

SCHEDULE 8

Regulation 67

Consequential amendments

**Amendment of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007**

1.—(1) The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007(1) is amended in accordance with this paragraph.

(2) In rule 8(7) (documents accompanying application), for sub-paragraphs (a) and (b) substitute—

- “(a) an application for hazardous substances consent under regulation 6(1), 7(1) or 8(1), as the case may, of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015; and
- (b) the information and documentation specified in regulations 6(3)(a) and (b), 7(3)(a) and (b) (if required) or 8(3)(a) and (b), as the case may be, of those Regulations.”.

(3) In Schedule 3 (those to be served with a copy of the application and documents)—

- (a) in entry 22, for the text in in column 2 substitute—

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“22. the relevant planning authority;

the Scottish Environment Protection Agency;

where the operation is to take place on a nuclear site (within the meaning of section 112(1) of the Energy Act 2013(2)) (“a nuclear site”), the Office for Nuclear Regulation and, in any other case, the Health and Safety Executive;

where the operation is to take place on land in the area of the Cairngorms National Park Authority, that Authority;

the Scottish Fire and Rescue Service.”;

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- (b) after entry 22 insert—

<p><b>22A.</b> A relevant project as defined in regulation 23(5) of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015.</p>	<p><b>22A.</b> the Scottish Environment Protection Agency;</p> <p>where the relevant project is to take place on a nuclear site, the Office for Nuclear Regulation and, in any other case, the Health and Safety Executive;</p> <p>Scottish Natural Heritage.</p>
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(4) In Schedule 5 (proposals for orders by virtue of section 6), in paragraph 16(1), for “Form 1” to the end substitute—

“an application referred to in regulation 6, 7 or 8 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, as the case may require, duly completed by or on behalf of the Scottish Ministers, together with a copy of the documents referred to in regulation 6(3)(a) and (b), 7(3)(a) and (b) (if required) or 8(3)(a) and (b) of those Regulations, as the case may require.”.

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(1) S.S.I. 2007/570.

(2) 2013 c.32.

## **Amendment of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008**

2.—(1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008(3) are amended in accordance with this paragraph.

(2) In regulation 1(2) (citation, commencement and interpretation), for the definition of “Directive” substitute—

““the Directive” means Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC(4);”.

(3) In regulation 3(2) (strategic development plans: information and considerations), for sub-paragraphs (a) to (c)(5) substitute—

“(a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and

(b) the need in the long term—

(i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes;

(ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and

(iii) in the case of existing establishments, to take additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to human health and the environment.”.

(4) In regulation 10(2) (local development plans: information and considerations), for sub-paragraphs (a) to (c)(6) substitute—

“(a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and

(b) the need in the long term—

(i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes;

(ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and

(iii) in the case of existing establishments, to take additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to human health and the environment.”.

(5) In regulation 27 (supplementary guidance), at the beginning insert—

“(A1) In preparing any supplementary guidance for the purpose of section 22(1) of the Act—

(a) a strategic development planning authority must have regard to the matters referred to in regulation 3(2); and

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(3) S.S.I. 2008/426.

(4) OJ L 197, 24.7.2012, p.1.

(5) Sub-paragraph (b) was substituted by S.S.I. 2009/378.

(6) Sub-paragraph (b) was substituted by S.S.I. 2009/378.

- (b) a planning authority must to have regard to the matters referred to in regulation 10(2).”.

### **Amendment of the 2013 Regulations**

**3.—**(1) The 2013 Regulations(7) are amended in accordance with this paragraph.

(2) In regulation 20—

(a) in paragraph (1), for “(5)” substitute “(6) and regulation 20A”;

(b) after paragraph (2)(d) insert—

“(e) the application is made under regulation 9, 10 or 11 and relates to development falling within paragraphs 3, 3A or 4 of Schedule 5.”;

(c) after paragraph (5) insert—

“(6) Where any of paragraph (2)(a) to (d) apply the planning authority need not publish a notice if they must publish a notice by virtue of paragraph (2)(e).

(7) Where paragraph (2)(e) applies paragraph (4) does not apply.”.

(3) After regulation 20 insert—

**“20A.—**(1) A notice published by virtue of regulation 20(1) and (2)(e) must be published with the following modifications—

(a) for “Written comments may be made to” substitute “Written comments or questions may be submitted to”;

(b) after “[Note 7]” insert—

“[Note 8]

An application may be granted (either unconditionally or subject to conditions) or refused.”;

(c) after Note 7 insert—

“Note 8 – If the proposal is a project, or part of a project, that is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 14(3) of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#) (OJ L 197, 24.7.2012, p.1), state that fact.””

(4) For paragraph 4 of Schedule 5 (consultation by the planning authority) substitute—

**“4.** Scottish Natural Heritage, the Health and Safety Executive and SEPA where the development—

(a) involves the siting of new establishments;

(b) consists of modifications to establishments covered by Article 11 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#) (OJ L 197, 24.7.2012, p.1); or

(c) includes transport routes, locations of public use and residential areas in the vicinity of an establishment, where the siting or development may be the source of or increase the risk or consequences of a major accident,

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(7) [S.S.I. 2013/155](#).

**Status:** *This is the original version (as it was originally made).*

and, in relation to development falling within paragraph (c), any person who is, according to the register held by the planning authority under regulation 41 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, the person who is in control of the land on which the establishment is located.”.