
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

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

The requirement for environmental statement and screening decision

5.—(1) An applicant shall when making an application submit an applicant's statement of environmental information with that application in relation to any proposed works which are to be covered by that application, if those works constitute a project which is of a type mentioned in Annex I or, subject to paragraph (2), Annex II to the Directive.

(2) Where the proposed works constitute a project of a type mentioned in Annex II to the Directive, an applicant is not required to submit an applicant's statement of environmental information if the Scottish Ministers have, under paragraph (13), notified the applicant that an environmental impact assessment is not required in relation to those works.

(3) Before making an application (other than an application relating to works constituting a project which is of a type mentioned in Annex I to the Directive), an applicant may make a request in writing to the Scottish Ministers for a decision as to whether or not an environmental impact assessment of the proposed works covered by the application is required ("a screening decision").

(4) A request made pursuant to paragraph (3) shall be accompanied by—

- (a) a plan sufficient to identify the land affected by the works in question;
- (b) a brief description of the nature and purpose of the proposed works; and
- (c) a brief description of the possible effects on the environment of the works,

and may include such other information as the applicant wishes to provide.

(5) If the Scottish Ministers consider that the information provided by an applicant in or with a request made under paragraph (3) is insufficient to enable the Scottish Ministers to make a screening decision the Scottish Ministers may, not later than 28 days after receiving the request, notify the applicant in writing of the additional information that the Scottish Ministers consider they require in order to make that decision.

(6) On receiving notification under paragraph (5), the applicant shall provide the Scottish Ministers with such of the additional information specified in that notification as the applicant is reasonably able to supply and, where any of the additional information so specified is not provided, a written explanation as to why the applicant is unable to provide the information.

(7) The Scottish Ministers shall not give a screening decision in response to a request under paragraph (3) until they have given notice of the request to, and invited the views of, the following bodies—

- (a) every local authority in whose area the works would be carried out were the order for which the applicant proposes to apply to be made;
- (b) every National Park authority for a National Park in which the works would be carried out were the order for which the applicant proposes to apply to be made;
- (c) the Scottish Environment Protection Agency;
- (d) Scottish Natural Heritage; and

- (e) any other body promoting environmental protection which is a charity registered under the Charities and Trustee Investment (Scotland) Act 2005(1) which the Scottish Ministers consider is likely to have an interest in the application,

and shall include in each such notice the information to be provided in or with a request under paragraph (3).

(8) Any body falling within paragraph (7)(a) to (d) which is the recipient of a notice served under paragraph (7) shall, not later than 28 days after receiving that notice, provide the Scottish Ministers with a written opinion as to whether or not, in the view of the recipient, the works in question should be the subject of an environmental impact assessment.

(9) Any body falling within paragraph (7)(e) which is the recipient of a notice served under paragraph (7) may, not later than 28 days after receiving that notice, provide the Scottish Ministers with a written opinion as to whether or not, in the view of the recipient, the works in question should be the subject of an environmental impact assessment.

(10) Where a request for a screening decision relates to an order which would, if made, authorise works which for the purposes of the Directive could constitute two or more projects which are not interdependent, the Scottish Ministers may, if they consider it expedient, treat each such project separately for the purposes of this rule and, in such a case, the references in this rule to works shall be construed as relating to each such project separately, and the references to the screening decision shall be construed as relating to such a decision in relation to each such project.

(11) In making a screening decision, the Scottish Ministers shall take into account the selection criteria set out in Annex III to the Directive.

(12) If the Scottish Ministers consider that the works in question would be likely to have a significant effect on the environment if carried out, their screening decision shall be that an environmental impact assessment of the works is required.

(13) The Scottish Ministers shall notify the applicant in writing of their screening decision and shall give reasons for that decision not later than 42 days after receipt of the request made pursuant to paragraph (3) or, where a notification has been given under paragraph (5), not later than 42 days after receiving the further information that the applicant is required to supply by virtue of paragraph (6).

(14) Following a screening decision the Scottish Ministers shall publicise notice of their screening decision in the Edinburgh Gazette and in such newspaper as they consider appropriate.

(1) 2005 asp 10.