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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 202**

**COUNTRYSIDE**

**The National Scenic Areas (Scotland) Regulations 2008**

<i>Made</i>	- - - -	<i>28th May 2008</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>29th May 2008</i>
<i>Coming into force</i>	- -	<i>20th June 2008</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972(1);
  - (b) sections 37(2)(c) and 60 of the Electricity Act 1989(2); and
  - (c) section 40 of the Town and Country Planning (Scotland) Act 1997(3),
- and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the National Scenic Areas (Scotland) Regulations 2008 and come into force on 20th June 2008.

(2) These Regulations extend to Scotland only.

**The Harbours Act 1964**

2. In paragraph 1 of Schedule 3 to the Harbours Act 1964(4), in the definition of “sensitive area”, in paragraph (k), for “as a national scenic area under section 262C of the Town and Country Planning (Scotland) Act 1972” substitute “an area defined as a national scenic area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”(5).

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- (1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (“the 1998 Act”) (c.46), Schedule 8, paragraph 15(3) and the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1). The functions of the Minister of the Crown were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. This enabling power is exercised in respect of regulations 2 to 7.
  - (2) 1989 c. 29. See section 64(1) (as amended by the Utilities Act 2000 (c. 27), section 108 and Schedule 6 Part II, paragraph 38(6)) for the definition of “prescribed”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I.1999/1750), article 2 and Schedule 1. This enabling power is exercised in respect of regulation 8.
  - (3) 1997 c. 8; there are amendments to section 40 not relevant to these Regulations. This enabling power is exercised in respect of regulation 4.
  - (4) 1964 c. 40; Schedule 3, paragraph 1 was substituted by S.I. 1999/3445 and was amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(a).
  - (5) ISBN no. 0 902226 42 8. Available from the Scottish Natural Heritage website at <http://www.snh.org.uk/publications/online/scotlandsscenicareas/>. Copies are also available on request from Scottish Natural Heritage, Silvan House, 231 Corstorphine Road, Edinburgh, EH9 2AS.

### **The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999**

3. In regulation 2(1) of the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999(6), in the definition of “sensitive area”, in paragraph (j), for “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” substitute “an area defined as a National Scenic Area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

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

4.—(1) The Environmental Impact Assessment (Scotland) Regulations 1999(7) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1), in the definition of “sensitive area”, for paragraph (f) substitute—

“(f) an area defined as a National Scenic Area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

(3) In regulation 55(a), in the definition of “sensitive area”, for paragraph (d) substitute—

“(d) an area defined as a National Scenic Area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

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

5. In paragraph 1 of Schedule 2 to the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999(8), in the definition of “sensitive area”, for paragraph (e) substitute—

“(e) an area defined as a National Scenic Area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

### **The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000**

6. In Schedule 2 to the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000(9), in the definition of “sensitive area”, in paragraph (v), for “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” substitute “an area defined as a National Scenic Area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

### **The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006**

7. In regulation 5(3) of the Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006(10), for paragraph (f) substitute—

“(f) an area defined as a National Scenic Area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

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(6) S.I. 1999/1672, to which there are amendments not relevant to these Regulations.

(7) S.S.I.1999/1; a relevant amending instrument is S.S.I. 2006/614.

(8) S.S.I. 1999/43; amended by S.S.I. 2006/614.

(9) S.S.I. 2000/320.

(10) S.S.I. 2006/582, to which there are amendments not relevant to these Regulations.

### **The Overhead Lines (Exemption) Regulations 1990**

**8.** In regulation 3(2) of the Overhead Lines (Exemption) Regulations 1990(**11**), for the definition of “National Scenic Area” substitute—

““National Scenic Area” means an area defined as a national scenic area in Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978”.

St Andrew’s House, Edinburgh  
28th May 2008

*MICHAEL W RUSSELL*  
Authorised to sign by the Scottish Ministers

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(11) S.I. [1990/2035](#), to which there are amendments not relevant to these Regulations.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend:

- (a) legislation which makes provision implementing Council Directive [85/337/EEC](#) of 27th June 1985 (as amended by Council Directives [97/11/EC](#) and [2003/35/EC](#)) on the assessment of the effects of certain public and private projects on the environment (“the Environmental Impact Assessment Directive”); and
- (b) the Overhead Lines (Exemption) Regulations 1990 (“the 1990 Regulations”).

The legislation referred to at regulations 2 to 7 of these Regulations implements Articles 2 and 4.3 of the Environmental Impact Assessment Directive. The legislation provides that where a project takes place in a sensitive area, including a national scenic area, and the project is likely to have significant effects on the environment, an environmental impact assessment is required.

Regulations 2 to 7 amend, within that legislation, the definition of “sensitive area” by substituting a description of “national scenic area” which refers to Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978.

The 1990 Regulations make provision for cases where the consent of the Secretary of State is not required under section 37 of the Electricity Act 1989 to the installation or keeping installed of an electric line above ground. The cases are subject in certain circumstances to limitations or restrictions, including where the electric line or part of it is within a national scenic area.

Regulation 8 of these Regulations amends the definition of “national scenic area” in the 1990 Regulations by substituting a reference to Part II of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978.

No Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.