
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 320

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000

PART 1

GENERAL

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 and shall come into force on 5th October 2000.

(2) These Regulations apply in the case of—

- (a) any application under section 36 of the Electricity Act 1989⁽¹⁾ for consent to construct, extend or operate a generating station; or
- (b) any application under section 37 of the Electricity Act 1989 for consent to install or keep installed an electric line above ground,

which is received by the Scottish Ministers on or after the date on which these Regulations come into force.

(3) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Electricity Act 1989 and references to sections are references to sections of the Act;

“the consultative bodies” means—

- (a) the planning authority for the area where the land is situated;
- (b) Scottish Natural Heritage⁽²⁾; and
- (c) where the application or proposed application relates to a section 36 consent, the Scottish Environment Protection Agency⁽³⁾;

“development” means the carrying out of building, engineering or other operations in, on, over or under land or sea in pursuance of any application to which these Regulations apply;

“EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁴⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993;⁽⁵⁾

(1) 1989 c. 29; the functions of the Secretary of State under sections 36 and 37 were transferred to the Scottish Ministers by virtue of The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 S.I.1999/1750, Schedule 1.
(2) See section 1(1) of the Natural Heritage (Scotland) Act 1991 (c. 28).
(3) See section 20(1) of the Environmental Act 1995 (c. 25).
(4) Cm 2073.

“EIA development” means development which is—

- (a) Schedule 1 development;
- (b) Schedule 2 development which falls within regulation 3(2); or
- (c) any other development which the Scottish Ministers determine is EIA development in accordance with regulation 3(4) or 6;

“electric line” has the same meaning as in section 64;

“environmental information” means the environmental statement prepared by the applicant, any representations duly made by any consultative body or any other person consulted pursuant to regulation 11(2)(a)(ii) and any representations duly made by any other person about the likely environmental effects of the proposed development;

“environmental statement” means a statement prepared in respect of development in accordance with regulation 4(1) (including any further information submitted by the applicant pursuant to a requirement under regulation 13(1));

“generating station” has the same meaning as in section 64;

“planning authority” has the same meaning as is assigned to “relevant planning authority” by paragraph (b) of paragraph 2(6) of Schedule 8 to the Act⁽⁵⁾;

“register” means the register kept pursuant to section 36 of the Town and Country Planning (Scotland) Act 1997⁽⁷⁾;

“Schedule 1 development” means development of a description set out in Schedule 1;

“Schedule 2 development” means development of a description set out in Schedule 2;

“scoping opinion” means a written statement of opinion of the Scottish Ministers given in accordance with regulation 7;

“screening opinion” means a written statement of opinion of the Scottish Ministers as to whether the development in question is EIA development;

“section 36 consent” means a consent under section 36 to construct, extend or operate a generating station; and

“section 37 consent” means a consent under section 37 to install or keep installed an electric line above ground.

(2) In these Regulations any reference to a numbered regulation or Schedule is a reference to the regulation in or the Schedule to these Regulations bearing that number and any reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

Prohibition of grant of consent without consideration of environmental information

3.—(1) The Scottish Ministers shall not grant a section 36 consent or a section 37 consent which relates to EIA development unless the requirements of regulation 4 have been satisfied.

(2) Schedule 2 development shall constitute EIA development if one of the events set out in paragraph (3) has occurred.

(3) The events referred to in paragraph (2) are—

- (a) the submission by the applicant in relation to the proposed development of a document referred to by the applicant as an environmental statement for the purposes of these Regulations; or

(5) Cm 2183.

(6) Paragraph 2(6) of Schedule 8 to the Act was amended by the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11), Schedule 2.

(7) 1997 c. 8.

- (b) a determination by the Scottish Ministers (whether pursuant to a request for a screening opinion or regulation 6), having taken into account such of the criteria set out in Schedule 3 as are relevant to the development, that the application relates to EIA development as the development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

(4) In spite of the fact that any development is not Schedule 1 development or Schedule 2 development, the Scottish Ministers may, having taken into account such of the criteria set out in Schedule 3 as are relevant to the development, make a determination (whether pursuant to a request for a screening opinion or regulation 6) that an application for a section 36 consent or a section 37 consent is for EIA development as the development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

Procedure for grant of consent where environmental statement is required

4.—(1) An applicant shall submit in relation to any application for a section 36 consent or a section 37 consent which relates to EIA development an environmental statement which includes—

- (a) the information referred to in Part II of Schedule 4; and
- (b) such of the information referred to in Part I of Schedule 4 as is reasonably required to assess the environmental effects of the development and which having regard in particular to current knowledge and methods of assessment, the applicant can reasonably be required to compile taking into account the terms of any scoping opinion given.

(2) In relation to any application for a section 36 consent or a section 37 consent which relates to EIA development, the Scottish Ministers shall not grant the required consent unless—

- (a) they are satisfied that the applicant has complied with his obligations under paragraph (1);
- (b) they have taken into consideration the environmental information (including without limitation any views expressed by other EEA States under regulation 12) and state in their decision in relation to that consent that they have done so; and
- (c) the procedures laid down in regulations 9, 11, 12, 13 and 14 have been followed in so far as they are applicable.