
SCOTTISH STATUTORY INSTRUMENTS

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.