “regulations” insert “and that information is required to be publicised as part of that inquiry or appeal procedure as the case may be, regulations”; and
 - (b) after paragraph (2) insert–

“(2A) Paragraph (2) shall apply in relation to any other information unless such other information is provided for the purposes of an inquiry held under the Act or for the

(5) 1979 c. 46.

(6) 1972 c. 52. The Town and Country Planning (Scotland) Act 1972 (the 1972 Act) was repealed by the Planning (Consequential Provisions) (Scotland) Act 1997 c. 8 (the 1997 Act) subject to a saving in respect of any area which on 1st April 1992 was designated as a National Scenic Area under section 262C of the 1972 Act; Section 5 of and paragraph 11 of Schedule 3 to the 1997 Act.

(7) 2000 asp 10.

(8) S.S.I. 2004/520.

(9) S.I. 2004/3391.

purposes of an appeal under section 130 of the Act and that information is required to be publicised as part of that inquiry or appeal procedure as the case may be.”.

(6) In regulation 20 (availability of opinions, directions etc. for inspection) in paragraph 1(g) after “further information” insert “and any other information”.

(7) In regulation 21 (duties to inform the public and the Scottish Ministers of final decisions)–

(a) in paragraph (1)(c)(ii) after “on which the decision is based” insert “including, if relevant, information about the participation of the public”;

(b) after paragraph (1)(c)(iii) insert–

“and

(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”; and

(c) in paragraph (2) after “determined” insert “or a draft decision is issued”.

(8) In regulation 24 (publicity for environmental statement prepared by planning authority)–

(a) in paragraph (2)(b) after “statement” insert “and any other documents submitted with the application”; and

(b) in paragraph (2) insert–

“(aa) that the nature of possible decisions relating to the planning application are:–

(i) grant planning permission without conditions;

(ii) grant planning permission with conditions;

(iii) refuse permission.”.

(9) In regulation 28B (application for permission under section 242A)(10)–

(a) in paragraph (8) insert–

(i) at 20(1) “any other information” after “any further information”; and

(ii) at 20(2) “any further information and any other information” after “request direction”;

(b) in paragraph (9)(a) insert–

(i) at 21(1) “or a draft decision is issued” after “determined”;

(ii) at 21(1)(b)(ii) “including, if relevant, information about the participation of the public” after “on which the decision is based”; and

(iii) after 21(b)(iii)–

“and

(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.

(10) In regulation 36 (further information and evidence respecting environmental statements) in paragraph (2) after “further information” insert “and any other information”.

(11) In regulation 37 (publicity for environmental statements or further information) in paragraph (1) after “further information” where it first and second occurs insert “and any other information”.

(12) In regulation 40 (development in Scotland likely to have significant effects in another EEA State)–

(a) in paragraph (4)(a) after “in paragraphs (2) and (3)” insert “and any further information and any other information submitted by the applicant or appellant”; and

(10) Regulation 28B was inserted by article 20(2) of [S.S.I. 2006/270](#).

(b) in paragraph (6)(b) after “on which the decision is based” insert “including, if relevant, information about the participation of the public”.

(13) In regulation 41 (projects in another EEA State likely to have significant transboundary effects) omit the “and” at the end of paragraph (a) and after (b) insert–

“and

(c) so far as they have received such information, notify those authorities and the public concerned of the content of any decision of the competent authority of the relevant EEA State; and in particular–

(i) any conditions attached to it;

(ii) the main reasons and considerations on which the decision was based including, if relevant, information about the participation of the public; and

(iii) a description of the main measures to avoid, reduce and if possible, offset the major adverse effects that have been identified.”.

(14) After regulation 46 insert–

“Access to review procedure before a court

46A. Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.”.

(15) In Schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”), after paragraph 20, insert–

“**21.** Any change to or extension of development listed in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.”.

(16) In Schedule 2 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”), in paragraph 13(a) in column 1 (description of development) of the Table, after “in Schedule 1 or” insert “(other than a change or extension falling within paragraph 21 of Schedule 1)”.

(17) In Schedule 5 (notice under regulation 13)–

(a) in the right hand column–

(i) after the first paragraph insert–

“possible decisions relating to the planning application are:–

(i) grant planning permission without conditions;

(ii) grant planning permission with conditions;

(iii) refuse permission.”; and

(ii) in the second paragraph after “application” insert “and other documents submitted with the application”; and

(b) in paragraph (g) of the Notes after “address” insert “and, where available, website address.”.