
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 138

**The Transport and Works (Scotland) Act 2007
(Environmental Impact Assessment) Regulations 2017**

Amendment of section 12

5. In section 12 (publicity for making or refusal of order)—

(a) at the end of subsection (2)(c)(iii) insert—

“, and—

- (iv) where subsection (4) applies, must state a website address where the Scottish Ministers have made information referred to in this subsection and subsection (4) available”;

(b) for subsections (4) to (6) substitute—

“(4) Where a determination under section 11 relates to an application or proposal to which this subsection applies, in addition to the matters referred to in subsection (2), any notice under subsection (1) must include the following—

- (a) a description of the proposed works which are the subject of the order,

(b) a summary of—

- (i) the environmental information, and

- (ii) the results of the consultations and information gathered following on from the publication of any reports and additional information received by the Scottish Ministers pursuant to rules made under sections 4 or 6, and how those results, in particular comments received from an EEA State, have been incorporated or otherwise addressed,

(c) if the determination is to make the order—

- (i) any conditions to which the determination is subject,

- (ii) the reasoned conclusion by the Scottish Ministers on the significant effects of the proposed works on the environment, taking into account the results of the examination of the environmental information which may be required in terms of rules made under section 4 or 6,

- (iii) a statement that the Scottish Ministers are satisfied that the reasoned conclusion is still up to date,

- (iv) a description of any features of the proposed works and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment, and

- (v) a description of any monitoring measures required under section 20A.

(5) For the purposes of subsection (4)(c)(iii) the reasoned conclusion is still up to date if the Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the proposed works on the environment.

- (6) In subsection (4) “environmental information” means—
- (a) any environmental impact assessment report as required by rules made under section 4 or section 6, and
 - (b) any—
 - (i) additional information required by rules made under section 4 or 6,
 - (ii) representations made by any body required by any such rules to be invited to make representations, and
 - (iii) representations made by any other person about the environmental effects of the implementation of the order applied for under section 4 or proposed under section 6.”;
 - (c) in subsection (8)—
 - (i) in paragraph (a) for “sub-paragraph (a) of Article 10a” substitute “Article 11.1(a)”; and
 - (ii) in paragraph (b) for “sub-paragraph (b) of Article 10a” substitute “Article 11.1(b)”;
 - (d) in subsection (9) for “Council [Directive 85/337/EEC](#) (as amended by Council Directives [97/11/EEC](#) and [2003/35/EC](#))” substitute “Council [Directive 2011/92/EU\(1\)](#) (as amended by Council [Directive 2014/52/EU\(2\)](#))”;
 - (e) in subsection (10)—
 - (i) in paragraph (b) for “statement” substitute “notice”; and
 - (ii) after “person” insert “and body”; and
 - (f) for subsection (11) substitute—

“(11) The persons and bodies are those who—

 - (a) made an objection in accordance with rules made under section 8 in relation to the environmental information referred to in subsection (4), being an objection which was not referred to an inquiry or hearing in accordance with section 9(3);
 - (b) made representations in accordance with rules made under section 8 in relation to the environmental information referred to in subsection (4);
 - (c) are consultation bodies prescribed in terms of rules made under section 4 or 6;
 - (d) are a body who was notified of any environmental impact assessment report as required by rules made under section 4, or prepared in connection with the publication of a notice of a proposal to make an order by virtue of section 6, by reason of that body’s specific environmental responsibilities or local and regional competencies.”.

(1) OJ L 26, 28.1.2012, p.1.

(2) OJ L 124, 25.4.2014, p.1.