
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 137

The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017

Substitution of sections 55A and 55B and insertion of sections 55C and 55D

7. For sections 55A (environmental assessment of certain road improvement projects)(1) and 55B (application of section 20B)(2) substitute—

“55A. Environmental assessment of certain road improvement projects

(1) If the Scottish Ministers as roads authority have under consideration—

- (a) the making of an order such as is mentioned in paragraph 1 of schedule 1 of this Act relating to the improvement of a road, or
- (b) the improvement of a road without such an order,

they must, before details of the project are published, determine whether it falls within Annex I or II.

(2) If the Scottish Ministers determine that the project—

- (a) falls within Annex I, or
- (b) is a relevant project falling within Annex II, and that having regard to the selection criteria in Annex III it should be made subject to an environmental impact assessment in accordance with the Directive,

they must, not later than the date when details of the project are published prepare an EIA report and publish notice of it in accordance with subsections (5) to (10) and paragraph 7(1C), or paragraph 13(1C) as the case may be, of schedule 1 of this Act.

(3) In making a determination as to whether a project is a relevant project falling within Annex II the Scottish Ministers must—

- (a) in all cases take into account—
 - (i) such of the selection criteria set out in Annex III as are relevant to the project, and
 - (ii) the available results of any relevant assessment of the effects of the project, and
- (b) base their decision on the information set out in subsection (4).

(4) The information referred to in subsection (3)(b) is to be compiled taking into account, where relevant, the factors set out in subsection (3)(a) and must include—

- (a) a description of the location of the project, including a plan sufficient to identify the land;
- (b) a description of the project, including in particular—

(1) Section 55A was substituted by [S.S.I. 1999/1](#) and amended by [S.S.I. 2006/614](#).

(2) Section 55B was substituted by [S.S.I. 1999/1](#).

- (i) a description of the physical characteristics of the project and, where relevant, of demolition works,
 - (ii) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected,
- (c) a description of the aspects of the environment likely to be significantly affected by the project; and
- (d) a description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—
 - (i) the expected residues and emissions and the production of waste, where relevant, and
 - (ii) the use of natural resources, in particular soil, land, water and biodiversity.
- (5) The Scottish Ministers must publish any determination made by them in accordance with subsections (1) to (4), and that determination shall include—
 - (a) a statement giving, with reference to such of the criteria set out in Annex III as are relevant to the project, the main reasons for that conclusion; and
 - (b) where the determination is to the effect that the project does not require an environmental impact assessment, the statement referred to in paragraph (a) must state any features of the project which are envisaged to avoid or prevent significant adverse effects on the environment.
- (6) An EIA report is a report prepared by the Scottish Ministers in accordance with this section which assesses the environmental impact of the project and which includes (at least) —
 - (a) a description of the project comprising information on the site, design, size and other relevant features of the project;
 - (b) a description of the likely significant effects of the project on the environment;
 - (c) a description of the features of the project and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
 - (d) a description of the reasonable alternatives studied by the Scottish Ministers, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;
 - (e) a non-technical summary of the information referred to in paragraphs (a) to (d); and
 - (f) any other information specified in schedule 1A of this Act relevant to the specific characteristics of the project and to the environmental features likely to be affected.
- (7) With a view to avoiding duplication of assessments, account is to be taken of the available results of other relevant assessments under Union legislation or other legislation applicable in Scotland in preparing the EIA report.
- (8) In order to ensure the completeness and quality of the EIA report—
 - (a) the Scottish Ministers must ensure that the report is prepared by competent experts;
 - (b) the EIA report must be accompanied by a statement from the Scottish Ministers outlining the relevant expertise or qualifications of such experts.

(9) The Scottish Ministers must publish notice of the EIA report so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express an opinion before a decision on whether to proceed with the project is taken, and the Scottish Ministers must not make any such decision without taking into consideration any opinion so expressed to them within a period of 42 days commencing with the date of publication of notice of the EIA report.

(10) Notice under subsection (9) must state—

- (a) that the Scottish Ministers, as the relevant roads authority, are considering implementing the project;
- (b) the proposed location and nature of the project;
- (c) that the project is subject to environmental impact assessment and, where relevant, state that it is likely to have significant effects in another EEA State;
- (d) that a copy of the EIA report may be inspected at an address in the area in which the project is proposed to be situated during the period provided under paragraph (i);
- (e) the times at which a copy of the EIA report can be so inspected;
- (f) an address from which copies of the EIA report may be obtained and from which further information about the project may be requested during the period provided under paragraph (i);
- (g) if a charge is to be made for a copy of the EIA report, the amount of the charge;
- (h) that the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, and the address of the website where a copy of the EIA report will be available for inspection by the public during the period specified in paragraph (i);
- (i) that any person wishing to make any representations about the project and the EIA report may do so in writing to the Scottish Ministers at a specified address within a specified period, being a period of not less than 42 days commencing with the date of publication of the notice; and
- (j) that the Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.

(11) The Scottish Ministers must ensure that during the period specified under subsection (10)(i)—

- (a) copies of the EIA report are available for inspection by any person free of charge at all reasonable hours at the address specified under subsection (10)(d);
- (b) copies of the EIA report are available to be obtained by any person from the address specified under subsection (10)(f);
- (c) the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, and that a copy of the EIA report is available for inspection at a specified website address.

(12) A reasonable charge reflecting the costs of printing, copying and distribution may be made by the Scottish Ministers for the supply of a copy of the EIA report—

- (a) to a person other than a consultation body; or
- (b) to a consultation body to which a copy has already been supplied free of charge.

(13) In order to ensure the completeness and quality of the EIA report the Scottish Ministers must where necessary (having regard in particular to current knowledge and

methods of assessment) obtain supplementary information about any matter referred to in subsection (6) which in the opinion of the Scottish Ministers is directly relevant to reaching a reasoned conclusion on the significant effects of the project on the environment.

(14) Where the Scottish Ministers obtain supplementary information in accordance with subsection (13), except insofar as such supplementary information is required for the purposes of an inquiry held under section 139, subsections (9) to (12) apply to such supplementary information as they apply to an EIA report (subject to any necessary modifications).

(15) The Scottish Ministers must ensure that the consultation bodies are given an opportunity to express an opinion on the project and the EIA report before they decide whether to proceed with the project, and the Scottish Ministers must not make any such decision within a period of 42 days commencing with the date of sending the report to the consultation bodies.

(16) In this section, the expressions “the Directive”, “Annex”, “relevant project”, “sensitive area” and “Union legislation” shall have the meanings assigned to those expressions in section 20C(16) with the proviso that in the definition of “relevant project” the reference to the construction of a new road shall be a reference to the improvement of a road and cognate expressions shall be construed accordingly.

55B. Application of sections 20A, 20B, 20D, 20E, 20F and 20G to projects under section 55A

55B. The provisions of sections 20A, 20B and 20D to 20G apply to a project to which section 55A applies as they apply to a project in terms of sections 20A, 20B and 20D to 20G.

55C. Offences

(1) Any person who, for the purpose of procuring a particular decision in relation to a project to which section 55A applies—

- (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
- (b) with intent to deceive, uses any document which is false or misleading in a material particular; or
- (c) with intent to deceive, withholds any material information,

commits an offence.

(2) A person who commits an offence under subsection (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

(3) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this section.

(4) The Court of Session may, on the application of the Scottish Ministers, the chief constable or any other public body or office-holder having responsibility for enforcing the provision declare unlawful any act or omission of the Crown which would but for subsection (3) have constituted an offence under this section.

(5) Despite subsection (3), this section applies to a person in the public service of the Crown as it applies to other persons.

55D. Offences by bodies corporate etc.

- (1) Subsection (2) applies where—
 - (a) an offence under section 55C has been committed by—
 - (i) a body corporate,
 - (ii) a Scottish partnership, or
 - (iii) an unincorporated association other than a Scottish partnership, and
 - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—
 - (i) a relevant individual, or
 - (ii) an individual purporting to act in the capacity of a relevant individual.
- (2) The individual (as well as the body corporate, partnership or (as the case may be) association) commits the offence and is liable to be proceeded against and punished accordingly.
- (3) In subsection (1), “relevant individual” means—
 - (a) in relation to a body corporate (other than a limited liability partnership)—
 - (i) a director, manager, secretary or similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, a member,
 - (b) in relation to a limited liability partnership, a member;
 - (c) in relation to a Scottish partnership, a partner;
 - (d) in relation to an unincorporated association other than a Scottish partnership, an individual who is concerned in the management or control of the association.”.