
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 139

**The Town and Country Planning (Environmental
Impact Assessment) (Scotland) Regulations 2011**

PART 10

DEVELOPMENT WITH SIGNIFICANT TRANSBOUNDARY EFFECTS

**Development in Scotland likely to have significant effects in an EEA State other than the
United Kingdom**

36.—(1) Where—

- (a) it comes to the attention of the Scottish Ministers that development proposed to be carried out in Scotland is the subject of an EIA application and is likely to have significant effects on the environment in an EEA State other than the United Kingdom; or
- (b) an EEA State other than the United Kingdom likely to be significantly affected by such development so requests,

the Scottish Ministers must—

- (i) send to the EEA State, as soon as possible and no later than their date of publication in The Edinburgh Gazette referred to in sub-paragraph (ii) below, the particulars mentioned in paragraph (2) and, if they think fit, the information referred to in paragraph (3);
- (ii) publish the information in sub-paragraph (i) above in a notice placed in The Edinburgh Gazette indicating the address where further information is available; and
- (iii) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.

(2) The particulars referred to in paragraph (1)(i) are—

- (a) a description of the development, together with any available information on its possible significant effect on the environment in another EEA State; and
- (b) information on the nature of the decision which may be taken.

(3) Where an EEA State indicates, in accordance with paragraph (1)(iii), that it wishes to participate in the procedure for which these Regulations provide, the Scottish Ministers must as soon as possible send to that EEA State the following information—

- (a) a copy of the application concerned;
- (b) a copy of the environmental statement in respect of the development to which that application relates; and
- (c) relevant information regarding the procedure under these Regulations,

but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (1)(i).

- (4) The Scottish Ministers, insofar as they are concerned, must also—
- (a) arrange for the particulars and information referred to in paragraphs (2) and (3) and any additional information submitted by the applicant or appellant to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected; and
 - (b) ensure that those authorities and the public concerned are given an opportunity, before planning permission for the development is granted, to forward to the Scottish Ministers, within a reasonable time, their opinion on the information supplied.
- (5) The Scottish Ministers must in accordance with Article 7(4) of the Directive—
- (a) enter into consultations with the EEA State concerned regarding, amongst other things, the potential significant effects of the development on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
 - (b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.
- (6) Where an EEA State has been consulted in accordance with paragraph (5), on the determination of the application concerned the Scottish Ministers must inform the EEA State of the decision and forward to it a statement of—
- (a) the content of the decision and any conditions attached to it;
 - (b) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; and
 - (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

Projects in another EEA State likely to have significant transboundary effects

37.—(1) Where the Scottish Ministers receive from an EEA State other than the United Kingdom pursuant to Article 7(2) of the Directive information which that EEA State has gathered from the developer of a proposed project in that EEA State which is likely to have significant effects on the environment in Scotland, the Scottish Ministers must, in accordance with Article 7(4) of the Directive—

- (a) enter into consultations with that EEA State regarding, amongst other things, the potential significant effects of the proposed project on the environment in Scotland and the measures envisaged to reduce or eliminate such effects;
 - (b) determine in agreement with that EEA State a reasonable period, before development consent for the project is granted, during which members of the public in Scotland may submit to the competent authority in that EEA State representations pursuant to Article 7(3)(b) of the Directive; 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.
- (2) The Scottish Ministers, insofar as they are concerned, must also—

- (a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time, both to the authorities in Scotland which they consider are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Scotland; and
- (b) ensure that those authorities and the public concerned in Scotland are given an opportunity, before development consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied.