
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedures in connection with—

- (a) the making of an application for an order under section 1 of the Transport and Works (Scotland) Act 2007 (“the Act”) to authorise a transport system or inland waterway;
- (b) a proposal for such an order by the Scottish Ministers by virtue of section 6 of the Act; and
- (c) the making of objections and representations relating to such an application or proposal.

They also set out the procedures for the handling of objections where the Scottish Ministers decide not to hold a public local inquiry or hearing under section 9 of the Act.

The rules include provision in rules 4, 5, 6, 8(2)(h), 9 (with Schedule 1), 11, 12 (with Schedule 3), 14 and 15 and paragraphs 4 to 7, 9, 11, 12, 14, 16(f), 19, 30, 31 and 41 of Schedule 5 to implement Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (O.J. L 175, 5.7.85, p.40) as amended by Council Directives [97/11/EC](#) (O.J. L 73, 14.3.97, p.5) and [2003/35/EC](#) (O.J. L 156, 25.6.03, p.17). Those provisions, along with the provision made by sections 4, 5, 6, 8 and 12 of the Act, implement that Directive in respect of a project for a transport system or inland waterway authorised by an order under section 1 of the Act.

Rule 3 requires a prospective applicant to send drafts of the—

order and explanatory material to the Scottish Minister; and

environmental statement for the project to bodies responsible for environmental matters, in advance of its application.

Rule 4 enables the applicant to obtain environmental information where this is not already provided for by the Environmental Information (Scotland) Regulations 2004.

Rules 5 and 6 enable a prospective applicant to obtain a prior view from the Scottish Ministers as to whether the project requires an environmental impact assessment (a screening decision), or if it does, the information to be included in its environmental statement (a scoping opinion).

Rules 7, 8, 9 and 10 (with Schedules 1, 3 and 4) provide for the form of the application and the documentation which must be submitted in support of it.

Rule 11 (with Schedule 3) provides for the service by the applicant of copies of the application and supporting documents on the interested persons or bodies listed in this rule or that Schedule.

Rules 12 and 13 (with Schedules 2 and 4) provide for the service by the applicant of notice of the application on other persons and bodies, including those with an interest in land affected by the proposal if it proceeds, and publicity for the application. This includes the publication of notice of the application in local newspapers and the Edinburgh Gazette, and the posting of notices at the site of proposed works.

Rule 14 provides for the notification of other jurisdictions of the United Kingdom, the Isle of Man, the Channel Islands or Member States of the European Economic Area of applications for proposed works that may have a significant effect on the environment of that jurisdiction or state.

Rule 15 empowers the Scottish Ministers to require the applicant to supply further environmental information. It also makes provision for public notification where further environmental information is provided pursuant to this rule, or is submitted, after the application.

Rule 16 provides a mechanism for an applicant, or prospective applicant, to seek to obtain a waiver in respect of all or part of the rules identified in this rule.

Rule 17 prescribes the fees payable on the making of an application. The fee is £10,000, unless the primary object of the proposed order relates to a heritage railway, or the applicant is a charity, when the fee is £1,000.

Changes to legislation: *There are currently no known outstanding effects for the The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007. (See end of Document for details)*

Rule 18 (with Schedule 5) prescribes the procedure that will apply when the Scottish Ministers make a proposal for an order by virtue of section 6 of the Act.

Rules 19, 20 and 21 make general provision relating to objections including the validity of objections and the service of copies of objections upon other persons. Provision is also made for determining when objections are to be dealt with by the written representations procedure.

Rule 22 sets out the procedure for dealing with objections by written representations where the objections do not warrant the holding of an inquiry or hearing.

Rule 23 imposes requirements on the Scottish Ministers where a public inquiry or hearing is called.

Rule 24 applies provisions relating to objections to any representations made in relation to an application, other than the provisions for consideration of objections by written representations procedure.

Rule 25 provides for the extension of time limits for the taking of steps prescribed by these Rules. A Regulatory Impact Assessment has been prepared in respect of these Rules. A copy can be obtained from the Scottish Government Transport Directorate, Victoria Quay, Edinburgh EH6 6QQ.

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