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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 139**

**The Town and Country Planning (Environmental  
Impact Assessment) (Scotland) Regulations 2011**

**PART 2**

**SCREENING**

**General provisions relating to screening**

5.—(1) Subject to paragraphs (3) and (4), the occurrence of an event mentioned in paragraph (2) will determine for the purpose of these Regulations that development is EIA development.

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

- (a) the submission by the applicant or appellant in relation to that development of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these Regulations; or
- (b) the adoption by the planning authority of a screening opinion to the effect that the development is EIA development.

(3) A direction of the Scottish Ministers will determine for the purpose of these Regulations whether development is or is not EIA development.

(4) The Scottish Ministers may direct that these Regulations will not apply to a particular proposed development specified in the direction in accordance with Article 2(3) of the Directive (but without prejudice to Article 7 of the Directive).

(5) Where a direction is given under paragraph (4) the Scottish Ministers must—

- (a) send a copy of any such direction to the planning authority;
- (b) make available to the public concerned the information considered in making the direction and the reasons for making the direction;
- (c) consider whether another form of assessment would be appropriate; and
- (d) take such steps as are considered appropriate to bring the information obtained under the other form of assessment to the attention of the public concerned.

(6) Where a planning authority or the Scottish Ministers have to decide under these Regulations whether Schedule 2 development is EIA development, they must take into account in making that decision such of the selection criteria set out in Schedule 3 as are relevant to the development.

(7) Where a planning authority adopt a screening opinion or the Scottish Ministers make a screening direction to the effect that development is EIA development—

- (a) that opinion or direction must be accompanied by a written statement giving clearly and precisely the full reasons for that conclusion; and
- (b) the planning authority or the Scottish Ministers, as the case may be, must send a copy of the opinion or direction and a copy of that written statement to the person who proposes to carry out, or who has carried out, the development in question.

(8) Where a planning authority adopt a screening opinion or the Scottish Ministers make a screening direction to the effect that development is not EIA development, the planning authority or the Scottish Ministers, as the case may be, must, if requested to do so, make available the reasons for that conclusion.

(9) Where reasons are made available under paragraph (8), the planning authority or the Scottish Ministers, as the case may be, must also send a copy of those reasons to the person who proposes to carry out, or who has carried out, the development in question.

(10) The Scottish Ministers may make a screening direction either—

- (a) at their own volition; or
- (b) if requested to do so in writing by any person.

(11) The Scottish Ministers may direct that particular development of a description mentioned in Column 1 of the table in Schedule 2 is EIA development in spite of the fact that none of the conditions contained in sub-paragraphs (a) and (b) of the definition of “Schedule 2 development” in regulation 2(1) is satisfied in relation to that development.

(12) The Scottish Ministers must send a copy of any screening direction to the planning authority.

### **Requests for screening opinions of the planning authority**

6.—(1) A person who is minded to carry out development may request the planning authority to adopt a screening opinion.

(2) A request for a screening opinion must be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development and of 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) A planning authority receiving a request for a screening opinion must, if they consider that they have not been provided with sufficient information to adopt an opinion, notify in writing the person making the request of the points on which they require further information.

(4) Unless a screening direction is made by the Scottish Ministers, a planning authority must adopt a screening opinion within the period of three weeks beginning with the date of receipt of a request made pursuant to paragraph (1) or such longer period as may be agreed in writing with the person making the request.

(5) A planning authority which adopts a screening opinion must forthwith send a copy to the person who made the request.

(6) Where a planning authority—

- (a) fail to adopt a screening opinion within the relevant period mentioned in paragraph (4); or
- (b) adopt an opinion to the effect that the development is EIA development,

the person who requested the opinion may request the Scottish Ministers to make a screening direction.

(7) The person may make a request pursuant to paragraph (6) even if the planning authority have not received the information which they have sought under paragraph (3).

### **Requests for screening directions of the Scottish Ministers**

7.—(1) A person who pursuant to regulation 6(6) requests the Scottish Ministers to make a screening direction must submit with that request—

- (a) a copy of the request to the planning authority under regulation 6(1) and the documents which accompanied it;
- (b) a copy of any notification under regulation 6(3) which has been received and of any response;
- (c) a copy of any screening opinion received from the planning authority and of any accompanying statement of reasons; and
- (d) any representations that person wishes to make.

(2) When a person makes a request pursuant to regulation 6(6), that person must send to the planning authority a copy of that request and of any representations made to the Scottish Ministers, and that authority may, within two weeks of receiving those documents, provide the Scottish Ministers with their comments on the request and representations.

(3) Where the Scottish Ministers consider that they have not been provided with sufficient information to make a screening direction they—

- (a) must notify in writing the person making the request pursuant to regulation 6(6) of the points on which they require further information; and
- (b) may request the planning authority to provide such information as they can on any of those points.

(4) The Scottish Ministers must make a screening direction within three weeks beginning with the date of receipt of a request pursuant to regulation 6(6) or such longer period as they may reasonably require.

(5) The Scottish Ministers must send a copy of any screening direction made pursuant to paragraph (4) forthwith to the person who made the request.