
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 101

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

PART 9

VARIATION APPLICATIONS

Application of Regulations to variation applications

28.—^[F1](1) The Scottish Ministers must not—

- (a) in relation to a variation application in respect of EIA development, vary the relevant section 36 consent; or
- (b) when varying a section 36 consent, direct that planning permission is deemed to be granted under section 57(2) or (2ZA) of the 1997 Act in respect of EIA development,

unless an environmental impact assessment has been carried out in respect of the proposed variation and in carrying out such an assessment the Scottish Ministers must take the environmental information into account.

(1A) These Regulations, other than regulation 3, apply in relation to a variation application as they apply in relation to an application for consent under section 36 of the Electricity Act 1989 with the modifications specified in paragraph (2).]

(2) The modifications are—

^[F2](a) references (however worded)—

- (i) to an application for a section 36 consent or Electricity Act consent are to be treated, other than in regulation 2, as if they are references to a variation application;
- (ii) to an EIA application are to be treated as if they are references to a variation application for EIA development;
- (iii) to the proposed development and to the development in respect of which the application for a section 36 consent relates are to be treated, other than in schedules 1 and 2, as references to the proposed variation to which the variation application relates; and
- (iv) to the grant of consent are to be treated as if they are references to the variation of a section 36 consent;]

(b) regulation 14 is not to be read as requiring or permitting a notice under that regulation to be published before a notice under regulation 4(2)(c) of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 ^{M1} is published; and

(c) Schedule 4 is to be read as requiring the inclusion in an EIA report of—

- (i) the main respects in which the developer considers that the likely significant effects on the environment of the proposed ^[F3]varied] development would differ from those

described in any EIA report or environmental statement, as the case may be, that was prepared in connection with the relevant section 36 consent; and

(ii) a non-technical summary of the differences referred to in sub-paragraph (i).

(3) In this regulation—

[^{F4}“proposed variation”, in relation to a variation application, means the proposed change to (including a proposed change in the manner or period of operation), or the proposed extension of, the development—

- (a) authorised by the relevant section 36 consent; or
- (b) in respect of which a section 57 direction has been given in connection with that relevant section 36 consent;]

“proposed varied development” means—

- (a) the generating station, or extension of a generating station, which the developer would be authorised to construct under a relevant section 36 consent if that consent were varied as requested in a variation application;
- (b) the way in which a generating station so constructed or extended would be authorised to be operated under the relevant section 36 consent as so varied; and
- (c) any section 57 development in respect of which section 36 consent is not required;

“relevant section 36 consent”, in relation to a variation application, means the section 36 consent in respect of which that variation application is made;

“section 36 consent” means a consent under section 36 of the Electricity Act 1989 to construct, extend or operate a generating station including any variations to that consent already made under section 36C(4) of the Act;

“section 57 development” means any development in respect of which—

- (a) a section 57 direction was given on granting the relevant section 36 consent; or
- (b) the developer, on making a variation application, requests the Scottish Ministers to give a section 57 direction;

“section 57 direction” means a direction under section 57(2) or (2ZA) of the 1997 Act (deemed planning permission for development with government authorisation).

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| F1 | Reg. 28(1)(1A) substituted for reg. 28(1) (18.12.2017) by The Electricity Works (Environmental Impact Assessment) (Scotland) Amendment Regulations 2017 (S.S.I. 2017/451), regs. 1, 2(3)(a) |
| F2 | Reg. 28(2)(a) substituted (18.12.2017) by The Electricity Works (Environmental Impact Assessment) (Scotland) Amendment Regulations 2017 (S.S.I. 2017/451), regs. 1, 2(3)(b)(i) |
| F3 | Word in reg. 28(2)(c)(i) inserted (18.12.2017) by The Electricity Works (Environmental Impact Assessment) (Scotland) Amendment Regulations 2017 (S.S.I. 2017/451), regs. 1, 2(3)(b)(ii) |
| F4 | Words in reg. 28(3) inserted (18.12.2017) by The Electricity Works (Environmental Impact Assessment) (Scotland) Amendment Regulations 2017 (S.S.I. 2017/451), regs. 1, 2(3)(c) |

Marginal Citations

- M1** S.S.I. 2013/304.

Changes to legislation:

There are currently no known outstanding effects for the The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, Section 28.