

SCHEDULE 11

Article 21

Amendment of The Environmental Impact Assessment (Scotland) Regulations 1999

1. In paragraph (1) of regulation 2 (interpretation), after the definition of “EIA development”, insert—

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(1);”.

2. After regulation 2, insert—

“2A.—(1) In Part II of these Regulations, and in relation to the use of electronic communications for any purpose in Part II of these Regulations which is capable of being effected electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address; and
- (b) references to applications, statements, notices, directions or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(2) Paragraphs (3) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any statement, notice or other document to any other person (“the recipient”).

(3) The requirement shall be deemed to be fulfilled (except in a case referred to in paragraph (4)) where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(4) The cases are –

- (a) serving any notice under regulation 13;
- (b) any requirement under Chapter 9 of these Regulations;
- (c) any requirement under regulation 40 including submitting information to an EEA State; and
- (d) any requirement under regulation 41 including submitting representations.

(5) In paragraph (3), “legible in all material respects” means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient—

- (a) at any time before the end of a day which is a working day, it shall be deemed to have been received on that day;
- (b) at any time during a day which is not working day, it shall be deemed to have been received on the next working day,

(1) 2000 c. 7.

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and for these purposes, “working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(2), a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.

(7) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (3), and “written” and cognate expressions are to be construed accordingly.

(8) Where electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any statement or document, any such requirement may be complied with by sending one copy only of the statement or other document in question.

2B. Where an applicant or appellant, as the case may be, so informs the Scottish Ministers or, as the case may be, the planning authority, using electronic communications, the applicant or appellant shall be deemed to have agreed–

- (a) to the use of such communications for all purposes of these Regulations relating to a request for a screening opinion, application, notice or appeal which are capable of being carried out electronically;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the request, application, notice or appeal; and
- (c) that the applicant or appellant’s deemed agreement under this paragraph shall subsist until the applicant or appellant gives notice in accordance with article (2C) that the applicant or appellant wishes to revoke the agreement.

Withdrawal of consent to use of electronic communications

2C. Where a person is no longer willing to accept the use of electronic communications for any purpose which, under these Regulations, is capable of being carried out using such communications, that person shall give notice in writing–

- (a) withdrawing any address notified to the Scottish Ministers or, as the case may be, to a planning authority for that purpose; or
- (b) revoking any agreement entered into or deemed to have been entered into with the Scottish Ministers or, as the case may be, with a planning authority for that purpose,

and such withdrawal or revocation shall be final, and shall take effect on a date specified by the person in the notice, being a date occurring after the period of seven days, beginning with the date on which the notice is given.”.

3. In regulation 13 (publicity for environmental statements), in paragraph (3)(c)(ii), after “names and”, insert “postal”.

4. In regulation 21 (duties to inform the public and the Scottish Ministers of final decisions), after paragraph (3) insert–

“(4) Notification in writing of a decision shall be deemed to have been given to a person for the purposes of this regulation where–

- (a) the planning authority or the Scottish Ministers, as the case may be, and the person have agreed that a decision and reasons required under this regulation to be given in writing may instead be accessed by that person via a website;

(2) 1971 c. 80.

- (b) the decision is a decision and reasons to which that agreement applies;
 - (c) the planning authority have published the decision on a website; and
 - (d) the person is notified, in a manner for the time being agreed between that person and the planning authority, of–
 - (i) the publication of the decision and reasons on a website;
 - (ii) the address of the website; and
 - (iii) the place on the website where the decision and reasons may be accessed, and how they may be accessed.”.
5. In regulation 38 (public inspection of documents), after paragraph (1) insert–
- “(1A) Where the register kept by a planning authority under this regulation is kept using electronic storage, the authority may make the register available for inspection by the public on a website maintained by the authority for that purpose.”.
6. For regulation 42, substitute–
- “**42.** Subject to paragraph (2) above, any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 271 (service of notices).”.