

SCHEDULE 1

Regulation 5(4)

SELECTION CRITERIA FOR A SCREENING DECISION

Characteristics of projects

1. The characteristics of projects, having regard in particular to—
 - (a) the size of the project;
 - (b) the cumulation with other projects;
 - (c) the use of natural resources;
 - (d) the production of waste;
 - (e) pollution and nuisances; and
 - (f) the risk of accidents, having regard in particular to substances or technologies used.

Location of project

2. The environmental sensitivity of geographical areas likely to be affected by projects, having regard in particular to—
 - (a) the existing land use;
 - (b) the relative abundance, quality and regenerative capacity of natural resources in the area; and
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas:—
 - (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under legislation (including European sites);
 - (vi) areas in which environmental quality standards laid down in Community legislation have already been exceeded;
 - (vii) densely populated areas; and
 - (viii) landscapes of historical, cultural or archaeological significance.

The potential impact

3. The potential significant effects of projects, in relation to criteria set out under paragraphs 1 and 2 above, having regard in particular to—
 - (a) the extent of the impact (geographical area and size of the affected population);
 - (b) the impact on other member States;
 - (c) the magnitude and complexity of the impact;
 - (d) the probability of the impact; and
 - (e) the duration, frequency and reversibility of the impact.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 2

Regulation 2(1)

INFORMATION FOR INCLUSION IN AN ENVIRONMENTAL STATEMENT

PART I

1. A description of the project, including in particular—
 - (a) a description of the physical characteristics of the whole project and the land use requirements during the construction, or other implementation, and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, nature and quantity and the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the applicant for consent and an indication of the main reasons for the preferred choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the project on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project, resulting from—
 - (a) the existence of the project;
 - (b) the use of natural resources; and
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,and the description by the applicant for consent of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant for consent in compiling the required information.

PART II

1. A description of the project comprising information on the site, design and size of the project.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the project is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant for consent and an indication of the main reasons for the preferred choice, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

SCHEDULE 3

Regulation 14

REVIEW OF DECISIONS AND CONSENTS

1. The Scottish Ministers shall as soon as reasonably practicable make an appropriate assessment of the implications for the European site of the project permitted by the decision or consent in view of conservation objectives of the site for the purpose of determining whether the project will adversely affect the integrity of the site.
2. For the purposes of that assessment, the Scottish Ministers—
 - (a) may require any person interested in the relevant land to supply them with such information as they may reasonably think necessary;
 - (b) shall consult Scottish Natural Heritage and have regard to any representations made by them within such reasonable time as they may specify; and
 - (c) may, if they consider it appropriate, consult members of the public.
3. Unless, following that assessment, the Scottish Ministers are satisfied that the project permitted by the decision or consent will not adversely affect the integrity of the European site and that paragraph (7) of regulation 13 does not apply, they shall, in the case of a decision, revoke that decision and, in the case of a consent, either revoke that consent or make such modifications to the consent as appear to them to be necessary to ensure that the project will not adversely affect the integrity of the European site and they shall notify that decision to all persons who appear to them to have an interest in the relevant land.
4. Subject to paragraph 5 below, a revocation or modification of a decision or a consent in pursuance of which works have been commenced or completed shall not affect so much of those works as have already been carried out.
5. If, where a project which is subject to a decision made under paragraph 3 above has commenced, it appears to the Scottish Ministers to be necessary to safeguard the integrity of the European site, they may by notice require the person responsible for carrying out such works or any person interested in the relevant land to carry out such works of reinstatement as may be reasonable in the circumstances and any person who carries out works in compliance with such a requirement shall be entitled, on making a claim in accordance with paragraph 7 below, to recover from the Scottish Ministers compensation in respect of any expenses reasonably incurred by such claimant in that behalf.
6. If, following a decision under paragraph 3 above, a person has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that person shall be entitled to be paid compensation on submitting a claim in accordance with paragraph 7 below.
7. A claim for compensation payable under paragraph 5 or 6 above shall be submitted to the Scottish Ministers within 42 days of notification of the decision in respect of which compensation is payable and shall be accompanied by such evidence as the Scottish Ministers may reasonably require.
8. Any dispute as to the amount of compensation payable under paragraphs 5 or 6 above may be referred to the Lands Tribunal for Scotland within 5 years of the date of notification of the decision in respect of which compensation is payable.
9. Nothing in this regulation shall affect anything done in pursuance of a decision or consent before the date on which the site became a European site.

SCHEDULE 4

Regulation 15(12)

DELEGATION OF APPELLATE FUNCTIONS

1. In this Schedule “appointed person” means a person appointed under paragraphs (10) or (11) of regulation 15 and “appointment” means an appointment under that regulation.

2. An appointment must be in writing and—

- (a) may relate to any particular appeal or matter specified in the appointment or to appeals or matters of a description so specified;
- (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment;
- (c) may, by notice in writing given to the appointed person, be revoked at any time by the Scottish Ministers in respect of any appeal or matter which has not been determined by the appointed person before that time; and
- (d) shall confirm whether the appointed person is a reporter or a delegated person.

3.—(1) The provisions of this paragraph shall apply to an appeal which falls to be determined by a delegated person.

(2) Where a delegated person holds an inquiry, an assessor may be appointed by the Scottish Ministers to sit with the appointed person at the inquiry and advise on any matters arising, notwithstanding that the delegated person is to determine the appeal or matter.

(3) Subject to regulation 15(13), the expenses of an inquiry held by a delegated person under these Regulations shall be met by the Scottish Ministers.

4.—(1) Where under paragraph 2(c) above the appointment of the appointed person is revoked in respect of any appeal or matter, the Scottish Ministers shall, unless they propose to determine the appeal or matter themselves, appoint another person under regulation 15(10) to determine the appeal or matter instead.

(2) Where such a new appointment is made, the consideration of the appeal or matter, or any inquiry in connection with it, shall be begun afresh.

(3) Nothing in sub-paragraph (2) shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

5.—(1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the Scottish Ministers.

(2) Sub-paragraph (1) shall not apply—

- (a) for the purposes of so much of any contract made between the Scottish Ministers and the appointed person as relates to the exercise of the function; or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.