
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 102

**The Town and Country Planning (Environmental
Impact Assessment) (Scotland) Regulations 2017**

PART 4

PREPARATION OF ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

Scoping opinions of the planning authority

- 17.—(1) A developer may request the planning authority to adopt a scoping opinion.
- (2) A request under paragraph (1) must include—
- (a) a description of the location of the development, including a plan sufficient to identify the land;
 - (b) a brief description of the nature and purpose of the development and of its likely significant effects on the environment; and
 - (c) such other information or representations as the developer may wish to provide or make.
- (3) If the planning authority consider that they have not been provided with sufficient information to adopt a scoping opinion, they must within the period of 21 days beginning with the date of receipt of the request under paragraph (1) notify the developer of the points on which they require further information.
- (4) The planning authority receiving a request under paragraph (1) must not adopt a scoping opinion in response to a request under paragraph (1) until they have consulted—
- (a) the consultation bodies;
 - (b) the Health and Safety Executive where they would be required to be consulted under paragraph 3 or 4 of schedule 5 to the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development;
 - (c) the Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 to the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development; and
 - (d) any other public body which the planning authority considers is likely to have an interest in the proposed development by reason of that body's specific environmental responsibilities or local and regional competencies.
- (5) The planning authority when adopting a scoping opinion must take into account the information provided by the developer, in particular information provided by the developer in respect of the specific characteristics of the development, including its location and technical capacity and its likely impact on the environment.
- (6) Subject to paragraph (7), the planning authority must within the period of 35 days beginning with the date of receipt of a request under paragraph (1), or such longer period as may be agreed in writing with the developer, adopt a scoping opinion and send a copy to the developer.
- (7) Where—

- (a) a developer has, at the same time as making a request for a screening opinion under regulation 8(1), made a request for a scoping opinion under paragraph (1); and
- (b) the planning authority have adopted a screening opinion to the effect that the development is EIA development,

the planning authority must within the period of 35 days beginning with the date on which that screening opinion was adopted, or such longer period as may be agreed in writing with the developer, adopt a scoping opinion and send a copy to the developer.

(8) Where a planning authority fail to adopt a scoping opinion within the relevant period mentioned in paragraph (6) or (7), the developer may request the Scottish Ministers to make a scoping direction.

(9) Paragraph (8) applies even if the planning authority have not received the information which they have sought under paragraph (3).

(10) Where a request has been made to the planning authority to adopt a screening opinion but no request has been made under paragraph (1), the planning authority may at their own volition adopt a scoping opinion and paragraphs (3) to (6) and (11) apply in relation to such a scoping opinion as if a request had been made under paragraph (1) on the date on which the planning authority adopt the screening opinion.

(11) Where a planning authority has adopted a scoping opinion neither they nor the Scottish Ministers are precluded from requiring additional information to be provided by the developer in connection with any EIA report submitted in connection with an application for planning permission for the same development as referred to in the scoping opinion.

(12) A later scoping opinion supersedes the terms of an earlier scoping opinion.

Scoping directions of the Scottish Ministers

18.—(1) The Scottish Ministers may make a scoping direction under this regulation either—

- (a) where requested to do so under regulation 14(4), 15(3) or 17(8); or
- (b) at their own volition.

(2) A request made by the developer under regulation 14(4) or 15(3) must include—

- (a) a copy of any relevant screening opinion received by the developer and of any accompanying statement of reasons; and
- (b) any representations that the developer wishes to make.

(3) A request made by the developer under regulation 17(8) must include—

- (a) a copy of the relevant request to the planning authority under regulation 17(1);
- (b) a copy of any relevant notification under regulation 17(3) and of any response;
- (c) a copy of any relevant screening opinion received by the developer and of any accompanying statement of reasons; and
- (d) any representations that the developer wishes to make.

(4) If the developer makes a request under regulation 17(8), the developer must send to the planning authority a copy of that request and any representations made in accordance with paragraph (3)(d).

(5) The Scottish Ministers must notify in writing the developer of any points on which they consider the information provided is insufficient to enable them to make a scoping direction and may request the planning authority to provide such information as they can on any of those points.

(6) The Scottish Ministers must—

- (a) not make a scoping direction—

- (i) by virtue of paragraph (1)(a) until they have consulted the bodies specified in paragraph (7); and
 - (ii) by virtue of paragraph (1)(b) until they have consulted such bodies and the developer; and
- (b) when making a scoping direction take into account the information provided by the developer, in particular information provided by the developer in respect of the specific characteristics of the development, including its location and technical capacity and its likely impact on the environment.
- (7) The bodies—
- (a) the consultation bodies;
 - (b) the Health and Safety Executive where it would be required to be consulted under paragraph 3 or 4 of schedule 5 of the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development;
 - (c) the Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 of the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development; and
 - (d) any other public body which the Scottish Ministers consider is likely to have an interest in the proposed development by reason of that body’s specific environmental responsibilities or local and regional competencies.
- (8) The Scottish Ministers must, within the period of 35 days beginning with the date of receipt of that request or such longer period as they may reasonably require, make a scoping direction and send a copy to the person who made the request and to the planning authority.
- (9) Where the Scottish Ministers have made a scoping direction neither they nor the planning authority are precluded from requiring additional information to be provided in connection with any EIA report submitted in connection with an application for planning permission for the same development as was referred to in the scoping direction.
- (10) A scoping direction supercedes the terms of an earlier scoping opinion or earlier scoping direction.

Procedure to facilitate preparation of EIA reports

19.—(1) A developer who intends to submit an EIA report to the planning authority or the Scottish Ministers under these Regulations may give notice in writing to that planning authority or the Scottish Ministers under this paragraph.

(2) A notice under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the development, and must indicate the main environmental consequences to which the developer proposes to refer in the EIA report.

(3) Where the planning authority or the Scottish Ministers receive notice under paragraph (1) or a written statement made pursuant to regulation 12(4)(a), 14(4), 15(3) or 16(3)(a) from a developer, they must—

- (a) notify the bodies specified in paragraph (4) in writing of the name and address of the developer and of the duty imposed on those bodies by paragraph (5) to make information available to the developer; and
- (b) inform in writing the developer of the names and addresses of the bodies so notified.

(4) The bodies are—

- (a) the consultation bodies; and

- (b) any other public body which the planning authority considers is likely to have an interest in the proposed development by reason of that body's specific environmental responsibilities or local and regional competencies.
- (5) Subject to paragraph (6), the planning authority and any body notified in accordance with paragraph (3) must, if requested by the developer—
 - (a) enter into consultation with the developer to determine whether the planning authority or the body have in their possession any information which the developer or they consider relevant to the preparation of the EIA report; and
 - (b) the planning authority or body must make any such information available to the developer.
- (6) In relation to a person to which the Environmental Information (Scotland) Regulations 2004⁽¹⁾ apply, paragraph (6) does not require disclosure of information which the person—
 - (a) may refuse to disclose under regulation 10(1) (exceptions from duty to make environmental information available) of those Regulations; or
 - (b) is prevented from disclosing by regulation 11(1) (personal data) of those Regulations.
- (7) In relation to a person to which the Environmental Information Regulations 2004⁽²⁾ apply, paragraph (4) does not require disclosure of information which the person—
 - (a) may refuse to disclose under regulation 12(1) (exceptions to the duty to disclose environmental information) of those Regulations; or
 - (b) is prevented from disclosing by regulation 13(1) (personal data) of those Regulations.
- (8) A reasonable charge reflecting the cost of making the relevant information available may be made by any person who makes information available in accordance with paragraph (5).

(1) S.S.I. 2004/520.
(2) S.I. 2004/3391.