
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

**The Transport and Works (Scotland) Act 2007
(Applications and Objections Procedure) Rules 2007**

Interpretation

- 2.—(1) In these Rules (unless the context otherwise requires)—
- “the Act” means the Transport and Works (Scotland) Act 2007;
 - “applicant” means a person making, or proposing to make, an application;
 - “application” means an application under section 4 of the Act;
 - “the appropriate authority” has the same meaning as in section 3(4) of the Act (Crown land);
 - “benefited property” has the same meaning as in section 122(1) of the Title Conditions (Scotland) Act 2003 (interpretation)(1);
 - “bridleway” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967 (interpretation)(2);
 - “Crown interest” has the same meaning as in section 3(3) of the Act;
 - “cycle track” has the same meaning as in section 151 of the Roads (Scotland) Act 1984 (interpretation)(3);
 - “development management scheme” has the same meaning as in section 71(3) of the Title Conditions (Scotland) Act 2003;
 - “the Directive” means Council Directive [85/337/EEC](#)(4) on the assessment of the effects of certain public and private projects on the environment;
 - “documents” includes photographs, drawings, maps and plans;
 - “environmental impact assessment” means an assessment, in accordance with Articles 5 to 10 of the Directive, of the likely impact upon the environment of the implementation of the works included in any order in respect of which an application is being, or is to be, made;
 - “environmental statement” means a statement that contains—
 - (a) the information referred to in rule 9(1); and
 - (b) such of the information referred to in Schedule 1 as may reasonably be required in order to assess the environmental effects of the proposed works and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile,
- and “the applicant’s statement of environmental information” means a statement submitted by an applicant as the environmental statement in relation to that applicant’s application;

(1) [2003 asp 9](#).

(2) [1967 c. 86](#); section 47 was relevantly amended by the [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), schedule 2, paragraph 5.

(3) [1984 c. 54](#).

(4) O.J. L 175, 5.7.85, p.40, as amended by Council Directive [97/11/EC](#) (O.J. L 073, 14.3.97, p.5) and Council Directive [2003/35/EC](#) (O.J. L 156, 25.6.03, p.17).

“equipment” includes apparatus and any structure for the lodging in it of equipment or for gaining access to equipment;

“expiry date for objections” means the date, being a date not less than 42 days after the date on which the application in question is made, which the applicant specifies in the notice published pursuant to rule 12(1) as the final date for making objections;

“footpath” has the same meaning as in section 151 of the Roads (Scotland) Act 1984;

“holder”, in relation to a personal real burden, has the same meaning as in section 122(1) of the Title Conditions (Scotland) Act 2003(5);

“in writing” includes electronic transmission;

“Member State” has the same meaning as in section 5(3) of the Act;

“navigation authority” has the same meaning as in section 9(5) of the Act;

“occupier” includes—

- (a) statutory undertakers (not being an owner) having a right to keep equipment on, in or over land; and
- (b) a person having the right to construct or maintain, at a specific position on an inland waterway, a mooring post, gangway, landing stage or other erection or installation for a vessel (not being anything which when not in use is normally carried on the vessel);

“operative date” means the date falling 21 days after the expiry date for objections or such later date as the Scottish Ministers may specify;

“operator”—

- (a) in relation to a transport system, means any person carrying on an undertaking which includes the system, or any part of it, or the provision of transport services on the system; and
- (b) in relation to an inland waterway, means any person authorised by any enactment to work, maintain, conserve, improve or control the inland waterway;

“owner”, in relation to any land, means any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes a lessee under a lease the unexpired period of which exceeds three years;

“personal real burden” has the same meaning as in section 122(1) of the Title Conditions (Scotland) Act 2003;

“planning authority” has the same meaning as for the purposes of Part 3 of the Town and Country Planning (Scotland) Act 1997 (control over development)(6);

“regional Transport Partnership” means a Transport Partnership created under section 1(1)(b) of the Transport (Scotland) Act 2005(7);

“river” means any river (including any part of a river which is tidal or which has been canalised), loch, lake, stream, burn, ditch, culvert, drain, sluice, weir or any other passage by which water drains, but does not include—

- (a) a canal or inland navigation which is not a canalised part of a river;
- (b) a public sewer or a sewer or pipe used primarily for the drainage of a building or any premises appurtenant to a building, or of a road;

(5) The definition of “holder” was amended by [S.S.I. 2003/503](#).

(6) [1997 c. 8](#). See section 1 of that Act for the meaning of “planning authority”. The functions of a local authority under Part 3 of that Act have been transferred to and are exercisable by the Loch Lomond and The Trossachs National Park Authority by virtue of [S.S.I. 2002/201](#) in respect of the National Park designated by that instrument.

(7) [2005 asp 12](#).

“road managers” has the same meaning as in section 108(4) of the New Roads and Street Works Act 1991 **(8)**;

“roads authority” has the same meaning as in section 151(1) of the Roads (Scotland) Act 1984**(9)**;

“scoping opinion” has the meaning given in rule 6(1);

“screening decision” has the meaning given in rule 5(3);

“statutory undertakers” has the same meaning as in section 214 of the Town and Country Planning (Scotland) Act 1997**(10)** except that it includes a public communications provider within the meaning of section 151(1) of the Communications Act 2003 (interpretation)**(11)**;

“tidal waters” means such part of–

- (a) the territorial sea of the United Kingdom as is adjacent to Scotland; and
- (b) the internal waters of the United Kingdom as are in or adjacent to Scotland insofar as they are tidal or constitute part of the sea;

“title condition” has the same meaning as in section 122(1) of the Title Conditions (Scotland) Act 2003;

“transport system” means a railway, tramway or trolley vehicle system or any system (other than a railway or tramway) using a mode of guided transport;

“works” means any works that may be authorised by an order made under section 1 of the Act but in rules 5, 6, 9 and 14, Schedule 1 and in paragraphs 6, 9, 16(f), 29 and 30 of Schedule 5, shall also include any matter that may be authorised by such an order; and

“works affecting”, in relation to any land, means works proposed to be carried out in, on, over or adjacent to that land.

(2) Where these Rules require that notice be served, published or displayed in a prescribed form, the notice shall be served, published or displayed (as the case may be) duly completed–

- (a) in that form;
- (b) in a version of that form adapted to meet the circumstances of the particular case; or
- (c) in a form which has substantially the same effect as that form (whether the form is adapted or not),

and, except where these Rules require that the notice in question be published in a newspaper, duly signed by or on behalf of the person required to serve the notice.

(8) 1991 c. 22.

(9) The definition of “roads authority” was relevantly amended by the Local Government etc. (Scotland) Act 1984 (c. 39), Schedule 13, paragraph 135 and S.I.2001/1400.

(10) Section 214 was amended by the Transport Act 2000 (c. 38), Schedule 5, paragraph 10 and S.I. 2001/1149.

(11) 2003 c. 21.