
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 101

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

PART 7

NOTIFICATION OF DECISIONS

Decision notice

21.—(1) Where an EIA application is determined by the Scottish Ministers the notification of the decision to be given to the developer (“the decision notice”) must include the information specified in paragraph (2).

(2) The information is—

- (a) a description of the development;
- (b) the terms of the decision;
- (c) the main reasons and considerations on which the decision is based;
- (d) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures;
- (e) a summary of—
 - (i) the environmental information; and
 - (ii) the results of the consultations and information gathered pursuant to Parts 5 and 6 and, where relevant Part 10, and how those results, in particular comments received from an EEA State pursuant to consultation under regulation 29, have been incorporated or otherwise addressed;
- (f) if the decision is to grant [^{F1}Electricity Act] consent—
 - (i) any conditions to which the decision is subject;
 - (ii) the reasoned conclusion referred to in regulation 4(1)(d); and
 - (iii) a statement that the Scottish Ministers are satisfied that the reasoned conclusion is still up to date;
 - (iv) a description of any mitigation measures; and
 - (v) a description of any monitoring measures required under regulation 22;
- (g) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) Where regulation 4(6) applies the decision notice must describe the matters in respect of which the Scottish Ministers consider that the effects of the development are not fully identifiable at the time of their determination of the EIA application.

(4) For the purposes of paragraph (2)(f)(iii) the reasoned conclusion referred to in regulation 4(1)(d) is still up to date if the Scottish Ministers are satisfied, having regard to current knowledge and

methods of assessment, that the reasoned conclusion addresses the likely significant effects of the development on the environment.

(5) In this regulation and in regulation 22—

“mitigation measures” means any features of the development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment including any such features or measures required by virtue of—

- (a) a condition imposed on the grant of [^{F2}Electricity Act consent or a condition subject to which any planning permission is deemed to be granted by virtue of a direction given under section 57(2) or (2ZA) of the 1997 Act]; or
- (b) a planning obligation;

“monitoring measures” means measures requiring the monitoring of any significant adverse effects on the environment of the proposed development including any such measures required [^{F3}by virtue of—

- (a) a condition imposed on the grant of Electricity Act consent or a condition subject to which any planning permission is deemed to be granted by virtue of a direction given under section 57(2) or (2ZA) of the 1997 Act; or
- (b) a planning obligation;]

“planning obligation” has the meaning given in section 75(1) ^{M1} of the 1997 Act.

F1	Words in reg. 21(2)(f) inserted (22.2.2020) by The Electricity Works (Environmental Impact Assessment) (Scotland) Amendment Regulations 2019 (S.S.I. 2019/427) , regs. 1, 2(4)
F2	Words in reg. 21(5) substituted (30.6.2017) by The Environmental Impact Assessment (Miscellaneous Amendments) (Scotland) Regulations 2017 (S.S.I. 2017/168) , regs. 1, 2(10)(a)
F3	Words in reg. 21(5) substituted (30.6.2017) by The Environmental Impact Assessment (Miscellaneous Amendments) (Scotland) Regulations 2017 (S.S.I. 2017/168) , regs. 1, 2(10)(b)

Marginal Citations

M1 Section 75 was substituted by section 23 of the [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#).

Monitoring measures

22.—(1) Where an EIA application is determined by the Scottish Ministers and the decision is to grant Electricity Act consent, the Scottish Ministers must consider whether it is appropriate to require monitoring measures to be carried out.

(2) When considering whether to require monitoring measures to be carried out, and the nature of any such monitoring measures, the Scottish Ministers must consider—

- (a) whether monitoring measures are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment having regard in particular to the type of parameters to be monitored and the duration of the monitoring;
- (b) in order to avoid duplication of monitoring, whether monitoring arrangements required under [^{F4}retained EU law] (other than legislation implementing the requirements of [^{F5}any law that implemented] the Directive) or other legislation applicable in Scotland are more appropriate; and
- (c) if monitoring measures are to be required, whether provision should be made to require appropriate remedial action.

(3) Where the Scottish Ministers consider that it is appropriate to require monitoring measures they must do so.

(4) Where mitigation measures or monitoring measures are required by a condition imposed on the grant of an Electricity Act consent the Scottish Ministers must take steps to ensure that those measures are implemented.

(5) Where mitigation measures or monitoring measures are required by—

- (a) a condition subject to which any planning permission is deemed to be granted by virtue of a direction given under section 57(2) or (2ZA) of the 1997 Act ^{M2}; or
- (b) a planning obligation,

the planning authority must take steps to ensure that those measures are implemented.

- F4** Words in [reg. 22\(2\)\(b\)](#) substituted (31.12.2020) by [The Town and Country Planning and Electricity Works \(EU Exit\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/80\)](#), regs. 1, [6\(6\)\(a\)](#) (as amended by [S.S.I. 2019/274](#), regs. 1, 2(2) and [S.S.I. 2020/310](#), regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in [reg. 22\(2\)\(b\)](#) inserted (31.12.2020) by [The Town and Country Planning and Electricity Works \(EU Exit\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/80\)](#), regs. 1, [6\(6\)\(b\)](#) (as amended by [S.S.I. 2019/274](#), regs. 1, 2(2) and [S.S.I. 2020/310](#), regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M2** 1997 c.8. Section 57 was amended by section 21(5) of the [Growth and Infrastructure Act 2013 \(c.27\)](#).

Notification of decision

23.—(1) Where an EIA application is determined by the Scottish Ministers they must—

- (a) send the decision notice in respect of the application to the developer;
- (b) send a copy of the decision notice to—
 - (i) the planning authority;
 - (ii) the other consultation bodies; and
 - (iii) such other public body consulted in accordance with regulation 16(2)(a)(ii); and
- (c) publish a notice containing the information specified in paragraph (2) on a website.

(2) The information is—

- (a) a description of the development;
- (b) the terms of the decision;
- (c) how a copy of the decision notice is available for inspection.

(3) [^{F6}Subject to regulation 23A,] the planning authority must, as soon as reasonably practicable after receiving notification of the decision under paragraph (1)(b)(i), make a copy of the decision notice available for public inspection—

- (a) at an office of the planning authority where the register may be inspected; and
- (b) on a website.

(4) The developer must, as soon as reasonably practicable after receiving notification of the decision under paragraph (1)(a), publish a notice containing the information specified in paragraph (2)—

- (a) on the application website;
- (b) in The Edinburgh Gazette; and

- (c) in a newspaper circulating in the locality in which the proposed development is situated (or in relation to a proposed development situated in, on, over or under the sea, such newspaper as is likely to come to the attention of those likely to be affected by the proposed development).

F6 Words in [reg. 23\(3\)](#) inserted (24.4.2020) by [The Electricity Works \(Miscellaneous Temporary Modifications\) \(Coronavirus\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/123\)](#), regs. 1(1), **4(12)**

[^{F7}Temporary relaxation of requirement to make decision notice available for inspection

23A. Regulation 23 applies during the emergency period as if paragraph (3)(a) were omitted.]

F7 [Reg. 23A](#) inserted (24.4.2020) by [The Electricity Works \(Miscellaneous Temporary Modifications\) \(Coronavirus\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/123\)](#), regs. 1(1), **4(13)**

Changes to legislation:

There are currently no known outstanding effects for the The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, PART 7.