
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 1

**The Environmental Impact Assessment
(Scotland) Regulations 1999**

**PART IV
DRAINAGE WORKS**

Application

54. This Part applies to proposed drainage works which are likely to have significant effects on the environment by virtue inter alia of their nature, size or location and for which authority under the Land Drainage (Scotland) Act 1958(1) to execute these works is sought from the Scottish Ministers on or after 1st August 1999.

Interpretation

55. In this Part, except where the context otherwise requires—

- (a) “the Act” means the Land Drainage (Scotland) Act 1958;
“improvement order” means an order made by the Scottish Ministers in accordance with the First Schedule to the Act;
“local authority” means any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(2);
“site of special scientific interest” means land to which section 28(1) of the Wildlife and Countryside Act 1981(3) applies; and
“statutory body” means any body exercising functions conferred on it by or under any enactment;
- (b) the following phrases have the meanings assigned to them by section 18(1) of the Act:—
 - (i) “agricultural land”;
 - (ii) “drainage works”; and
 - (iii) “owner”;
- (c) the following phrases have the meanings assigned to them by regulation 2(1):—
 - (i) “the consultation bodies”;
 - (ii) “environmental information”; and
 - (iii) “environmental statement”.

(1) 1958 c. 24.
(2) 1994 c. 39.
(3) 1981 c. 69.

Request for the opinion of the Scottish Ministers on the information to be supplied under this Part

56.—(1) An owner of agricultural land who proposes to apply under section 1 of the Act may, before submitting such application, request the opinion of the Scottish Ministers on the information to be supplied by him under this Part.

- (2) A request under paragraph (1) shall be accompanied by—
- (a) a plan sufficient to identify the land on which the proposed development would be carried out;
 - (b) a brief description of the nature and purpose of the proposed development and its possible effects on the environment; and
 - (c) such other information or representations as the person making the request may wish to provide or make.

(3) Where the Scottish Ministers upon receipt of a request under paragraph (1) consider that they have not been provided with sufficient information to give an opinion they shall notify the owner of the particular points on which they require further information.

(4) The Scottish Ministers shall not give an opinion in response to a request under paragraph (1) until they have consulted the owner who made the request, and the local authorities and statutory bodies affected by the drainage works (including, where appropriate, the consultation bodies), but shall respond within 3 weeks of the period allowed for consultation or such longer period as may be agreed in writing with the owner.

(5) In response to a request under paragraph (1), the Scottish Ministers shall indicate which of the descriptions of information set out in paragraphs 1 to 5 of Part I of Schedule 4 they consider relevant, taking into account—

- (a) the specific characteristics of the proposed drainage works;
- (b) the environmental features likely to be affected by those works; and
- (c) the extent to which the owner who requested the opinion may reasonably be required to compile the information, having regard to current knowledge and methods of assessment.

(6) Where the Scottish Ministers have given an opinion in response to a request under paragraph (1), they shall not be precluded from subsequently requiring the owner to submit further information.

Prohibition on making an improvement order without consideration of environmental information

57. The Scottish Ministers shall not make an improvement order authorising drainage works which are likely to have significant effects on the environment by virtue inter alia of their nature, size or location unless they have taken into consideration environmental information in respect of the proposed works.

Provision of information

58. In preparing an environmental statement the owner of agricultural land shall consult the local authorities and statutory bodies affected or likely to be concerned by the drainage works by reason of their specific environmental responsibilities (including, where appropriate, the consultation bodies) who shall make available to him any relevant information in their possession.

Submission and publication of environmental statement

59.—(1) This regulation applies where an owner of agricultural land applies under section 1 of the Act to the Scottish Ministers for an improvement order authorising drainage works likely to have significant effects on the environment by virtue of their nature, size or location and—

- (a) the area of the proposed works exceeds 1 hectare; or
- (b) the area of the proposed works or any part thereof lies within a site of special scientific interest.

(2) Where this regulation applies, the owner shall submit an environmental statement to the Scottish Ministers along with the application under section 1 of the Act and the Scottish Ministers shall—

- (a) notify and publicise the statement in the same manner as a draft improvement order under paragraph 1 of the First Schedule to the Act; and
- (b) forward a copy of the statement to the local authorities and statutory bodies affected or likely to be concerned by the drainage works by reason of their specific environmental responsibilities (including, where appropriate, the consultation bodies).

Further information respecting environmental statement

60.—(1) When dealing with an application to which regulation 59 applies the Scottish Ministers may, after taking into account the factors mentioned in paragraph (2), require the owner of the agricultural land to provide such further information as they may specify to enable the application for an improvement order to be determined, or concerning any matter which is required to be dealt with in the environmental statement.

(2) The factors referred to in paragraph (1) are—

- (a) the specific characteristics of the proposed drainage works;
- (b) the environmental features likely to be affected by those works; and
- (c) the extent to which the owner may reasonable be required to have regard to current knowledge and methods of assessment.

Confidentiality

61. Any person required to provide information under this Part shall not be required to provide information which that person is entitled or bound to hold in confidence.

Charges

62.—(1) A reasonable charge reflecting the costs of printing, copying and distribution may be made to the public for copies of an environmental statement made available to them under this Part and for copies of an environmental statement, in excess of one copy, required by a person consulted under this Part.

(2) A person required to supply information under this Part may make a reasonable charge reflecting the costs of making available information which he had in his possession.