

EXECUTIVE NOTE

THE ENVIRONMENTAL IMPACT ASSESSMENT (SCOTLAND) AMENDMENT REGULATIONS 2009

(S.S.I 2009/221)

The above instrument was made in exercise of powers conferred on the Scottish Ministers by Section 2(2) of the European Communities Act 1972 (“the 1972 Act”) and section 40 of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”). The instrument is made both under powers in the 1972 Act and the 1997 Act since it relates not only to matters regarding the consideration of the environmental effects of a proposed development before planning permission is granted but also to such consideration before subsequent approvals of conditions imposed on the grant of planning permission are granted. Section 40 of the 1997 Act applies only to the former. The instrument is subject to a negative resolution procedure.

POLICY OBJECTIVES

Introduction

The purpose of the above instrument is to make consequential and transitional amendments, and to otherwise update the Environmental Impact Assessment (Scotland) Regulations 1999 (SSI 1/1999) (‘the EIA Regulations’) as a result of the Planning etc. (Scotland) Act 2006, and associated secondary legislation.

Background

European Directive 85/337/EEC as amended, on ‘the assessment of the effects of certain public and private projects on the environment’, (known as ‘the EIA Directive’) aims to ensure that the authority giving the primary consent for a particular project to proceed makes its decision in the full knowledge of any likely significant effects on the environment.

In Scotland, the EIA Directive has been implemented through various consent regimes, including the Town and Country Planning system. The purpose of this instrument is to take account of changes being made to certain procedural aspects of the planning system which have implications for the way in which the EIA Directive is implemented for projects requiring planning permission. Specific changes include; changes to take account of the removal of outline planning permission and reserved matters, changes to transfer responsibility for notifying environmental statements from the applicant to the planning authority, consequential matters arising as a result of amendments to the Town and Country Planning (Scotland) Act and associated secondary legislation, and other changes relating to new procedures for processing planning applications (including appeals and new local review procedures).

Due to the number of previous amendments made, we are of the view that the Environmental Impact Assessment (Scotland) Regulations 1999 (SSI 1999/1) would benefit from consolidation. We anticipate that further amendments may be required early in 2010. Subject to the resources being available, we would look to undertake consolidation at that time.

CONSULTATION

The 'Development Management Consultation Paper: January 2008' set out proposals for amendments to the secondary legislation on procedures relating to processing planning applications, including EIA applications. The paper also noted, where relevant, implications for EIA regulations, including our proposal to transfer responsibility for notifying Environmental Statements from the applicant to the planning authority.

FINANCIAL EFFECTS

We do not anticipate any significant financial effects associated with this instrument.

Scottish Government Directorate for the Built Environment
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