
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 113

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

PART 1

INTRODUCTORY

Interpretation

2.—(1) In these Regulations—

“the 1999 Regulations” means the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999⁽¹⁾;

“additional information” means—

- (a) supplementary information required in accordance with regulation 21(2); or
- (b) any other information provided by the applicant which is substantive information about a matter to be included in the EIA report in accordance with regulation 6(3);

“afforestation” means initial afforestation for the purpose of conversion to another type of land use (within the meaning of paragraph 1(d) of Annex II to the Directive);

“applicant” means a person applying for EIA consent under regulation 6(1) and includes, for the purposes of—

- (a) screening opinions, screening directions, scoping opinions, scoping directions and regulation 17, a prospective applicant; and
- (b) an appeal under regulation 30, the applicant who is appealing;

“application website” means a website maintained by the Commissioners, for the purpose of making publicly available information relating to applications to which these Regulations apply;

“the Commissioners” means the Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 and continued in existence by section 1 of the Forestry Act 1967⁽²⁾;

“the consultation bodies” means—

- (a) the local authority (or local authorities, as the case may be) for the area where the forestry project is, or is proposed to be, situated;
- (b) the Scottish Environment Protection Agency, established under section 20 of the Environment Act 1995⁽³⁾;
- (c) Scottish Natural Heritage, established under section 1 of the Natural Heritage (Scotland) Act 1991⁽⁴⁾;

⁽¹⁾ S.S.I. 1999/43, as amended by S.S.I. 2006/614, S.S.I. 2010/460 and S.S.I. 2013/177.

⁽²⁾ 1967 c.10.

⁽³⁾ 1995 c.25.

⁽⁴⁾ 1991 c.28.

- (d) Historic Environment Scotland, established by section 1 of the Historic Environment Scotland Act 2014⁽⁵⁾; and
- (e) any other body designated by any enactment (including an Act of the Scottish Parliament or an instrument made under any such Act) as having specific environmental responsibilities;

“decision notice” has the meaning given in regulation 24;

“deforestation” means deforestation for the purposes of conversion to another type of land use (within the meaning of paragraph 1(d) of Annex II to the Directive);

“development” means development within the meaning of section 26 of the Town and Country Planning Act 1997⁽⁶⁾;

“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⁽⁷⁾;

“EIA application” means an application under regulation 6(1) for consent to carry out an EIA forestry project;

“EIA consent” means consent given under regulation 7(1)(a) or, as the case may be under regulation 30(5)(a) or (b) to carry out an EIA forestry project;

“EIA forestry project” means a forestry project which, subject to regulations 8 and 10 and schedule 1, is likely to have significant effects on the environment by virtue of factors such as its nature, size or location and which—

- (a) does not involve development; or
- (b) involves development—
 - (i) which is not EIA development within the meaning of regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017⁽⁸⁾; or
 - (ii) in respect of which planning permission is granted by Part 7 of schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992⁽⁹⁾;

“EIA report” has the meaning given in regulation 6(3) and, where an applicant submits a revised, updated or supplementary EIA report (or a report which the applicant refers to as such) includes the revised, updated or supplementary EIA report;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000⁽¹⁰⁾;

“enforcement notice” means an enforcement notice served under paragraph 3(1) of schedule 4 and includes, as the case may be, an enforcement notice as varied by service of a notice under paragraph 3(6) of schedule 4;

“environmental impact assessment” has the meaning given in regulation 5(1);

“environmental information” means any EIA report and any additional information, any representations made by any consultation body required by these Regulations to be invited to make representations and any representations duly made by any other person about the environmental effects of the forestry project;

⁽⁵⁾ 2014 asp 19.

⁽⁶⁾ 1997 c.8. Section 26 was last amended by section 63(2) of the Marine (Scotland) Act 2010 (asp 5).

⁽⁷⁾ O J L 26, 28.1.2012, p.1 as amended by [Directive 2014/52/EU](#) (O J L 124, 25.4.2014, p.1).

⁽⁸⁾ S.S.I. 2017/102.

⁽⁹⁾ S.I. 1992/223. Part 7 was amended by S.I. 1992/1078, S.I. 1994/3294, S.S.I. 2014/142 and S.S.I. 2014/300.

⁽¹⁰⁾ 2000 c.7. The definition of “electronic communication” was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

“forestry project” means a project which includes any of the following activities:—

- (a) afforestation;
- (b) deforestation;
- (c) forest quarry works; or
- (d) forest road works;

“forest quarry works” means operations on land used or to be used for the purposes of forestry, or on land held or occupied with that land, to obtain the materials required for forest road works;

“forest road works” means the formation, alteration or maintenance of private ways on land used or to be used for the purposes of forestry;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽¹¹⁾;

“mandatory conditions” means the conditions specified in regulation 4;

“prospective applicant” means a person who is minded to carry out a forestry project in Scotland but who has not made an EIA application in respect of that forestry project;

“register” means a register kept by the Commissioners at a Conservancy office for the purposes of public inspection of the following (so far as they relate to the area of that particular Conservancy):—

- (a) directions given under regulation 9;
- (b) screening opinions;
- (c) screening directions;
- (d) scoping opinions;
- (e) scoping directions;
- (f) decision notices;
- (g) notices of appeal decisions under regulation 30;
- (h) EIA reports, including any additional information relevant to them; and
- (i) statements of reasons which accompanied any of the above;

“relevant assessment” means, in relation to a forestry project, 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 forestry project;

“scoping direction” means a direction made by the Scottish Ministers under regulation 16 as to the scope and level of detail of information to be provided in the EIA report;

“scoping opinion” means an opinion adopted by the Commissioners under regulation 15 as to the scope and level of detail of information to be provided in the EIA report;

“screening direction” means a direction made by the Scottish Ministers under regulation 14 as to whether a project is, or is not, an EIA forestry project;

“screening opinion” means an opinion adopted by the Commissioners under regulation 13 as to whether a project is, or is not, an EIA forestry project;

“sensitive area” means any of the following:—

- (a) a site of special scientific interest;
- (b) land in respect of which an order has been made under section 23 of the Nature Conservation (Scotland) Act 2004⁽¹²⁾;

(11) 1994 c.39. Section 2 was amended by section 120 and schedule 22, paragraph 232(1) of the Environment Act 1995 (c.25).

(12) 2004 asp 6.

- (c) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994⁽¹³⁾;
- (d) a property appearing in the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage⁽¹⁴⁾;
- (e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979⁽¹⁵⁾;
- (f) a National Scenic Area as designated by a direction made by the Scottish Ministers under section 263A of the Town and Country Planning (Scotland) Act 1997⁽¹⁶⁾; and
- (g) an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000⁽¹⁷⁾;

“site of special scientific interest” has the same meaning as in section 58(1) of the Nature Conservation (Scotland) Act 2004⁽¹⁸⁾; and

“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.

(2) Other expressions used both in these Regulations and in the Directive have the same meaning for the purposes of these Regulations as they do for the purposes of the Directive.

⁽¹³⁾ [S.I. 1994/2716](#), relevantly amended by [S.S.I. 2007/80](#).

⁽¹⁴⁾ See Command Paper 9424.

⁽¹⁵⁾ [1979 c.46](#).

⁽¹⁶⁾ Section 263A was inserted by section 50 of the Planning etc. (Scotland) Act [2006 \(asp 17\)](#).

⁽¹⁷⁾ [2000 asp 10](#).

⁽¹⁸⁾ In section 58(1) the definition of “site of special scientific interest” was amended by section 37(4)(a) of the Wildlife and Natural Environment (Scotland) Act [2011 \(asp 6\)](#).