
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 181

**The Town and Country Planning (Hazardous
Substances) (Scotland) Regulations 2015**

PART 3

Applications

Consultation before determination of applications

14.—(1) Subject to paragraph (2), a planning authority must, before determining an application under regulation 6, 7 or 8, consult—

- (a) the safety regulator;
- (b) the Police Service of Scotland;
- (c) Scottish Natural Heritage;
- (d) a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973⁽¹⁾, any part of whose area is within or adjoins the land to which the application relates;
- (e) the Scottish Fire and Rescue Service;
- (f) the Scottish Environment Protection Agency;
- (g) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986⁽²⁾ (licence to convey gas through pipes) whose apparatus is situated on, over or under the land to which the application relates or on, over or under adjoining land;
- (h) a person to whom a licence has been granted under section 6(1)(b) or (c) of the Electricity Act 1989⁽³⁾ (transmission and distribution licences) whose apparatus is situated on, over or under the land to which the application relates or on, under or over adjoining land;
- (i) where the land to which the application relates, or any part of that land, is within 2 kilometres of a royal palace, park or residence, the Scottish Ministers;
- (j) where the land to which the application relates, or any part of that land, is within 2 kilometres of the area of any other planning authority or a hazardous substances authority within the meaning of section 39(1) of the Planning (Hazardous Substances) Act 1990⁽⁴⁾, that authority;

(1) 1973 c.65.

(2) 1986 c.44. Section 7 was substituted by section 5 of the Gas Act 1995 (c.45) and subsection (2) was amended by sections 3(2), 76(3) and 108 of, and paragraph 4 of Schedule 6 to, the Utilities Act 2000 (c.27) and S.I. 2011/2704.

(3) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000, subsection (1)(b) was substituted by section 136(1) of the Energy Act 2004 (c.20) (“the 2004 Act”) and subsection (1)(c) was amended by section 197(9) of, and Part 1 of Schedule 23 to, the 2004 Act.

(4) 1990 c.10. Section 39(1) was relevantly amended by paragraph 2(7) of Schedule 13 to the Environmental Protection Act 1990 (c.43).

- (k) where the land to which the application relates, or any part of that land, is land in an area of coal working or former or proposed coal working notified to the planning authority by the British Coal Corporation or the Coal Authority, the Coal Authority;
- (l) where the land to which the application relates, or any part of that land, is land which is used for disposal or storage of controlled waste, the relevant waste disposal authority (where that authority is not also the planning authority);
- (m) where it appears to the planning authority that the development is likely to affect land in the area of the Cairngorms National Park Authority, that Authority; and
- (n) where it appears to the planning authority that the development is likely to affect land in the area of the Loch Lomond and Trossachs National Park, any local authority who would have been responsible for exercising the functions of a planning authority under the principal Act in relation to the application were it not for article 7 of the Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002⁽⁵⁾.

(2) The planning authority need not consult a body or person referred to in paragraph (1) if that body or person has notified the planning authority in writing that it does not wish to be consulted, but this paragraph does not apply in respect of the safety regulator, Scottish Natural Heritage or the Scottish Environment Protection Agency.

(3) The planning authority must also, before determining an application under regulation 6, 7 or 8, consult any other persons of whom the authority are aware, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the application, and who in the authority's opinion are unlikely to become aware of the application through the notices published in accordance with regulation 5 (notice to owner by applicants), 9 (neighbour notification by planning authorities) or 10 (publication of receipt of application by planning authorities).

(4) Where a planning authority is required to consult in accordance with this regulation they must within 7 days of receiving the application—

- (a) give notice in writing to the body or person concerned containing—
 - (i) a statement of the fact that an application under regulation 6, 7 or 8, as the case may be, has been received;
 - (ii) a description of the proposal to which the application relates;
 - (iii) the postal address of the land to which the application relates or, if the land in question has no postal address, a description of the location of the land;
 - (iv) where applicable, a statement that the proposal is a project, or part of a project, that is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 14(3) of the Directive;
 - (v) a statement that the application may be granted (either unconditionally or subject to conditions) or refused;
 - (vi) a statement that representations (including comments or questions) may be made to the planning authority and details of how representations should be made and the period for making representations (which must not be less than 28 days beginning with the day after the day on which notice is given in accordance with this regulation); and

(5) [S.S.I. 2002/201](#). The effect of Article 7 is that the functions exercisable by a planning authority under the Planning (Hazardous Substances) (Scotland) Act 1997, are, in relation to the Loch Lomond and The Trossachs National Park transferred to and exercisable by the Park Authority.

- (vii) an indication of the times and places where, and means by which, relevant information is available; and
 - (b) ensure that a copy of the application and any information, plans and other documents contained in or accompanying it is available for inspection at their offices during the period allowed for making representations.
- (5) In this regulation—
- “controlled waste” has the meaning given by section 75(4) of the Environmental Protection Act 1990⁽⁶⁾; and
 - “waste disposal authority” means a local authority exercising their functions under Part II of the Environmental Protection Act 1990.

⁽⁶⁾ 1990 c.43.