
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 112

The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Amendment Regulations 2017

Amendment of Part I of the 2010 Regulations

2.—(1) Part I of the 2010 Regulations is amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

(a) in the definition of “the consultative bodies”, for “bodies” substitute “body”;

(b) omit the definition of “environmental statement”;

(c) after the definition of “the consultative bodies” insert the following definitions:—

“the Directive” means [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment⁽¹⁾;

“EIA report” means a report prepared in accordance with regulation 6;

“environmental information” means, in respect of a proposed scheme or a modified scheme—

(a) the EIA report prepared in respect of the scheme;

(b) any further information provided under regulation 5(3) and (4) in respect of the scheme;

(c) any supplementary information obtained under regulation 6(5) in respect of the scheme;

(d) any representations made by any consultative body, or other public body, consulted in respect of the scheme in accordance with these Regulations; and

(e) any representations duly made by any other person about the environmental effects of the scheme;

“modified scheme” means, in relation to a proposed scheme by a local authority—

(a) in a case where the local authority proposes to make a preliminary decision to confirm the proposed scheme with modifications under paragraph 5(1)(b) of schedule 2 of the Act, the scheme with those modifications;

(b) in a case where the Scottish Ministers propose to confirm the proposed scheme with modifications under paragraph 7(4)(b) of schedule 2 of the Act, the scheme with those modifications; and

(c) in a case where the local authority proposes to confirm the proposed scheme with modifications under paragraph 9(1)(b) of schedule 2 of the Act, the scheme with those modifications;

(1) OJ L 26, 28.1.2012, p.1, as amended by [Directive 2014/52/EU](#) of the European Parliament and of the Council (OJ L 124, 25.4.2014, p.1).

“proposed scheme” means a flood protection scheme proposed by a local authority pursuant to section 60(2) of the Act;

“relevant assessment” means, in relation to a proposed scheme or a modified scheme, an assessment or verification of effects on the environment carried out pursuant to national legislation which is relevant to the assessment of the environmental impacts of the scheme;

“the scheme” means the proposed scheme or the modified scheme in question;

“scheme operations” means, in relation to a proposed scheme or a modified scheme, operations described in the scheme;”;

(d) for the definition of “screening opinion” substitute—

““screening opinion”, in relation to a proposed scheme or a modified scheme, means a written statement of opinion as to whether the scheme is required to be subject to an environmental impact assessment;”;

(e) after the definition of “screening opinion” insert the following definition:

““Union legislation” means any enactment in national legislation giving effect to rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the EU Treaties.”.

(3) After regulation 2 insert—

“Meaning of “environmental impact assessment”, etc.

2A.—(1) In these Regulations “environmental impact assessment” means, in respect of a proposed scheme or a modified scheme, a process consisting of—

- (a) the preparation of an EIA report in respect of the scheme;
- (b) the carrying out of notifications in accordance with regulation 7 and, where relevant, regulation 8 (as read with paragraphs 1 to 3 of schedule 2 of the Act);
- (c) the examination by the local authority or, as the case may be, the Scottish Ministers of the information presented in the EIA report and any other environmental information;
- (d) the reasoned conclusion of the local authority or, as the case may be, the Scottish Ministers on the significant effects of the scheme on the environment, taking into account the results of the examination referred to in sub-paragraph (c); and
- (e) the integration of the local authority’s or, as the case may be, the Scottish Ministers’ reasoned conclusion into the decision in respect of the scheme, notice of which is given in accordance with paragraph 10 of schedule 2 of the Act.

(2) The environmental impact assessment must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the scheme, the direct and indirect significant effects of the scheme on the factors specified in paragraph (3) and the interaction between those factors.

(3) The factors are—

- (a) population and human health;
- (b) biodiversity, and in particular species and habitats protected under Council [Directive 92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽²⁾

(2) OJ L 206, 22.7.1992, p.7.

and [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds⁽³⁾;

(c) land, soil, water, air and climate; and

(d) material assets, cultural heritage and the landscape.

(4) The effects to be identified, described and assessed under paragraph (2) include the expected effects deriving from the vulnerability of the scheme to risks, so far as relevant to the scheme, of major accidents and disasters.”.

(3) OJ L 20, 26.1.2010, p.7.